

**SWINOMISH INDIAN TRIBAL COMMUNITY
SWINOMISH INDIAN RESERVATION**

RESOLUTION NO. 2020-07-149

**A Resolution Requiring That Face Coverings Be Worn
In Indoor or Outdoor Public Settings**

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, “COVID-19” is an infectious disease caused by the novel coronavirus SARS-CoV-2 that can result in serious illness or death and poses a high risk to the health, safety and welfare of our community, particularly elders and those in our community who have underlying health conditions; and

WHEREAS, on March 9, 2020, the Senate approved Resolution 2020-03-042 declaring a Public Health Emergency in light of the rapid spread of COVID-19 in Washington State; and

WHEREAS, on March 24, 2020, the Senate declared a precautionary COVID-19 Stay Home Order in Resolution 2020-04-073 for all Swinomish Indian Tribal Community members, those in the community, residents and businesses of the Swinomish Reservation and Tribal employees; and

WHEREAS, in subsequent Resolutions, the Senate’s precautionary Order has since been amended to extend its expiration date, detail essential businesses and activities as determined by the Swinomish Senate, to refine and incrementally amend the Order as circumstances have evolved, and to extend the Senate’s Orders indefinitely until further modified or lifted by the Senate, through Resolutions Nos. 2020-04-076, 2020-04-100, 2020-04-101, 2020-05-112 and 2020-05-115, 2020-05-119, 2020-06-120 (“COVID-19 Precautionary Orders”); and

WHEREAS, according to the Washington Department of Health data compilations as of, July 16, 2020, there were at least 45,067 confirmed cases of COVID-19, at least 4,984 hospitalizations and at least 1,434 deaths in the State of Washington; and

WHEREAS, two Swinomish Tribal members with confirmed COVID-19 have passed away in off-Reservation care facilities; and

WHEREAS, according to the Skagit County Department of Health data compilations as of July 13, 2020, there have been 10-19 confirmed cases of COVID-19 in the La Conner Zip Code area and there have been 20-29 confirmed cases in the Anacortes Zip Code area; and

WHEREAS, according to the Skagit County Department of Health data compilations, for the 14-day period of June 26 – July 9, 2020 the rate of newly diagnosed COVID-19 cases per 100,000 people in Skagit County is 77.4 but the Department of Health defines low disease activity as having fewer than 25 cases per 100,000 people during the prior two weeks; and

WHEREAS, according to the Skagit County Department of Health data compilations, for the one-week period of July 3 – 9, 2020, 3.6 percent of individuals tested positive for COVID-19 but the Department of Health recommends a goal of fewer than 2% of individuals testing positive; and

WHEREAS, the seven-day rolling average of the number of confirmed cases of COVID-19 per day in the State of Washington remains substantially higher than the averages in March – June 2020; and

WHEREAS, according to a July 19, 2020 Situation Report from the Institute for Disease Modeling (“IDM”) on COVID-19 transmission that was distributed by the Secretary of the Washington Department of Health, “Washington State as a whole is in an explosive situation. Transmission continues to increase or accelerate across most of Washington state and will continue to do so unless concrete steps are taken to stop the spread.”; and

WHEREAS, the July 19, 2020 IDM Situation Report stated the following implications for public health (bold text contained in IDM Report):

“Washington State is in the early stages of an exponential statewide outbreak that has zero chance of being reversed without changes to our collective behavior and policies to support that change. If current trends continue, we expect that schools will not be able to reopen safely in the fall. Further transmission control will require enhanced compliance with masking and distancing policies and further restricting gatherings that likely fuel virus spread. This is a matter of utmost urgency as we have seen from the beginning of the pandemic that measures enacted sooner have vastly greater efficacy.”; and

WHEREAS, the Swinomish Medical Clinic has administered testing for possible COVID-19 infections and all test results obtained as of July 20, 2020 have been negative; and

WHEREAS, the Senate utilized a data-driven approach when issuing its Declaration of Public Health Emergency, when issuing, extending and amending its Stay Home Order, and the Senate will continue to utilize a data-driven approach in order to minimize the health impacts of COVID-19 on Tribal members, the community, Reservation residents and businesses, and Tribal operations and businesses and their employees; and

WHEREAS, the Senate and Tribal staff have worked closely with the Governor, State and Federal agencies, the Northwest Portland Area Indian Health Board (“NPAIHB”) and the Tribal Public Health Officer to monitor the COVID-19 pandemic closely; and

