

RESOLUTION NO. 20-1348

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AFFIRMING THE CITY OF BLACK DIAMOND PANDEMIC AND PUBLIC HEALTH EMERGENCY RESPONSE AND RECOVERY POLICY AND PROCEDURES TO PROTECT CITY EMPLOYEES AND THE COMMUNITY.

WHEREAS, United States Secretary of Health and Human Services Alex Azar declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020; and

WHEREAS, on February 29, 2020, Governor Jay Inslee issued a Proclamation 20-05, declaring a State of Emergency in all counties of the State of Washington due to the number of confirmed cases of COVID-19 in the state; and

WHEREAS, on March 11, 2020, Governor Inslee issued Proclamation 20-07, prohibiting all events or other gatherings of more than 250 people; and

WHEREAS, on March 13, 2020, Governor Inslee announced that all K-12 public and private schools in Washington must close until at least April 24, 2020; and

WHEREAS, on March 23, 2020, Governor Inslee issued Proclamation 20-25, 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 all non-essential businesses in Washington State from conducting business (“Stay Home – Stay Healthy Order”); and

WHEREAS, on April 2, 2020, Governor Inslee announced a month-long extension of Proclamation 20-25, which will now continue through May 4, 2020; and

WHEREAS, the Centers for Disease Control (“CDC”) has identified the public health threat posed by the novel coronavirus pandemic as “high”; and

WHEREAS, the City is at high risk of being impacted by the novel coronavirus COVID-19, which upon diagnosis requires specific medical treatment and quarantine to reduce the virus’ spread throughout the general population; and

WHEREAS, the risk to City employees is real and the infection of just one employee may cause the mandatory quarantine of essential employees; and

WHEREAS, to reduce the potential for community transmission within the City of Black Diamond proactive measures are being taken to protect employees and the public, including the purchase of additional emergency supplies, potential sanitization of city facilities, support of impacted employees, and a potential reduction in service; and

WHEREAS, on March 13, 2020, the Mayor of Black Diamond declared an emergency pursuant to RCW 38.52.070, for the purpose of protecting public health and City employees as necessary and allow for the purchasing of supplies and contracting for services that may be needed urgently without opportunity for budget amendment to manage the novel coronavirus COVID-19; and

WHEREAS, on March 24, 2020, in compliance with Governor Inslee's Stay Home – Stay Healthy Order, the Mayor of Black Diamond ordered the closure of all City of Black Diamond's facilities, except those needed to ensure continuity of operations of essential critical infrastructure and government functions critical to public health and safety; and

WHEREAS, on March 18, 2020, the Mayor of Black Diamond issued the City of Black Diamond Pandemic Response and Recovery Policy, providing closure pay to certain staff who are unable to work from home during the closure of City facilities relating to the COVID-19 crisis and instituting provisions required under the federal Families First Coronavirus Response Act; and

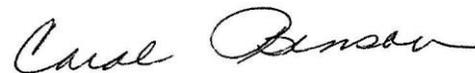
WHEREAS, the health, safety, and welfare of City staff is of the utmost importance to the City and the City Council wishes to affirm the Mayor's implementation of the City of Black Diamond Pandemic Response and Recovery Policy;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Pursuant to BDMC 2.44.090.B, the City Council hereby affirms the adoption of the City of Black Diamond Pandemic and Public Health Emergency Response and Recovery Policy and Procedures, attached hereto as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A SPECIAL MEETING THEREOF, THIS 23RD DAY OF APRIL, 2020.

CITY OF BLACK DIAMOND:



Carol Benson, Mayor

Attest:

/s/ Brenda L. Martinez

Brenda L. Martinez, City Clerk

City of Black Diamond Pandemic and Public Health Emergency Response and Recovery Policy and Procedures

Effective Date: March 18, 2020

PURPOSE

The purpose of this policy is to provide guidance and establish procedures in the event a pandemic illness or public health emergency is expected to, or currently is taking place, which may affect the operations of the City of Black Diamond and/or pose a risk to the health or safety of staff and the community at large.

