

BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT

OPTION B

RESOLUTION 2021-08

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT, KITSAP COUNTY, WASHINGTON, ESTABLISHING MANDATORY COVID-19 VACCINATION FOR EMPLOYEES AND VOLUNTEERS.

WHEREAS, the coronavirus disease 2019 (COVID-19) is caused by a virus that spreads easily from person to person and can result in serious illness or death, and has been classified by the World Health Organization as a worldwide pandemic; and

WHEREAS, on February 29, 2020, Governor Inslee issued Proclamation 20-05, proclaiming a state of emergency as a result of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring COVID-19 a national emergency; and

WHEREAS, on March 19, 2020, the District declared a state of emergency; and

WHEREAS, COVID-19 vaccines are effective in reducing infection and serious disease, and widespread vaccination is the primary means to protect everyone, including persons who cannot be vaccinated for medical reasons, youth who are not eligible to receive a vaccine, immunocompromised individuals, and other vulnerable persons; and

WHEREAS, COVID-19 vaccines have been available in Kitsap County from December 2020 to the present, and since April 15, 2021, all Washingtonians over the age of 16 have been eligible to receive COVID-19 vaccines for free; and

WHEREAS, COVID-19 vaccines were evaluated and found to be safe and effective in clinical trials involving tens of thousands of participants and met the U.S. Food & Drug Administration's rigorous scientific standards for safety, effectiveness, and manufacturing quality needed to support Emergency Use Authorization; and, to date, more than 453 million doses of COVID-19 vaccines have been given in the United States with approximately 358,000 of those doses administered in Kitsap County, and serious safety problems and long-term side effects are rare; and

WHEREAS, the Pfizer-BioNTech vaccine was granted full approval by the FDA effective August 23, 2021, for individuals 16 years of age and older; and

WHEREAS, the Pfizer-BioNTech vaccine has been granted Emergency Use Authorization by the FDA effective May 10, 2021, for individuals 12-15 years of age; and

WHEREAS, the Pfizer-BioNTech vaccine has been granted Emergency Use Authorization by the FDA effective October 29, 2021, for individuals 5-11 years of age; and

WHEREAS, the Board believes it is the duty of every employer to protect the health and safety of its employees and volunteers by establishing and maintaining a healthy and safe work environment and by requiring all employees and volunteers to comply with health and safety measures; and

WHEREAS, on July 6, 2021, the Office of Legal Counsel of the United State Department of Justice issued a legal opinion stating that governments were not prohibited by federal law from imposing vaccine mandates, including vaccines authorized under FDA Emergency Use Authorizations; and
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WHEREAS, in November 2021 the Occupational Safety and Health Administration (OSHA) issued an Emergency Temporary Standard regarding COVID-19 vaccination and testing; and

WHEREAS, COVID-19 continues to spread, threatening the life and health of persons in Kitsap County and the City of Bainbridge Island, in particular those who remain unvaccinated.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Bainbridge Island Metropolitan Park & Recreation District, Kitsap County, Washington, based on the foregoing recitals and the continued existence of a state of emergency as declared via motion at the March 19, 2020 regular Board meeting, as follows:

1. Vaccine Mandate. No employee or volunteer of the Bainbridge Island Metro Park & Recreation District ("District") (each a "Worker" and collectively "Workers") may engage in any work for the District after January 31, 2022, if the Worker has not, on or before that date, (i) been fully vaccinated against COVID-19 with a vaccine that is approved, on an emergency or full basis, by the Centers for Disease Control and Prevention (CDC) and (ii) provided proof thereof to the District. Any Worker who has not satisfied both (i) and (ii) above by February 1, 2022, will be suspended without pay, terminated from employment, or otherwise released from service unless the Worker (i) is granted an exemption as provided in Section 4 below or (ii) does testing as provided in Section 5 below. Any applicant who has not provided proof that they have been fully vaccinated, who has not received an exemption from the Vaccine Mandate, or who does not do testing shall not be eligible for hire or service as volunteer. A Worker will be deemed fully vaccinated fourteen or more days after completion of the primary series of an FDA-authorized COVID-19 vaccine.
2. Costs and Time Off for Vaccination. If a Worker is charged for administration of the vaccine, they may submit a request to the Human Resources Division for reimbursement. A Worker who requests time off to get vaccinated shall be granted a paid half-day off for each required dose, and, if need be, up to two paid days off to recover from adverse effects of the vaccination, which time off shall not reduce any accrued sick or vacation leave.
3. Proof of Vaccination. Acceptable proof of vaccination against COVID-19 includes the following: (i) a copy of the CDC COVID-19 Vaccination Record Card or clearly legible photo of the card; (ii) documentation of vaccination from a healthcare provider or electronic health record; (iii) public health, tribal or state immunization information system record; or (iv) a copy of any other official documentation that contains the type of vaccine administered, date(s) of administration, and the name of the healthcare professional(s) or clinic site(s) administering the vaccine(s). The District retains the right, in its sole discretion, to determine which form of proof of vaccination is acceptable to the District. Personal attestation is not acceptable proof of vaccination.
4. Exemptions from Vaccine Mandate.
 - a. A Worker is temporarily exempt from the Vaccine Mandate if medical necessity requires a delay in vaccination. The Worker must provide the District with written verification of such medical necessity, which shall include an estimate of when the medical necessity will end, signed by a licensed healthcare provider.
 - b. A Worker is exempt from the Vaccine Mandate if all FDA-authorized COVID-19 vaccines are medically contraindicated for the Worker. The Worker must provide the District with written verification of such contraindication signed by a licensed healthcare provider.
 - c. A Worker is exempt from the Vaccine Mandate if they are entitled, under the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Washington Law against Discrimination, and/or any other applicable law, to a disability-related or a sincerely-held-religious-belief accommodation. To request a disability-related accommodation, and to enable the District to evaluate the request, a Worker must, on or before January 31, 2021, (i) fill out and submit a request form provided by the District setting forth certain information related to the disability and accommodation and (ii) if requested by the District and to the extent permitted by law, submit a form provided by the District that is

