Chapter 11

EMERGENCY POWERS

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Sec. 11-01. Legal Authority.
Idaho Code sections 50-304 and 50-606 authorize the City of Moscow to pass ordinances granting certain powers to the Mayor related to public health emergencies.

Sec. 11-02. Purpose and Intent.
The City finds that the preservation of public health, safety, and welfare may require immediate action by the City in response to emergency situations. Therefore, the City hereby authorizes the Mayor certain powers for immediate response to foreseeable, imminent, or present public health emergencies.

Sec. 11-03. Scope.
This chapter sets forth the procedures for activating the emergency powers of the Mayor and the specific powers of the Mayor during a public health emergency.

Sec. 11-04. Definitions.
For the purposes of this Chapter, the following terms, phrases, words, and derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used throughout this Chapter, but not defined herein, shall have their plain, ordinary and common meaning. Words in any gender shall apply to the feminine, masculine and neutral genders.

A. Public Health Emergency. The foreseeable, imminent, or present threat of any pathogen, agent, vector, or environmental condition, including hazardous materials, which does or may cause illness or injury to humans.

B. Public Health Emergency Order. An advisory, social distancing, isolation, or quarantine order enacted by the Mayor.

C. Isolation. The separation of infected persons, or of persons suspected to be infected, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent.

D. Quarantine. The restriction placed on the entrance to and exit from the place of premises where an infectious agent or hazardous material exists.

E. Social Distancing. Actions taken to maintain distance from other people, including avoiding or canceling congregate settings and mass gatherings.

Sec. 11-05. Public Health Emergency Orders.
The Mayor, being duly authorized by Idaho Code sections 50-304 and 50-606, may issue the following orders:

A. Advisory Order. Where a public health emergency is foreseeable or imminent, the Mayor may, enact an advisory order, which order may provide information and recommended guidelines for preventing, detecting, and/or mitigating the onset or spread of a public health hazard.

B. Social Distancing Order. Where a public health emergency is imminent, the Mayor may enact a social distancing order, which order may establish any or all of the following:

1. Appropriate restrictions regarding the operation or occurrence of planned or foreseeable commercial, recreational, or expressive gatherings or events.
2. Restrictions on travel through or visitation within the community.
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3. Postponement or cancelation of public meetings and hearings.
4. A limit on the number of persons who may gather in one location regardless of whether the location is an indoor or outdoor venue.
5. Measures to be taken in order to prevent, avoid, detect, address, and/or mitigate a foreseeable, imminent, or present public health hazard.
6. A social distancing order shall include an effective date and an anticipated expiration date, which may be extended in the same manner as the imposition of the initial order. A social distancing order shall apply within Moscow city limits, and continue contiguously to a distance of five (5) miles outside Moscow city limits.

C. Isolation Order. Where a public health emergency is present, and poses a clear threat of harm to the public health, the Mayor may enact an isolation order, which order may establish any or all of the following:
1. A directive that infected and/or exposed individuals isolate themselves from other persons.
2. Geographical areas of restricted or prohibited access.
3. Other measures necessary to avoid, address, or mitigate an imminent public health hazard.
4. The scope and manner of delivery of services, materials, or supplies to be provided by the City, if any.
5. Measures to be taken in order to prevent, avoid, detect, address, or mitigate a foreseeable, imminent, or present public health hazard.
6. Conditions of the isolation order.
7. An isolation order shall include an effective date and an anticipated expiration date, which may be extended in the same manner as the imposition of the initial order. An isolation order shall be effective only when and for so long as the public health emergency is present, and when no less restrictive alternative exists.

Sec. 11-06. Process for Enacting Public Health Emergency Orders.

A. Enactment. When summarily enacting a Public Health Emergency Order, the Mayor shall prepare a written order and publish it pursuant to this section.

B. Effective Date. The Public Health Emergency Order shall become effective immediately upon publication, except as may be specifically stated in the Public Health Emergency Order, such order shall be effective upon posting at Moscow City Hall. The order shall not be continued or renewed for a period in excess of seven (7) days except by or with consent of the Council through a Resolution.

C. Publication of Public Health Emergency Order. The Mayor shall cause a Public Health Emergency Order to be published as soon as possible and prudent under the circumstances by doing the following:
1. Posting the order in a prominent place at Moscow City Hall;
2. Posting the order on the City’s website;
3. E-mailing the order to all persons subscribed to City e-mail notification services;
4. Posting the order to all City social media accounts;
5. Providing the order to local television and radio broadcast outlets; and
6. Notifying other government agencies, including Moscow School District, Latah County Highway District, Latah County and University of Idaho.

Sec. 11-07. Exclusions.
Unless otherwise specifically prohibited by a Public Health Emergency Order duly enacted by the Mayor, the following activities shall be exempt from the scope of such order:
A. Any and all expressive and associative activity that is protected by the United States and Idaho Constitutions, including speech, press, assembly, and/or religious activity.
B. Educational institutions and airports, which shall follow the duly adopted policies of their respective governing bodies.
C. Activities necessary to operate critical infrastructure and utilities.
D. Activities necessary to operate and use medical facilities and services.
E. Activities necessary to buy, sell, or otherwise deliver food or necessities purchased in or at grocery or convenience stores, gas stations, and pharmacies.

Sec. 11-08. Suspension and Waiver of Certain City Services, Ordinances, and Policies and Procedures.
During a Public Health Emergency and upon issuance of a Public Health Emergency Order, the Mayor may suspend certain non-essential City government services and functions as deemed necessary and advisable given the specific public health emergency and in consideration of the health of employees and the general public. During such time, the Mayor may also suspend the regular meetings of City boards and commissions including but not limited to Planning & Zoning, Design Review and the Historic Preservation Commission. In order to facilitate such suspension of meetings, the ordinances providing for the regular meetings of these commissions shall be temporarily suspended. Those ordinances providing the timeline for processing applications shall also be suspended. The Mayor is also authorized to waive such internal rules, regulations and procedures as deemed necessary to protect the health and welfare of City employees.

Sec. 11-09. Force Majeure.
In the context of this chapter, a public health emergency is a force majeure. No person shall be entitled to recover from the City of Moscow any costs incurred, or profits lost as may be alleged to be attributed to the enactment of a Public Health Emergency Order.

Sec. 11-10. Penalty.
It shall be unlawful to violate any provision or directive of a duly enacted social distancing order, isolation order, or quarantine order while such order is in effect. The violation of any provision or directive of a social distancing order, isolation order, or quarantine order shall be a misdemeanor.

Sec. 11-11. Appeal.
Any person shall be entitled to appeal an isolation order or quarantine order, or to request a modification of any provision of such order by filing a written appeal with the City Clerk. Such appeal shall be heard by City Council at their next meeting, or, if no meeting is scheduled during the term of the isolation order or quarantine order, the City Supervisor or designee shall review such appeal and issue a written decision. The City Supervisor’s decision shall be final.