SCOPE

This policy applies to all City of Black Diamond departments and employees.

DEFINITIONS

- A. Closure Pay: Payment of regular wages and benefits during closure of City Facilities in the event of a pandemic, outbreak, or proclamation of a public health emergency.
- B. Outbreak: a widespread occurrence of an infectious disease in a community at a particular time with a hospitalization and/or mortality rate significantly higher than the common flu.
- C. Pandemic: a disease that is prevalent over a region, country, or the world.

REFERENCES

- A. Chapter 7.05 RCW - Local Health Departments
- B. Chapter 7.08 RCW - Combined City-County Health Departments
- C. Chapter 70.26 RCW - Pandemic Influenza Preparedness
- D. RCW 38.52.070 - Emergency Powers
- E. City of Black Diamond Emergency Management Plan
- F. Washington Department of Health: doh.wa.gov
- G. Public Health - Seattle & King County: www.kingcounty.gov/depts/health.aspx

POLICY

It is the policy of the City of Black Diamond to take all appropriate measures needed to address a pandemic illness and to protect public health. Protecting the community and City staff is a top priority and this policy establishes some of the actions that may be taken, and the authority, granted to address a pandemic.

PROCEDURES

The following procedures are established to minimize disease exposure and maintain continuity of City operations in the event that a pandemic becomes a threat to the health or safety of City employees, their families, and the community at large.

Declaration of Pandemic and/or Public Health Emergency:

- A. Public health professionals at organizations such as the Centers for Disease Control and Prevention (CDC), Washington State Public Health Department, Washington State Governor, and/or King County/Seattle Public Health Department may declare that a pandemic, outbreak, or public health emergency exists. Such declarations may contain instructions or recommendations to both private and public sector entities. The City will follow all mandatory instructions and will implement recommendations to the extent it determines these to be applicable and/or feasible or practicable under the particular circumstances.
- B. Procedures to help minimize the spread of germs: Employees are urged to practice standard Non-Pharmaceutical Interventions ("NPI's"), including covering coughs by coughing into a tissue or, if a tissue is not available, into their elbows, regular hand washing, regular use of a hand sanitizer that is approved or recommended by the CDC, and avoiding touching eyes, nose, or mouth. Hands and work surfaces should be disinfected frequently. Employees are also urged to utilize social distancing such as maintaining a distance of six feet from others when practical to do so.
- C. Proclamation of Emergency/Disaster Due to Pandemic: Upon the City's proclamation of emergency/disaster due to pandemic, the following shall apply:
 - i. Employees who have a communicable illness or are experiencing symptoms of a communicable illness (as then-defined by the applicable health authorities), are prohibited from coming to work and are encouraged to consult their physician.
 - ii. Employees reporting to work who exhibit symptoms of a communicable illness will be sent home and encouraged to consult their physician. If a pandemic illness or outbreak becomes widespread in the community, as determined by state or local health authorities or the CDC, such that it rises to the level of a direct threat to other employees or the public, the City may require employees to have their temperature taken prior to reporting or returning to work. Unless otherwise prohibited by law, the employee shall be required to utilize accrued

leave, if any, pursuant to the City's adopted personnel policies or the terms of any applicable collective bargaining agreement, if they are sent home due to symptoms of a communicable illness. In the event an employee is experiencing seasonal allergies, the symptoms of which closely resemble those of a pandemic illness, the City may recommend (or may require if authorized by law) that the employee obtain a doctor's note at the City's expense, to confirm that the symptoms are caused by allergies and not a communicable illness, should the question arise.

