

ORDINANCE 611

AN EMERGENCY ORDINANCE OF THE CITY OF KELLOGG, SHOSHONE COUNTY IDAHO, ESTABLISHING EMERGENCY POWERS; SETTING FORTH THE AUTHORITY, PURPOSE AND INTENT; DEFINITIONS; DESCRIBING PUBLIC HEALTH EMERGENCY ORDERS; PROCESS FOR ENACTING PUBLIC HEALTH EMERGENCY ORDERS; PROVIDING FOR EXCLUSIONS; FORCE MAJEURE CLAUSE; PENALTY; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A WAIVER OF THE READING RULES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on March 11, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 (aka coronavirus) a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the U.S.; and

WHEREAS, on March 13, 2020, Idaho Governor Brad Little signed a declaration of emergency for the State of Idaho in response to concerns that cases of COVID-19 are imminent in Idaho; and

WHEREAS, on March 17, 2020, the Mayor Pro Tem of Kellogg signed a declaration of emergency in response to the COVID-19 threat; and

WHEREAS, on March 18, 2020, under Idaho Code section 46-1011, the City Council affirmed the emergency declaration for COVID-19; and

WHEREAS, under Idaho Code section 50-304, the City Council is authorized to pass all ordinances and make all regulations necessary to preserve the public health, prevent the introduction of contagious diseases into the city, and to make quarantine laws for that purpose and enforce the same within five (5) miles of Kellogg city limits, any health or quarantine ordinance and regulation thereof; and

WHEREAS, in order to effectively preserve the health and safety of the public, the City Council is granted the emergency powers contained within this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KELLOGG, IDAHO:

SECTION 1. EMERGENCY POWERS.

The City Council shall have such jurisdiction over all places within five (5) miles of the corporate limits of the City, for the enforcement of any health or quarantine ordinance and regulation thereof, including ordinances and all regulations necessary to preserve the public health; to prevent the introduction of contagious diseases into the City; and enforce quarantine regulations and laws for that purpose.

SECTION 2: LEGAL AUTHORITY.

Idaho Code sections 50-304 and 50-606 authorize the city of Kellogg, state of Idaho ("City") to pass ordinances granting certain powers to the City Council related to public health emergencies.

SECTION 3 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 City Council certain powers for immediate response to foreseeable, imminent, or present public health emergencies.

SECTION 4 SCOPE.

This Ordinance sets forth the procedures for activating the emergency powers of the Mayor and City Council during a public health emergency.

SECTION 5 DEFINITIONS.

For the purposes of this Ordinance, 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 Ordinance, but not defined herein, shall have their plain, ordinary, and common meaning. Words in any gender shall apply to the feminine, masculine, and neuter 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 and City Council.
- 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.

SECTION 6 PUBLIC HEALTH EMERGENCY ORDERS.

The Mayor and City Council, being duly authorized by Idaho Code sections 50-304 and 50-606, may issue the following orders, as deemed appropriate by the Mayor and City Council following consultation with or review of information issued by local, regional, state, or national public health authorities.

- A. **Advisory Order.** Where a public health emergency is foreseeable or imminent, the Mayor and City Council 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 and City Council 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.
 - 3. Postponement or cancellation of public meetings and hearings.
 - 4. A limit on the number of persons who may gather in one location and may apply to indoor or outdoor venues.
 - 5. Suspension of businesses or visitor lodging accommodations.
 - 6. Measures to be taken in order to prevent, avoid, detect, address, or mitigate a

foreseeable, imminent, or present public health hazard.

7. 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 Kellogg city limits, and five (5) miles outside Kellogg city limits.

C. **Isolation Order.** Where a public health emergency is present, and poses a credible threat of harm to the public health, the Mayor and City Council 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.

- a) 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. Any person shall be entitled to appeal an isolation 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, the Police Chief or designee shall review such appeal and issue a written decision. The Police Chief's decision shall be final.

D. **Quarantine Order.** Where a health emergency is present and poses a credible threat of harm to the public health, the Mayor and City Council may enact a quarantine 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 or other 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 quarantine.
7. A quarantine 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 quarantine order shall be effective only when and for so long as the public health

emergency is present, and when no less restrictive alternative exists. Any person shall be entitled to appeal a 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 quarantine order, the Police Chief or designee shall review such appeal and issue a written decision. The Police Chief's decision shall be final.

SECTION 7 PROCESS FOR ENACTING PUBLIC HEALTH EMERGENCY ORDERS.

- A. **Approval by City Council.** At a duly noticed public meeting, the proposed Public Health Emergency Order shall be presented. At the discretion of the City Council, public input may be taken at such meeting in such form as may be directed by the Mayor or Council President, but a public hearing shall not be required. Following approval by the City Council, the City Clerk shall prepare a written order and publish it pursuant to this Ordinance. Except as may be specifically stated in the Public Health Emergency Order, such order shall be effective upon posting at Kellogg City Hall.
- B. **Publication of Public Health Emergency Order.** As soon as possible and prudent under the circumstances, the City Clerk shall cause a Public Health Emergency Order to be published by:
1. Posting the order in a prominent place at Kellogg 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 media, television, and radio broadcast outlets; and
 6. Notifying other government agencies, including Joint School District #391, Shoshone County Fire Protection District #2, Shoshone County, Central Shoshone County Water District, and South Fork Coeur d'Alene Sewer District; and
 - a) Such other means of notice as the City Council may determine is in the best interests of the City.
 - b) Except as may be specifically stated in the Public Health Emergency Order, such order shall be effective upon posting at Kellogg City Hall.
- C. **Term of Order.** Every public health emergency order shall include an effective date and a termination date that shall be no more than thirty (30) days from the effective date, which may be extended upon approval of the City Council.

SECTION 8 EXCLUSIONS.

Unless otherwise specifically prohibited by a Public Health Emergency Order duly enacted by the Mayor and City Council, 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. Provided, this exclusion shall not prohibit reasonable restrictions on the time, place, or manner for exercising these fundamental rights as permitted by law.
- B. Educational institutions, 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, fuel, and necessities.

SECTION 9 FORCE MAJEURE.

In the context of this ordinance, a public health emergency is a force majeure. No person shall be entitled to recover from the City of Kellogg any costs incurred, or profits lost, as may be alleged to be attributed to the enactment of a Public Health Emergency Order.

SECTION 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 an infraction, punishable by a fine of \$100.

SECTION 11 CONFLICTS.

All ordinances, resolutions, orders, or parts thereof or in conflict with this ordinance are hereby voided.

SECTION 12 SAVINGS AND SEVERABILITY CLAUSE.

It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid for any reason by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 13 PUBLICATION.

This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval and posting of a proclamation by the Mayor in five (5) public places within the City.

SECTION 14 EFFECTIVE DATE.

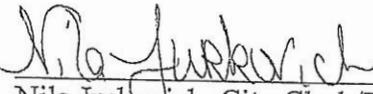
That pursuant to the affirmative vote of one-half (1/2) plus one (1) of the members of the full Council, there is a full suspension of the reading rules and the rule requiring two (2) separate readings by title and one (1) reading in full be, and the same is hereby, dispensed with, and accordingly, this Ordinance shall be in full force and effect immediately upon its passage, approval and posting of a proclamation by the mayor in five (5) public places within the City.

APPROVED:



Mac Pooler, Mayor

ATTEST:



Nila Jurkovich, City Clerk/Treasurer