

Chapter 11

**EMERGENCY POWERS**

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**Sec. 11-01. Legal Authority.**

Article XII, Section 2 of the Idaho Constitution, and various sections of the Idaho Code, including sections 46-1011, 50-301, 50-302, 50-304, 50-308, 50-310 and 50-606, 50-607 and 50-901 authorize the City of Moscow to pass ordinances granting certain powers to the Mayor related to public emergencies.

(Ord. 2021-02, 01/19/2021)

**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, including threats to public health. Therefore, the City hereby authorizes the Mayor to declare a public emergency and to have the powers contained in this Chapter for immediate response to foreseeable, imminent, or present public emergencies.

(Ord. 2021-02, 01/19/2021)

**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 emergency.

(Ord. 2021-02, 01/19/2021)

**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 never discretionary. Words used throughout this Chapter, but not defined herein, shall have their plain, ordinary and common meaning. References to gender shall be inclusive of all genders.

- A. *Curfew*. A prohibition or limitation to be out in public at certain times.
- B. *Emergency Order*. An order that may be advisory, mandatory, or a combination of both, which may include a curfew, shelter in place, social/physical distancing, isolation, quarantine, or other order enacted by the Mayor entered to preserve the public health, safety and/or welfare of the City.
- 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. *Public 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. Public Emergency also includes other impending dangers that threaten the public health, safety and welfare requiring immediate enforcement or action to preserve the health, safety and welfare of the public.
- E. *Quarantine*. The restriction placed on the entrance to and exit from the place of premises where an infectious agent or hazardous material exists.
- F. *Shelter In Place*. The requirement that persons remain in their residences and/or self-isolate.
- G. *Social/Physical Distancing*. Actions taken to reduce or limit physical contact between individuals, or to maintain, increase or limit distance between individuals or groups, including avoiding or canceling congregate settings and mass gatherings.

(Ord. 2021-02, 01/19/2021)

**Sec. 11-05. Public Emergency Orders.**

The Mayor, being duly authorized by Idaho Code sections 50-304 and 50-606, may issue the following orders:

- A. Advisory Order. During a public emergency, the Mayor may enact an advisory order that provides information and recommends guidelines for preventing, detecting, and/or mitigating the onset or spread of a public emergency.
- B. Curfew Order. During a public emergency, the Mayor may enact a curfew order, establishing any or all of the following:
  1. An order limiting the hours of operation for businesses and facilities; or
  2. An order establishing a curfew under which individuals are to remain in their place of residence.
- C. Isolation Order. During a public emergency, the Mayor may enact an isolation order. An isolation order shall include an effective date and an expiration date, which may be extended or terminated in the same manner as the imposition of the initial order. An isolation 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 and/or categories of restricted or prohibited access; and
  3. Other measures necessary to prevent, avoid, detect, address, or mitigate a public emergency.
- D. Shelter In Place Order. During a public emergency, the Mayor may enact a shelter in place order. A shelter in place order shall include an effective date and an expiration date, which may be extended or terminated in the same manner as the imposition of the initial order. A shelter in place order may establish any or all of the following:
  1. A requirement that people isolate themselves and remain in their residences;
  2. Restrictions or prohibitions on public and private gatherings of individuals outside a residence;
  3. Restrictions or prohibitions on business or governmental activities;
  4. Limitations and restrictions on travel; and

5. Other measures to prevent, avoid, detect, address, and/or mitigate a public health emergency.

- E. Social/Physical Distancing Order. During a public emergency, the Mayor may enact a social/physical distancing order. A social/physical distancing order shall include an effective date and an expiration date, which may be extended or terminated in the same manner as the imposition of the initial order. A social/physical distancing order may establish any or all of the following:
  1. Restrictions regarding the operation of gatherings or events;
  2. Restrictions on travel into, out of, and through the city;
  3. Postponement or cancelation of public meetings and hearings;
  4. A limit on the number of persons who may gather in indoor or outdoor venues;
  5. Other measures to prevent, avoid, detect, address, and/or mitigate a public emergency.
- F. Quarantine Order. During a public emergency, the Mayor may enact a quarantine order. A quarantine order shall include an effective date and an expiration date, which may be extended or terminated in the same manner as the imposition of the initial order. A quarantine 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 or other areas of restricted or prohibited access, such as restricting access to a geographical location or area;
  3. Other measures to prevent, avoid, detect, address, and/or mitigate a public emergency.

(Ord. 2021-02, 01/19/2021)

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

During a public emergency, the Mayor may issue emergency orders to preserve the public health, safety and welfare of the City and its citizens.

- A. Enactment. The Mayor shall prepare a written emergency order and publish it pursuant to this section as soon as practical after signing said order.

- B. Effective Date. The Public Emergency Order shall become effective immediately upon publication, except as may be specifically stated in the 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 Emergency Order. The Mayor shall cause a Public 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.

(Ord. 2021-02, 01/19/2021)

**Sec. 11-07. Exclusions. <REPEALED>**

(Ord. 2021-02, 01/19/2021)

**Sec. 11-08. Suspension and Waiver of Certain City Services, Ordinances, and Policies and Procedures.**

During a Public Emergency and upon issuance of a Public Emergency Order, the Mayor may suspend any and all of the following:

- A. Non-essential City government services and functions, as deemed necessary given the specific nature of the emergency and in consideration of the health and safety of employees and the general public;
- B. Regular meetings of City boards and commissions. In order to facilitate such suspension of meetings, the ordinance(s) providing for the regular meetings of these boards and commissions shall be temporarily suspended. Those ordinances providing the

timeline for processing applications shall also be suspended.

- C. Other ordinances, as may be necessary, given the specific nature of the emergency; and
- D. Such internal rules, regulations and procedures as deemed necessary to protect the health and welfare of City employees and the general public.

(Ord. 2021-02, 01/19/2021)

**Sec. 11-09. Force Majeure.**

In the context of this chapter, a public 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 Emergency Order.

(Ord. 2021-02, 01/19/2021)

**Sec. 11-10. Penalty.**

It shall be unlawful to violate any provision or directive of a duly enacted emergency order. The violation of any provision or directive of an emergency order shall be a misdemeanor, unless a different penalty is designated by the emergency order or by Resolution of the City Council. Different penalties may include infractions or civil penalties.

(Ord. 2021-02, 01/19/2021)

**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, unless a different appeal process is designated by the emergency order or by Resolution of the City Council, shall be heard by City Council at their next scheduled meeting, or, if no meeting is scheduled during the term of the isolation order or quarantine order, the City Council may schedule an emergency meeting to hear the appeal. The decision by the City Council shall be final. If the City Council is unable to schedule an emergency meeting where a quorum will be present, and the appellant requests expedited review, then the City Supervisor or designee may review such appeal and issue a written decision. The City Supervisor’s or designee’s decision may be appealed by filling a written appeal with the City Clerk. The Mayor

and Council President will review the written appeal and determine whether the City Supervisor's or designee's decision should be upheld or reversed. The decision of the Mayor and Council President shall be final.

(Ord. 2021-02, 01/19/2021)