- iii. If the illness of an employee or member of an employee's household interferes with reporting to work in a timely manner, the employee is responsible for notifying their supervisor pursuant to the provisions of the personnel policies or the terms of any applicable collective bargaining agreement. Employees must not return to work until they have been free of illness symptoms (fever, chills, sore throat, etc.) for at least 24 hours (or any longer applicable period as determined by the appropriate health authority) or are deemed no longer infectious by a medical professional. The City may require employees who have been away from the workplace due to illness during a pandemic to provide a doctor's note at the City's expense, certifying fitness to return to work.
- iv. Except as otherwise prohibited by law, employees are required to first utilize their accrued sick leave and then any other accrued paid time off (vacation leave, compensatory time, or floating holidays) while recovering from, or caring for a spouse or dependent recovering from, illness covered by this Policy. Employees may elect to take unpaid time off, in lieu of using other accrued time, once all accrued sick leave has been expended.
- v. If the school or place of care of an employee's child is closed due to pandemic, the employee may use accrued sick leave (or other accrued paid time off, to the extent the employee does not have sufficient sick leave), to care for the child.
- vi. Employees may donate accrued sick leave to employees who do not have enough accrued leave balances to cover their absence, in accordance with the City's shared leave policy.
- vii. Employees that do not have accrued leave may take leave and create a leave deficit, not to exceed twelve (12) days or ninety-six (96) hours, provided that additional leave will not be provided outside the scope of emergency. In addition, an employee that utilizes advanced leave and separates employment from the City of Black Diamond will need to compensate the City for the monetary value of such employee's leave deficit. Employees also have the option of taking unpaid leave at the discretion of the Mayor or their designee.

Employees who accrue a deficit in leave time, shall re-pay this leave time at a rate of 50% of continued accrual per month, until the deficit has been satisfied. This method of repayment will allow the employee to continue to accrue time necessary for future sickness or medical needs.

- D. When quarantine of an employee is ordered by State or County Health Officials due to an illness covered under this Policy, employees may use accrued sick leave (or other accrued paid time off, to the extent the employee does not have sufficient

sick leave) for the period of quarantine. In the event an employee has no remaining paid time off, the employee may take leave without pay at the discretion of the Mayor or their designee. If quarantine of an employee is necessary due to a verified work-related exposure to an outbreak or pandemic illness, the employee shall be placed on paid administrative leave for the duration of their quarantine.

- E. At the discretion of the Mayor or their designee, City Facilities may alter their business practices, hours of business, and services provided. Examples of potential measures that could be taken include but are not limited to:
- i. The City may implement temporary emergency procedures to minimize in-person contact between employees. Such measures may include greater use of e-mail, phone, and teleconferences as opposed to in-person meetings and contact.
 - ii. Reduced Reception and Front Counter Service: The City may alter how it conducts business with the public by limiting or halting services at counters/areas of City facilities where front-line services are typically provided.
 - iii. Partial Work from Home Schedules: Some staff may be permitted or assigned to work from home, in the City's sole discretion. In the event staff is permitted or assigned to work from home, the employee will do so only from City provided equipment.
 - iv. Full or Partial City Facility Closure: City Facilities may be partially or fully closed. During closure, staff who are able to reasonably work from home, whether in full or partial shifts, will be allowed by the City to do so, and department directors and supervisors will coordinate this directly with the subject employees. To the extent they are not able to fully or partially work from home, staff will be provided Closure Pay in accordance with the provisions in this policy.
 1. In the event City Facilities are closed, Fair Labor Standards Act (FLSA) Non-Exempt staff will receive Closure Pay for those hours in which they are unable to work from home (fully or partially). Closure Pay will only be made available to staff who are scheduled to work on the day(s) on which City Facilities are closed. Those who are on a planned absence, such as vacation leave and were not recalled back to work will not receive Closure Pay. Any employee already on sick leave shall be eligible for Closure Pay in lieu of continued use of sick leave once Closure Pay is in effect.
 2. FLSA Non-Exempt staff who are called into a City work site from home when City Facilities are closed to work for critical city operations will receive pay at the rate set forth in the applicable collective bargaining agreement. In the event such pay is not addressed in a collective bargaining agreement, pay to such an employee shall be at a rate of time and a half for all work carried out on site during said closure. Such premium pay shall be credited against any overtime pay the employee may earn during the applicable work week (i.e., the employee shall not receive "double overtime").
 3. Employees shall continue to receive their normal salary during a City Facility closure, regardless of whether they are able to work from home.