

## **RESOLUTION NO. 2020-12**

**A RESOLUTION** of the City of Bainbridge Island, Washington, relating to the COVID-19 public health emergency; strongly encouraging certain individuals to wear face coverings under certain circumstances to reduce the spread of COVID-19.

**WHEREAS**, on January 21, 2020, the first case of novel coronavirus disease (COVID-19) was confirmed in a person from Washington State, who had traveled from China through King County, and King County is the most populous county in Washington State and is nearby to Bainbridge Island and Kitsap County; and

**WHEREAS**, throughout February 2020, the number of cases of COVID-19 increased significantly in the local region and throughout Washington State, with the first COVID-19 related death in the United States announced on February 29, 2020; and

**WHEREAS**, the Kitsap Public Health District has been responding to the COVID-19 outbreak since February 3, 2020; and

**WHEREAS**, on February 29, 2020, Governor Jay Inslee proclaimed a state of emergency within Washington State due to COVID-19; and

**WHEREAS**, on March 2, 2020, the City of Bainbridge Island's Emergency Operations Center ("EOC") was activated and remains in "Standby" mode in response to the COVID-19 outbreak and continues to actively monitor the situation and coordinate with City staff, community partners, the general public, and local, county, regional, and state governmental partners; and

**WHEREAS**, on March 3, 2020, the Kitsap Public Health District moved to full activation of their Emergency Coordination Center ("ECC") and has received significant resource requests from across Kitsap County; and

**WHEREAS**, on March 8, 2020, the Kitsap Public Health District was notified of the first Kitsap County resident testing positive for COVID-19, an individual residing on Bainbridge Island; and

**WHEREAS**, on March 9, 2020, Bainbridge Island City Manager Morgan Smith issued a Proclamation of Emergency in accordance with Chapter 2.44 of the Bainbridge Island Municipal Code, proclaiming the existence, or imminent threat, of an emergency threatening the public health, safety, and welfare; and

**WHEREAS**, on March 10, 2020, the Bainbridge Island City Council enacted Resolution No. 2020-06, which recognized the existence of the public health emergency, affirmed the Proclamation of Emergency issued by the City Manager, and authorized the emergency procurement of goods and services to address the emergency; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared a state of pandemic due to COVID-19; and

**WHEREAS**, on March 13, 2020, President Donald Trump declared a National Emergency due to COVID-19, and on March 22, 2020 a Major Disaster was declared for the State of Washington; and

**WHEREAS**, on March 23, 2020, Governor Inslee imposed a “Stay Home – Stay Healthy” Order throughout Washington State prohibiting all people in Washington State from leaving their homes or participating in social, spiritual, and recreational gatherings of any kind regardless of the number of participants, and related to all non-essential businesses in Washington State; and

**WHEREAS**, on May 4, 2020, Governor Inslee issued a Proclamation modifying his “Stay Home – Stay Healthy” Order, with a phased-in approach to reopen Washington, which is increasing the frequency of encounters of residents with non-household members on Bainbridge Island, Kitsap County, and in neighboring counties, and is increasing their risk of exposure to persons with infectious COVID-19; and

**WHEREAS**, the age, condition, and health of a significant portion of the population of Bainbridge Island, Kitsap County, and other local cities and counties places that population at risk for serious health complications, including death, from COVID-19; and

**WHEREAS**, a large surge in the number of persons with serious infections can compromise the ability of the regional healthcare system to deliver necessary healthcare to the public; and

**WHEREAS**, individuals can be infected and contagious before or even without developing symptoms (pre-symptomatic and asymptomatic), and the evidence suggests a significant number of infections may be transmitted in this manner; and

**WHEREAS**, the United States Centers for Disease Control and Prevention (“CDC”) has confirmed that a significant number of individuals who are infected remain asymptomatic and that as many as 25 percent of these individuals may contribute to transmission of the virus that causes COVID-19; and

**WHEREAS**, one key transmission method for COVID-19 is respiratory droplets that individuals expel when they breathe, talk, cough, or sneeze; and

**WHEREAS**, the CDC has recommended that members of the public should cover their noses and mouths with a cloth face covering to prevent inadvertently spreading COVID-19 while interacting with others outside their homes in public settings where other social distancing measures are difficult to maintain, especially in areas like the Puget Sound region with significant community-based transmission; and

**WHEREAS**, on May 28, 2020, Washington State Secretary of Health John Wiesman approved Kitsap County’s request to move to Phase 2 of the state’s Safe Start plan for COVID-19 recovery; and