filled out and signed by a licensed healthcare provider. To request a sincerely-held-religious-belief accommodation, and to enable the District to evaluate the request, a Worker must, on or before January 31, 2021, fill out and submit a request form provided by the District setting forth certain information related to the religious belief and accommodation. The medical and request forms for disability-related and sincerely-held-religious-belief accommodations shall be made available to Workers by posting the forms on the District's website and by having hard copies in the Human Resources Division. Each request for accommodation shall be reviewed by a committee comprised of the Administrative Division Director, Parks Services Division Director, and Recreation Division Director ("Review Committee"). The Review Committee shall evaluate the request and make a written recommendation to the District's Executive Director, who will review the Review Committee's recommendation and issue a written decision, which shall not be grievable.

5. Testing. Any Worker who is not fully vaccinated against COVID-19, including those who are exempt from the Vaccine Mandate under Section 4 above, and who reports at least once every seven (7) days to a workplace where other individuals are present, must do testing to remain eligible to be employed by or volunteer with the District, as follows. The Worker must be tested for COVID-19 at least once every seven (7) days and must provide documentation of the most recent test results to the District no later than the 7th (seventh) day following the date on which the Worker last provided test results. A Worker who does not report during a period of seven (7) days or more to a workplace where other individuals are present must be tested for COVID-19 within seven (7) days before returning to the workplace and provide documentation of those test results before returning to the workplace. If a Worker receives positive COVID-19 test results, or is diagnosed with COVID-19 by a licensed healthcare provider, the Worker does not have to undergo testing for ninety (90) days following the date of the test results or diagnosis. If a Worker does not provide documentation of COVID-19 test results as required by this policy, they will be removed from the workplace until they provide test results. Personal attestation is not acceptable documentation of test results. The Workers shall bear all costs associated with testing. Workers will not be granted time off for testing.

An acceptable test is one for SARS-CoV-2 that is: (i) cleared, approved, or authorized, including in an Emergency Use Authorization (EUA) by the FDA to detect current infection with the SARS-CoV-2 virus (e.g., a viral test); (ii) administered in accordance with the authorized instructions; and (iii) not both self-administered and self-read unless observed by the District or an authorized telehealth proctor. Examples of tests that satisfy this requirement include tests with specimens that are processed by a laboratory (including home or on-site collected specimens which are processed either individually or as pooled specimens), proctored over-the-counter tests, point of care tests, and tests where specimen collection is either done or observed by the District.

6. Face Coverings. Any Worker who is not fully vaccinated must wear a face covering when indoors and when occupying a vehicle with another person for work purposes, except: (i) when alone in a room with floor to ceiling walls and a closed door; (ii) for a limited time while eating or drinking at the workplace or for identification purposes in compliance with safety and security requirements; (iii) when wearing a respirator or face mask; or (iv) where the District determines that the use of a face covering is infeasible or creates a greater hazard.
7. Diagnosis or Positive Test. Workers must promptly notify the District if they receive positive COVID-19 test results or are diagnosed with COVID-19 by a licensed healthcare provider. Regardless of vaccination status or testing, if a Worker receives positive COVID-19 test results or is diagnosed with COVID-19 by a licensed healthcare provider, the Worker will immediately be removed from the workplace until the Worker: (i) receives negative results on a COVID-19 nucleic acid amplification test (NAAT) following positive results on a COVID-19 antigen test if the employee chooses to seek a NAAT test for confirmatory testing; (ii) meets the return to work criteria in CDC's "Isolation Guidance"; or (iii) receives a recommendation to return to work from a licensed healthcare provider.
8. Record Keeping. The District shall maintain a record of each Worker's vaccination status and must preserve acceptable proof of vaccination for each Worker. The District shall maintain a roster of each Worker's vaccination status. The District shall maintain a record of all test results provided by each Worker or obtained during tests conducted by the District. These records and roster are considered to be Worker medical records and shall be maintained as such in accordance with applicable laws and regulations.

9. Severability. Each provision of this Resolution is severable and does not apply to the extent that compliance therewith would violate (i) any U.S. or Washington constitutional provision; (ii) federal laws or regulations; (iii) any conditions that apply to receipt of federal funding; (iv) state or local laws or regulations; or (v) applicable orders from any court of competent jurisdiction.

PASSED by the Board of Commissioners of the Bainbridge Island Metropolitan Park & Recreation District, Kitsap County, Washington, at a regular meeting thereof held this 2nd day of December, 2021, the undersigned commissioners being present.

BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT

BY: _____
Dawn Janow

BY: _____
Jay C. Kinney

BY: _____
Kenneth R. DeWitt

BY: _____
John Thomas Swolgaard

ATTEST: _____
Asaph Glosser