

**SWINOMISH INDIAN TRIBAL COMMUNITY
SWINOMISH INDIAN RESERVATION**

RESOLUTION NO. 2020-04-76

**A Resolution Amending Resolution No. 2020-03-073
To Extend and Clarify the Tribe’s Stay Home Order**

WHEREAS, the Swinomish Indian Tribal Community (the “Tribe”) is a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 5123); and

WHEREAS, the Tribe is organized under a constitution and bylaws originally ratified by the Tribe on November 16, 1935, and approved by the Secretary of the Interior on January 27, 1936, and as most recently amended and ratified by the Tribe on May 23, 2017, and approved by the Secretary of the Interior on July 7, 2017; and

WHEREAS, Swinomish Indian Senate (the “Senate”) is the duly enacted governing body of the Swinomish Indian Tribal Community and exercises governmental authority over all lands and waters within the Swinomish Indian Reservation; and

WHEREAS, the Senate approved Resolution 2020-03-42 on March 9, 2020, declaring a Public Health Emergency in light of the rapidly spreading COVID-19 virus and potential threat to our community members; and

WHEREAS, on March 24, 2020, the Senate approved Resolution No. 2020-03-073, containing a Stay Home Order for all Swinomish Indian Tribal Community members and all residents and businesses of the Swinomish Reservation, and providing specific instructions for the closure of in-person office functions at nonessential businesses and the continued operation of essential business activities; and

WHEREAS, on March 23, 2020, Governor Inslee issued a state-wide Stay Home – Stay Healthy Order, and since that date the number of confirmed cases and deaths in Washington has more than doubled, with at least 5,984 cases of COVID-19 and 247 associated deaths in Washington; and models predict that many hospitals in Washington will reach capacity or become overwhelmed with COVID-19 patients within the next few weeks unless the spread of COVID-19 throughout the state is slowed; and

WHEREAS, hospitalizations for COVID-like illnesses have been sharply increasing for the past month, and a large surge in the number of serious COVID-19 infections will compromise the ability of health care systems to deliver necessary services; and

WHEREAS, Governor Inslee has concluded that in order to protect the health and safety of Washingtonians, the stringent restrictions imposed in the Governor’s Stay Home-Stay Health Order would remain in effect until May 4, 2020; and

WHEREAS, the Swinomish Senate’s primary concern remains the health, safety and wellbeing of all its community members, especially our elders and other vulnerable persons within our community, as well as residents and businesses of the Swinomish Reservation and employees of the Tribe, recognizing that we all face a shared and very serious public health concern; and

WHEREAS, the Senate affirms our collective responsibility to protect everyone in our community and on the Reservation by staying home and practicing social distancing at all times; and

WHEREAS, in order to continue to provide clear and consistent direction to all residents of the Swinomish Reservation, this Senate Resolution is intended to continue to recognize, support and minimize conflict with the Governor’s Stay Home – Stay Healthy Orders and related guidance from state authorities while safeguarding important Tribal interests, and will remain in effect until midnight May 4, 2020, unless extended by the Swinomish Indian Senate; and

WHEREAS, the Senate also intends to clarify application of its previous directives in the fields of construction, child dependency, and habitat and natural resources, in order to avoid confusion regarding the intentions and scope of the Resolution No. 2020-03-073 Stay Home Order and of this Resolution; and

WHEREAS, certain construction activities occurring within the Reservation may continue during the Stay Home Order, particularly construction projects on critical infrastructure, such as Swinomish sponsored housing or essential public facilities, construction projects to prevent spoliation and damage, and other emergency projects; and

WHEREAS, children and youth who are found to be dependent by Washington Superior Courts are ordered into the custody of the Washington Department of Children, Youth, and Families (“DCYF”), resulting in the court-supervised placement of children into the care of foster parents, relatives, group homes, and other suitable persons approved by the court, with visitation required by Washington law between the children/youth and their families; and

WHEREAS, the State of Washington has waived and suspended visitation requirements under Washington law that mandate in-person visitation of children/youth in the custody of the DCYF by parents or other family members; and

WHEREAS, there are children and youth ordered by Washington Superior Courts into the custody of DCYF who are currently in family relative placements who reside within the Swinomish Reservation; and

WHEREAS, in order to keep families and children/youth safe during the COVID-19 pandemic it may be necessary to limit face-to-face visits; however, such visits should be at the discretion and direction of the home or facility where the child/youth or family member is residing, and should be consistent with the terms of any visitation order of the Washington Superior Court; and