**WHEREAS**, in a press release issued May 28, 2020 and in other current materials provided as part of Kitsap County’s COVID-19 response, Kitsap County residents are urged to: maintain six feet of distance from others in public whenever possible; wear a cloth face covering in places where physical distance can’t be maintained; be compassionate to people who cannot wear face coverings; stay home when sick; wash hands frequently; clean and disinfect frequently used objects and surfaces; and cover coughs and sneezes; and

**WHEREAS**, in nearby Seattle and King County, on April 1, 2020, Public Health – Seattle and King County issued updated guidance on wearing face covering, stating that: “wearing a fabric mask can help prevent the spread of infection to others when the mask is worn by someone who already is infected with the virus that causes COVID-19, even if they don’t have symptoms. The mask could help by blocking infectious droplets from spreading when someone with the infection coughs, sneezes or speaks;” and

**WHEREAS**, on June 1, 2020, Governor Inslee issued his “Safe Start” proclamation, Proclamation 20-25.4, which states, in part: “FURTHERMORE, until there is an effective vaccine, effective treatment or herd immunity, it is crucial to maintain some level of community interventions to suppress the spread of COVID-19 throughout all phases of recovery; and, therefore, throughout all phases, individuals should continue to engage in personal protective behaviors including: practice physical distancing, staying at least six feet away from other people; wear cloth face coverings in public places when not eating or drinking; stay home if sick; avoid others who are sick; wash hands frequently; cover coughs and sneezes; avoid touching eyes, nose and mouth with unwashed hands; and disinfect surfaces and objects regularly;” and

**WHEREAS**, Proclamation 20-25.4 issued by Governor Inslee also states: “FURTHERMORE, I hereby order, in addition to other requirements detailed in the Safe Start Washington Phased Reopening Plan, that, beginning on June 8, 2020, when on the job, all employees must wear a facial covering except when working alone or when the job has no in-person interaction as detailed in the Safe Start Washington Phased Reopening Plan; and, further, that employers must provide cloth facial coverings to employees, unless their exposure dictates a higher level of protection;” and

**WHEREAS**, there is a national shortage of medical grade masks, surgical masks, and N-95 respirator masks that are critically needed for healthcare providers who are on the front lines working to protect all of us, and health officials are increasingly urging non-medical workers to wear non-medical grade cloth face coverings to help curb the spread of COVID-19; and

**WHEREAS**, workers of certain essential businesses and other frontline employees must be protected because they face greater exposure and risk of contracting COVID-19 due to their frequent in person contact with members of the public and inability to work from home and widespread mask use may decrease the risk of spread from someone with an unrecognized infection; and

**WHEREAS**, there is a long history of racism and discriminatory policies that Native Peoples, People of Color, immigrant and refugee, LGBTQ communities, homeless, and other marginalized communities have faced in Washington State that may impact an individual's ability to feel safe while wearing a face covering; and

**WHEREAS**, the City of Bainbridge Island is dedicated to providing all its residents with fair and equal access to services, opportunities, and protection; inviting and encouraging public engagement; and reflecting consideration for cultural differences; and

**WHEREAS**, the City of Bainbridge Island is partnering with community-based organizations to make available cloth face coverings to the public; and

**WHEREAS**, the City Council recognizes that a face covering directive may not be needed to the same extent throughout Bainbridge Island, and that it would be best to focus the directive on the area in which it is needed most at this point, which is the retail area along Winslow Way that generally experiences higher levels of pedestrian and vehicular traffic than other areas of the Island; and

**WHEREAS**, a public health emergency, as defined in Chapter 38.52 RCW, RCW 43.06.010(12), RCW 39.04.280(3), and Chapter 2.44 BIMC, or imminent threat of such an emergency, continues to exist on Bainbridge Island; and

**WHEREAS**, the City of Bainbridge Island, as a code city, has broad emergency authority under Article 11, Section 11 of the Washington State Constitution, including an affirmative grant of authority to make and enforce within the City's limits all such local police, sanitary, and other regulations as are not in conflict with general laws; and

**WHEREAS**, pursuant to Article 11, Section 11 of the Washington State Constitution, as well as Chapter 35A.13 and Chapter 35A.11 RCW, the City of Bainbridge Island is authorized to exercise local police powers so long as the subject matter is local, the City is acting in a reasonable way, and the action is consistent with state law, and all of those criteria are met in this situation; and

**WHEREAS**, based upon the findings set forth above, the City Council has a clear basis to impose requirements related to face coverings on Bainbridge Island but the intent of the Council at this time is to strongly encourage compliance with the directives stated in this resolution, rather than to enforce such directives through other means (e.g., via the issuance of citations for civil infractions), because such enforcement would require a significant use of Bainbridge Island Police Department and other City resources and those resources are currently fully engaged in addressing the COVID-19 emergency and other matters important to the Bainbridge Island community.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:**

**Section 1. Purpose.** The purpose of this resolution is to educate, urge, persuade, and strongly encourage individuals to wear face coverings to prevent the spread of COVID-19.