WHEREAS, the Senate acknowledges that Governor Inslee has adopted a multi-phased approach to slowly and carefully lift aspects of his Stay Home – Stay Healthy order for Washington State; 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 strongly desires to continue the Tribal community’s success in limiting COVID-19 and will continue to take necessary and prudent actions to accomplish that objective; and

WHEREAS, in order to provide clear and consistent direction to all residents of the Swinomish Reservation, this Senate Resolution is intended to recognize, support and minimize conflict with the Governor’s Stay Home - Stay Healthy Order, the Order of the Washington Secretary of Health requiring Face Coverings, and related guidance from State authorities while protecting Tribal resources and interests; and

WHEREAS, COVID-19 spreads mainly from person to person through respiratory droplets when infected people, who may not be showing any symptoms of the disease, cough, sneeze or talk; and

WHEREAS, the Tribe’s Public Health Officer, the United States Centers for Disease Control and Prevention (“CDC”), the Washington State Department of Health and the World Health Organization all recommend that people wear cloth face coverings when in public settings where six feet of distance from others cannot be reliably maintained at all times, in order to reduce the chances of an infected person spreading the infection to others and to protect uninfected persons; and

WHEREAS, the July 19, 2020 Institute of Disease Modeling Situation Report quoted above indicates that without changes in collective behavior, and policies supporting such changes, the early stages of an exponential statewide outbreak in Washington will not be reversed, and that further transmission control requires enhanced compliance with masking policies; and

WHEREAS, the Senate has determined that it is reasonable, necessary and prudent to require that all Tribal and community members, all Reservation residents, and all those employed by or conducting a business within the Reservation must wear a cloth face covering in any indoor or outdoor public setting; 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 COVID-19 Precautionary Resolutions No. 2020-03-073, 2020-04-076, 2020-04-100, 2020-04-101, 2020-05-112, 2020-05-115, 2020-05-119 and 2020-06-120 as restated and amended on the attached Exhibit A, shall remain in effect and will continue until further modified or lifted by the Senate; and

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that all Tribal and community members, all Reservation residents, and all those employed by or conducting a business within the Reservation must wear a cloth face covering that covers their nose and mouth in any indoor or outdoor public setting, including but not limited to:

- Inside any building that is open to the public;
- In outdoor public areas when a distance of at least six feet cannot be maintained from any non-household member, including but not limited to streets, sidewalks, docks, beaches, sports fields or courts, parks and trails; and

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that individuals may remove their cloth face covering in the following circumstances:

- While eating or drinking, provided that they are able to maintain a distance of at least six feet from any non-household member;
- While engaged in exercise activities, such as walking, bicycling, or jogging, provided that they are able to maintain a distance of at least six feet from any non-household member;
- While talking on the phone, if necessary to communicate successfully;
- While traveling alone in a motor vehicle; and

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that the following individuals are exempt from the requirement to wear a cloth face covering:

- Children younger than five years of age, but it is recommended that children who are ages two through four wear a cloth face covering with the assistance and close supervision of an adult where a distance of six feet cannot be maintained from non-household members and particularly where people vulnerable to COVID-19 are likely to be present;
- Persons with a medical or mental health condition or disability that prevents wearing a face covering; and

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that a cloth face covering that covers the nose and mouth:


- **MEETS** the requirements of this Resolution if it is:
 - Sewn from two or more layers of tightly woven cloth, such as cotton;
 - Secured with ties or straps around the head or behind the ears;
- **DOES NOT MEET** the requirements of this Resolution if it is a bandana, mesh mask or similarly porous fabric, or a mask with a valve that allows unfiltered exhalation; and

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that it may be necessary for the Senate to again limit or terminate activities authorized by this and earlier Resolutions until those activities can be carried out safely; and

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; and

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, Tribal staff and others healthy and safe, as together we continue to face a highly contagious disease that can result in serious illness or death; and

BE IT FURTHER RESOLVED BY THE SWINOMISH INDIAN SENATE that the Senate expects and trusts that all community members, Reservation residents, Tribal staff and others 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 Regular Meeting of the Swinomish Indian Senate held on July 21, 2020, at which time a quorum was present and the resolution was passed by a vote of 8 FOR, 0 AGAINST, and 0 ABSTENTIONS.