WHEREAS, Treaty resource and habitat protection, restoration, monitoring and

sampling activities within the Tribe's usual and accustomed fishing grounds and stations or open and unclaimed lands are essential to the long-term sustainability of the resources on which the Tribe has depended for sustenance and its cultural and economic life since time immemorial; and

WHEREAS, the Senate has identified certain Tribal government services as essential and will authorize employees working in these critical sectors to travel to and from, and be physically present at, their places of work to perform essential functions of their jobs that cannot be performed remotely; and

WHEREAS, the Senate is authorized to take this action pursuant to Article VI, Section 1(a), (f), (g), (i), (k), (l), (m), (o), (p), (q), and (r), Section 3, Section 5(b) and (c) of the Constitution of the Tribe approved January 27, 1936, as amended and pursuant to the inherent authority of the Swinomish Indian Tribal Community, **NOW THEREFORE**,

BE IT RESOLVED BY THE SWINOMISH INDIAN SENATE that the directives and terms of the Senate's Stay Home Resolution No. 2020-03-073, as modified and clarified herein, shall remain in effect until midnight on May 4, 2020, unless modified by further resolution of the Senate.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that construction projects on critical infrastructure, such as Swinomish sponsored housing or essential public facilities, may continue as long as social distancing is maintained on site. Construction may occur to prevent spoliation and avoid damage or unsafe conditions (which may include work to exterior of homes, windows, doors, etc. to prevent spoliation or avoid damage), and address emergency repairs at both non-essential businesses and residential structures.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that caring for children and youth ordered into the custody of DCYF by Washington Superior Courts is considered an essential activity, and such essential activity may continue with visitation at the discretion and direction of the home or facility where the child/youth or family member is residing, so long as it is consistent with the terms of any visitation order of the Washington Superior Court and with appropriate COVID-19 pandemic safety and health precautions in place.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that Treaty resource and habitat protection, restoration, monitoring and sampling activities within, and necessary associated travel to, from and within, the Tribe's usual and accustomed fishing grounds and stations or open and unclaimed lands are essential activities that may continue as long as they are carried out with appropriate COVID-19 pandemic safety and health precautions in place.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that Tribal members and Reservation residents may leave their home to travel to and from employment providing governmental services that are identified as essential by their governmental employer.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that Tribal employees may travel to and from and be present at Tribal offices to provide essential Tribal governmental services that cannot be provided remotely. **Essential Tribal governmental**

services that may continue to remain operational, as long as they can be carried out with appropriate COVID-19 pandemic safety and health precautions in place, are as follows:

- **Health care operations** (including health systems management, billing, and health information)
- **Social services**, including:
 - provision of food, energy, support, and other assistance
 - Family services, including child welfare and adult protective services
- **Housing** (including operation, maintenance, and repair of facilities as directed by the Housing Board)
- **Public Safety** (including Swinomish Police)
- **Fisheries and Game Management** (including resource monitoring, management and administration)
- **Environmental Protection and Policy**, including monitoring and data collection
- **Public Works**, including:
 - Services necessary for the sanitation, safety, maintenance, operation and repair of open government buildings
 - Maintenance and operation of Public Works facilities
- **Communications and Information Technology**, including:
 - Maintenance of communications infrastructure and continued operation of physical and cyber information technology systems
- **Swinomish Utilities**:
 - Maintenance, operation, inspection and repair as directed by the Utility Board
- **Gaming Regulation**:
 - Essential Gaming Regulatory activities necessary to maintain continuity during the Swinomish Casino closure
- **Governance and administration**:
 - Swinomish Indian Senate, including personnel supporting the Senate
 - Swinomish Tribal Court, including prosecution, defense and probation services
 - Accounting, Human Resources, Grants, Planning and Legal services.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that Tribal staff are authorized and directed to take all necessary actions for implementation of this resolution as may be needed to carry out the terms of this Resolution.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that it is essential that this Resolution be followed strictly in order to keep community members, Reservation residents and Tribal employees healthy and safe, as together we continue to face a highly contagious disease that can result in serious illness or death.

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that the Senate expects and trusts that all community members, Reservation residents and Tribal employees will continue to strictly comply with this Resolution.

Steve Edwards, Chairman
Swinomish Indian Senate

CERTIFICATION

As Secretary of the Swinomish Indian Senate, I hereby certify that the foregoing Resolution was approved at a Special Meeting of the Swinomish Indian Senate held on April 5, 2020, at which time a quorum was present and the resolution was passed by a vote of ____ FOR, ____ AGAINST, and ____ ABSTENTIONS.

Barbara James, Secretary
Swinomish Indian Senate