**Section 2. Findings.** The recitals set forth above are hereby adopted as findings of fact for this resolution. For the reasons set forth in those recitals, the City Council finds that this resolution is necessary to protect the public health, safety, and welfare by reducing the spread of COVID-19 within the City of Bainbridge Island and more broadly.

**Section 3. Face Coverings Strongly Recommended.** Every individual is strongly encouraged to wear a face covering over their nose and mouth when they cannot maintain distancing of approximately six feet from another individual who does not share their household.

- A. This directive applies only to properties that adjoin Winslow Way, from the Washington State Ferry Terminal to Grow Avenue.
- B. At this time, because it continues to be important to conserve medical-grade or N-95 respirator face coverings for health care workers, unless a particular health reason requires it, individuals should use fabric coverings, such as cloth face masks, scarves and bandana coverings, or other material as recommended by the United States Centers for Disease Control and Prevention.
- C. It is important that cloth face masks be worn properly in order to avoid contaminating the hands or face of the user. Before putting on a mask and after removing a mask, an individual should clean their hands with alcohol-based hand rub or soap and water and change masks when moist, and wash after use. While in use, avoid touching the mask. Worn masks may be contaminated with infectious agents.
- D. Face covering use does not replace the need to practice physical distancing (staying away from ill people, staying home, and avoiding all non-essential activities and contact with others), frequent handwashing, and avoiding touching of the face.

**Section 4. Exceptions.** The face covering directive that is effectuated by this resolution shall not apply to the following individuals on Bainbridge Island:

- A. Any child aged two years or less.
- B. Any child aged 12 years or less unless parents or caregivers supervise the use of face coverings by such children to avoid misuse.
- C. Any individual who has a physical disability that prevents easily wearing or removing a face covering.
- D. Any individual who is deaf and uses facial and mouth movements as part of communication.

- E. Any individual who has been advised by a medical professional that wearing a face covering may pose a risk to that individual for health-related reasons.
- F. Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

**Section 5. Applicability.** The areas and establishments to which this directive applies include, but are not limited to, the following:

- A. Groceries, pharmacies, and other retail establishments that sell food and beverage products, including but not limited to grocery stores, corner stores and convenience stores (including liquor stores), farmers' markets, food banks, farm and produce stands, supermarkets, other establishments that sell groceries and essentials, and similar food retail establishments.
- B. Commercial retail stores that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, garden stores and nurseries that support food cultivation and production, office supply stores that support working-from-home, and home appliance retailers.
- C. Restaurant carry-out and quick-serve food operations, including related to food preparation, carry-out, and delivery food employees.
- D. Tobacco and vapor sellers.
- E. Sidewalks, trails, streets, parks, and parking lots.

**Section 6. Signage Directive.** All commercial establishments along Winslow Way that are subject to this resolution are strongly encouraged to post signage near all public entrances advising individuals to wear face coverings on the premises. The City will make available to download signage that can be used for this purpose.

**Section 7. Relationship to Other Laws and Regulations.** Nothing in this resolution reduces or eliminates the requirements imposed by Directives and Orders from the Local Health Officer, Governor, or other regulatory state or federal agency, including employer specific directives from the Washington State Department of Labor and Industries.


**Section 8. Compliance and Enforcement.**

- A. Violation of this resolution does not create grounds for residents or law enforcement to stop, detain, issue a citation, arrest, intimidate, or harass individuals who do not comply with it. This resolution should be used to educate, urge, persuade, and strongly encourage individuals to wear face coverings to prevent the spread of COVID-19.
- B. The City Council strongly encourages all people on Bainbridge Island to support the health and well-being of the community by complying with this resolution without delay.

**Section 9. Duration.** This resolution shall expire upon the determination by the City Council that there is no longer a need for face coverings related to addressing the COVID-19 public health emergency.

PASSED by the City Council this 9th day of June, 2020.

APPROVED by the Mayor this 9th day of June, 2020.



Leslie Schneider, Mayor

ATTEST/AUTHENTICATE:



Christine Brown, CMC, City Clerk

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| FILED WITH THE CITY CLERK:  | June 5, 2020 |
| PASSED BY THE CITY COUNCIL: | June 9, 2020 |
| RESOLUTION NO.              | 2020-12      |