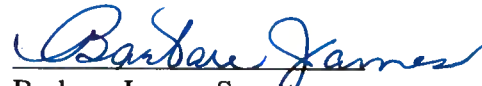

Barbara James, Secretary
Swinomish Indian Senate

EXHIBIT A

<p>High-Risk Populations</p>	<ul style="list-style-type: none"> • Elders, especially those over the age of 65, and those with underlying health conditions as identified by the Centers for Disease Control (“CDC”) as being high-risk for complications caused by COVID-19 are strongly encouraged to continue staying safely at home.
<p>All Residents</p>	<ul style="list-style-type: none"> • All residents of the Swinomish Reservation should continue to stay home except: <ul style="list-style-type: none"> • to conduct or participate in essential activities, including Treaty hunting, fishing and gathering, • for employment in essential business or governmental services that cannot be conducted remotely and as specified below, • to visit essential businesses while maintaining social distancing, and/or • to participate in Tribal programs and receive Tribal services, as available. • Residents may still leave their home to purchase groceries, get prescriptions, seek medical care, engage in activities essential for the health and safety of family, household members and pets, and participate in outdoor activities such as bike riding, walking, jogging, gardening or golf. • All Tribal and community members, Residents and employees or operators of businesses are required to wear a cloth face covering when in any indoor or outdoor public space. • Social distancing must be practiced by staying at least six feet apart from others whenever in public.

Government/Businesses/Employers	
<ul style="list-style-type: none"> • Employees whose duties can be performed remotely should continue to do so. 	
<ul style="list-style-type: none"> • The following essential business and government activities are authorized, provided that they are carried out in compliance with all applicable COVID-19 pandemic health and safety plans and precautions: 	
Health care operations (including health systems management, billing, and health information), including:	<ul style="list-style-type: none"> • Swinomish Medical Clinic • Swinomish Dental Clinic • Didg^wálic Wellness Center (also designated by the State as an essential public facility)
Grocery and convenience stores, including:	<ul style="list-style-type: none"> • Swinomish Village Market • Swinomish Market at the Casino • Swinomish Market at the Links
Food supply chains, including:	<ul style="list-style-type: none"> • Swinomish Shellfish Company • Businesses that deliver food and other supplies to grocery and convenience stores
Pharmacies and stores that supply medicinal cannabis, including:	<ul style="list-style-type: none"> • Salish Coast Cannabis
Swinomish Casino & Lodge, including:	<ul style="list-style-type: none"> • Casino & Lodge amenities (including its RV park) and service and product vendors
Golf course operations and activities, including:	<ul style="list-style-type: none"> • Affiliated driving ranges and putting greens
RV Parks/Campgrounds, including:	<ul style="list-style-type: none"> • Cabins on site
Seasonal fireworks sales	<ul style="list-style-type: none"> • As authorized by the Senate Fireworks Committee and pursuant to a safety plan approved by the Senate
Construction activity, including:	<ul style="list-style-type: none"> • Construction on critical infrastructure projects, such as Swinomish sponsored housing or essential public facilities, in compliance with all Swinomish COVID-19 Jobsite Requirements as well as a Phase 1 Jobsite Safety Plan that is maintained at the jobsite and available at the request of the Tribe
Retail sales, including	<ul style="list-style-type: none"> • Pacific Blanket Trading Post • 1000 Trails Trading Post/store
Any other businesses listed in Washington's Essential Critical Infrastructure Worker publication	

Social services, including:	<ul style="list-style-type: none"> • Provision of food, energy, support, and other assistance • Family services, including child welfare and adult protective services • Limited youth programs and services, with priorities for participation set by the Tribe • Caring for children and youth ordered into the custody of Department of Children, Youth, and Families by Washington Superior Courts 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
Housing, including:	<ul style="list-style-type: none"> • Operation, maintenance, and repair of facilities as directed by the Housing Board
Public Safety, including:	<ul style="list-style-type: none"> • Swinomish Police
Fisheries and Game Management, including:	<ul style="list-style-type: none"> • Resource monitoring, management and administration
Treaty Right Activities, including:	<ul style="list-style-type: none"> • 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
Environmental Protection and Policy, including:	<ul style="list-style-type: none"> • Monitoring and data collection
Public Works, including:	<ul style="list-style-type: none"> • Services necessary for the sanitation, safety, maintenance, operation and repair of government buildings • Maintenance and operation of Public Works facilities • Maintenance of government grounds, including lawn and landscaping
Communications and Information Technology, including:	<ul style="list-style-type: none"> • Maintenance of communications infrastructure and continued operation of physical and cyber information technology systems
Swinomish Utilities, including:	<ul style="list-style-type: none"> • Maintenance, operation, inspection and repair as directed by the Utility Board

<p>Gaming Regulation, including:</p>	<ul style="list-style-type: none"> • Essential Gaming Regulatory activities necessary to maintain continuity during the Swinomish Casino & Lodge preparation for reopening and operation
<p>Governance and administration, including:</p>	<ul style="list-style-type: none"> • 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