JAY INSLEE
Governor

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PROCLAMATION BY THE GOVERNOR
AMENDING AND EXTENDING
PROCLAMATIONS 20-05 and 20-28, et seq.

20-28.14

Open Public Meetings Act and Public Records Act Proclamations

WHEREAS, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

WHEREAS, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued several amendatory proclamations, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

WHEREAS, I issued Proclamations 20-25, et seq., first entitled *Stay Home – Stay Healthy*, which initially prohibited all people in Washington State from leaving their homes except under certain circumstances, and which I later amended to *Safe Start – Stay Healthy" County-By-County Phased Reopening*, gradually relaxing those limitations based on county-by-county phasing; and, on November 16, 2020 I again amended 20-25, et seq., to *Stay Safe– Stay Healthy - Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge*, in response to a large surge of new cases of COVID-19, increased hospitalizations and ongoing COVID-19 related deaths in Washington State; and

WHEREAS, to enable public meetings to occur while maintaining the social distancing and limitations on in-person interactions necessary to curtail the spread of COVID-19, on March 24, 2020, I issued Proclamation 20-28, prohibiting in-person meetings and waiving and suspending laws and rules concerning RCW 42.56, the Public Records Act, and RCW 42.30, the Open Public Meetings Act that hindered conducting public meetings remotely; and

WHEREAS, under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions of Proclamation 20-28, et seq., have been periodically extended by the leadership of the Washington State Senate and House of Representatives, and which I have acknowledged and similarly extended the prohibitions therein in subsequent sequentially numbered proclamations, which proclamations also contained modifications and guidance regarding the waivers, suspensions, and prohibitions; and

WHEREAS, on December 7, 2020, under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions in Proclamation 20-28, et seq., were again extended by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or 11:59 p.m. on January 19, 2021, whichever occurs first; and

WHEREAS, to provide greater opportunity for the public to engage its governing bodies when public health circumstances safely allow, while continuing to maintain critical social distancing and other requirements to prevent further spread of the virus, it is necessary that I amend the prohibition on open public meetings to exempt from this prohibition all meetings as allowed in guidelines for "business meetings", found in the "Miscellaneous Venues" guidance, and as incorporated into the Proclamation 20-25 et seq., *Stay Safe – Stay Healthy - Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge*; and

WHEREAS, to fully extend Proclamations 20-28, et seq., it is also necessary for me to extend the prohibitions provided therein; and

WHEREAS, to assist in the implementation of Proclamation 20-28, et seq., it is appropriate to restate in one document the prohibitions and the statutory waivers and suspensions currently in effect; and

WHEREAS, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to address the impacts and long-term effects of the emergencies on Washington State and its people.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situations, and under RCW 38.08, 38.52, and 43.06, do hereby proclaim that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments remain in effect, and that the prohibitions in Proclamations 20-28, et seq., are amended to (1) recognize the extension of the statutory waivers and suspensions of RCW 42.56 and RCW 42.30 restated herein by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID19 State of Emergency or 11:59 p.m. on January 19, 2021, whichever occurs first, (2) similarly extend the prohibitions herein until the termination of the COVID-19 State of Emergency or 11:59 p.m. on January 19, 2021, whichever occurs first, and (3) amend a prohibition herein as set out below.

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic and wildfires.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State

Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

FURTHERMORE, based on the above situation and under the provisions of RCW 43.06.220(1)(h), I find that RCW 42.30, as applied to all public agencies statewide, involves the conduct of state business, and to help preserve and maintain life, health, property or the public peace, and I hereby amend Proclamation 20-05, and 20-28 et seq., to prohibit public agencies as follows:

Prohibition:
Any public agency subject to RCW 42.30 is prohibited from conducting a public meeting subject to RCW 42.30 unless (a) the meeting is not conducted in-person and instead provides an option(s) for the public to attend the proceedings through, at minimum, telephonic access, and may also include other electronic, internet or other means of remote access, and (b) provides the ability for all persons attending the meeting to hear each other at the same time.

Exemption from Prohibition:
As an exception to the above prohibition, public agencies holding public meetings may, at their option and in addition to hosting the remote meeting elements described above, include an in-person component to a public meeting if all of the following requirements are met:

1. The open public meeting complies with the guidelines for "business meetings", found in the "Miscellaneous Venues" guidance here, as incorporated into the Proclamation 20-25 et seq., *Stay Safe – Stay Healthy - Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge*; and

2. Any person wishing to attend in person a public meeting with an in-person component must be able to do so at a physical location meeting the requirements herein, either in a primary meeting location or an overflow physical location that provides the ability for all persons attending the meeting to hear each other at the same time; and

3. If at any time during a public meeting the in-person component cannot comply with each of the requirements herein, the public meeting (to include the telephonic/remote access portions) must be recessed until compliance is restored or if compliance cannot be restored then adjourned, continued, or otherwise terminated; and

4. The public agency holding an in-person public meeting shall accommodate, to the extent practicable, those wishing to participate in and/or attend the public meeting (to include the press) by allowing persons to attend the meeting by listening and speaking through operable telecommunications devices (examples include using an attendee's cell phone with service to connect to a conference calling service, or allowing persons to call in using an attendee's cell phone with service); and

5. County and other local election canvassing boards performing operations related to the 2020 general election are exempt from the prohibitions set forth in this Proclamation to allow them to perform their operations openly and transparently, provided that such boards must (a) permit all persons entitled by law to observe such operations access sufficient to conduct such observation, and (b) follow Department of Health and Department of Labor and Industries guidelines related to facial coverings, social distancing, sanitizing, and other protective measures enacted in response to the COVID-19 pandemic.

FURTHERMORE, based on the above noted situation and under the provisions of RCW 43.06.220(2)(g), I continue to find that strict compliance with the following portions of statutory and regulatory obligations or limitations will prevent, hinder, or delay necessary action for coping with the COVID-19 State of Emergency by bringing people in contact with one another at a time when the virus is rapidly spreading, and that the language of each statutory provision specified below is hereby waived and suspended:

- RCW 42.30.030 – the following words only:
  "and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter"
- RCW 42.30.040 – in its entirety;
- RCW 42.30.050 – as to the following word only: "room" in the first sentence
- RCW 42.30.070 – as to the following word only: the first usage of "site" - in the fourth sentence
- RCW 42.30.075 – as to the following words only:
  "Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date."
- RCW 42.30.080(2)(c) – as to the following words only:
  "Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location."
- RCW 42.30.090 – as to the following words only:
  "on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held."

FURTHERMORE, based on the above noted situation and under the provisions of RCW 43.06.220(2)(g), I find that RCW 42.56, as applied to all public agencies statewide involves the conduct of state business and I also continue to find that strict compliance with the following statutory and regulatory obligations or limitations will prevent, hinder, or delay necessary action for coping with the COVID-19 State of Emergency in responding to public records requests by bringing people in contact with one another at a time when the virus is rapidly spreading, and that the language of each statutory provision specified below is hereby waived and suspended

- RCW 42.56.080(2), as to the following words only:
  - "Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency."
  - "in person during an agency's normal office hours, or"
- RCW 42.56.090, as to the first sentence only

- RCW 42.56.100, as to the following word only in the first sentence: “full”
- RCW 42.56.520(1), as to the following words only in the second sentence:
    - “Within five business days of receiving a public records request,”
    - This statutory suspension at 42.56.520(1) does not apply to requests for public records received by an agency electronically.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).

Signed and sealed with the official seal of the state of Washington on this 8th day of December, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State