JAY INSLEE
Governor

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

20-28.8
Open Public Meetings Act and Public Records Act

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 amendatory Proclamations 20-06 through 20-53 and 20-55 through 20-64, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, continues to broadly spread throughout Washington State, seriously increasing the threat of serious associated health risks statewide; and

WHEREAS, on March 24, 2020, I issued Proclamation 20-28, waiving and suspending laws and rules concerning RCW 42.56, the Public Records Act, and RCW 42.30, the Open Public Meetings Act, that require any activity that occurs in an in-person setting to prevent further spread of the virus; and

WHEREAS, on April 23, 2020, under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions of Proclamation 20-28 were extended by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19 State of Emergency or May 4, 2020, whichever occurs first, and which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or May 4, 2020, whichever occurs first, in Proclamation 20-28.1; and

WHEREAS, on May 4, 2020, under the provisions of RCW 43.06.220(4), the statutory waivers and suspensions of Proclamation 20-28, et seq., were extended by the leadership of the Washington State Senate and House of Representatives until the termination of the COVID-19

State of Emergency or May 11, 2020, whichever occurs first, with the exception of RCW 42.56.520(1), which the leadership of the Washington State Senate and House of Representatives extended until the termination of the COVID-19 State of Emergency or May 11, 2020, whichever occurs first, and which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or May 11, 2020, whichever occurs first, in Proclamation 20-28.2; and

WHEREAS, on May 11, 2020, under the provisions of RCW 43.06.220(4), the statutory waiver and suspension of RCW 42.56.520(1) 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 May 31, 2020 (wherein the waiver of RCW 42.56.520(1) no longer applied to requests for public records received by an agency electronically), and which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or May 31, 2020, whichever occurs first, in Proclamation 20-28.3; and

WHEREAS on May 29, 2020, under the provisions of RCW 43.06.220(4), the statutory waiver 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 June 17, 2020, and which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or June 17, 2020, whichever occurs first, in Proclamation 20-28.4; and

WHEREAS on June 17, 2020, under the provisions of RCW 43.06.220(4), the statutory waiver 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 July 1, 2020, whichever occurs first, which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or July 1, 2020, whichever occurs first, in Proclamation 20-28.5; and

WHEREAS on July 1, 2020, under the provisions of RCW 43.06.220(4), the statutory waiver 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 July 7, 2020, whichever occurs first, which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or July 7, 2020, whichever occurs first, in Proclamation 20-28.6; and

WHEREAS on July 7, 2020, under the provisions of RCW 43.06.220(4), the statutory waiver 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 August 1, 2020, whichever occurs first, which I acknowledged and similarly extended the prohibitions therein to until the termination of the COVID-19 State of Emergency or August 1, 2020, whichever occurs first, in Proclamation 20-28.7-corrected; and

WHEREAS on July 30, 2020, under the provisions of RCW 43.06.220(4), the statutory waiver 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 September 1, 2020, whichever occurs first; and

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

WHEREAS, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

WHEREAS, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, 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 thereto remain in effect as otherwise amended, and that 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 by the leadership of the Washington State Senate and House of Representatives until 11:59 p.m. on September 1, 2020, and (2) similarly extend the prohibitions therein to 11:59 p.m. on September 1, 2020, as described 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.

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, I hereby amend Proclamation 20-05, and 20-28 et seq., to prohibit public agencies as follows:

> 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.
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> As an exception to the above prohibition, public agencies holding public meetings in counties currently in Phase 3 of the *Safe Start Washington Phased Reopening County-by-County Plan* 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:
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> a) Compliance with all provisions of the *Safe Start Washington Phased Reopening County-by-County Plan* found here, including but not limited to adherence to the requirements that in-person gatherings are limited to the maximum number of persons allowed per the Phase of the county in which the public meeting is being held, and that all attendees are required to be separated by at least six feet and wear a face covering;
> b) Compliance with all provisions of Proclamation 20-25 et seq. *Safe Start-Stay Healthy*,
> c) Compliance with the *Order of the Secretary of Health* 20-03;
> d) Notice of the physical location shall be included as required by RCW Chapter 42.30;
> e) If an in-person component public meeting is offered, any person wishing to attend the public meeting in person must be able to do so at a physical location meeting all 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
> f) If at any time during the 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 it must be adjourned, continued, or otherwise terminated.
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> Remote meeting resources include the Department of Enterprise Services Master Contract for teleconferencing and web-based meeting platforms, which can be found here:

Software Resellers (06016):
https://apps.des.wa.gov/DESContracts/Home/ContractSummary/06016
Cloud Solutions (05116):
https://apps.des.wa.gov/DESContracts/Home/ContractSummary/05116

Other resources can be found online by searching for free conference call services and for other e-based meeting services. Additional guidance for remote meetings may be found on at the Municipal Research and Services Center (MRSC, www.mrsc.org).

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 as provided herein until 11:59 p.m. on September 1, 2020:

- 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; however, agencies are strongly encouraged to utilize a remote meeting option that complies, to the greatest extent possible, with this statute
- 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 as provided herein until 11:59 p.m. on September 1, 2020:

- 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 31st day of July, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State