



CITY OF KETCHUM, IDAHO SPECIAL CITY COUNCIL MEETING

Tuesday, September 14, 2021, 3:00 PM

480 East Avenue, North, Ketchum, Idaho

Agenda

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This agenda is subject to revisions. All revisions will be underlined.

CALL TO ORDER: By Mayor Neil Bradshaw

ROLL CALL:

NEW BUSINESS: (no public comment required)

1. ACTION ITEM: First, second and third reading of Emergency Powers Ordinance #1225.
2. ACTION ITEM: Consideration of Health Order 21-02.

ADJOURNMENT:

If you need special accommodations, please contact the City of Ketchum in advance of the meeting. This agenda is subject to revisions and additions. Revised portions of the agenda are underlined in bold.

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We look forward to hearing from you.

ORDINANCE 1225

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY IDAHO, ESTABLISHING EMERGENCY POWERS; SETTING FORTH THE AUTHORITY, PURPOSE, INTENT, AND SCOPE; SETTING DEFINITIONS; DESCRIBING PUBLIC HEALTH EMERGENCY ORDERS; ESTABLISHING PROCESS FOR ENACTING PUBLIC HEALTH EMERGENCY ORDERS; PROVIDING FOR SUSPENSION OF CERTAIN SERVICES, ORDINANCES, AND POLICIES; ESTABLISHING PENALTIES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING FOR EMERGENCY POSTING AND AN IMMEDIATE EFFECTIVE DATE.

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 Ketchum, any health or quarantine ordinance and regulation thereof; and

WHEREAS, under Idaho Code section 50-606, the Mayor shall have such jurisdiction as may be vested by ordinance 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; and

WHEREAS, the City of Ketchum adopted Ordinance No. 1212 as an emergency ordinance, commonly referred to and known as the Ketchum Emergency Powers Ordinance, granting the Mayor and City Council certain powers and authority, having issued Public Health Emergency Orders pursuant thereto, which Emergency Powers Ordinance sunsets, expires and becomes a nullity one hundred and eighty-two (182) days from its effective date; and

WHEREAS, the continuing threats of the COVID-19 pandemic show the need for a longer-term emergency powers process to be in place at the City to provide more procedural certainty and authority for potential further public health needs; and

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

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

SECTION 1. EMERGENCY POWERS.

This Ordinance shall be known and designated as the Ketchum Emergency Powers Ordinance.

SECTION 2. LEGAL AUTHORITY.

Idaho Code sections 50-304 and 50-606 authorize the City to pass ordinances granting certain powers to the Mayor and City Council related to public health emergencies.

SECTION 3. PURPOSE, SCOPE, 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 authorizes the Mayor and City Council to have certain powers for immediate response to foreseeable, imminent, or present public health emergencies. This Ordinance sets forth the procedures for activating the emergency powers of the Mayor and City Council during a public health emergency.

SECTION 4. DEFINITIONS.

- 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/or 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 5. PUBLIC HEALTH EMERGENCY ORDERS.

The Mayor and City Council may issue the following orders, as deemed appropriate by the Mayor and/or City Council.

- A. **Advisory Order.** Where a public health emergency is foreseeable or imminent, the City 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, following approval by the City Council or summarily when necessary, 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.

C. Isolation Order. Where a public health emergency is present, and poses a clear threat of harm to the public health, the Mayor may, following approval by the City Council or summarily when necessary, 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. 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 Fire Chief or designee shall review such appeal and issue a written decision. The Fire Chief's decision shall be final.

D. Quarantine Order. Where a health emergency is present and poses a clear threat of harm to the public health, the Mayor may, following approval by the City Council or summarily when necessary, 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 Fire Chief or designee shall review such appeal and issue a written decision. The Fire Chief's decision shall be final.

SECTION 6 . PROCESS FOR ENACTING PUBLIC HEALTH EMERGENCY ORDERS.

- A. **Approval by City Council.** The Mayor shall present to the City Council, at a duly noticed public meeting, the proposed Public Health Emergency Order. Public input may be taken at such meeting at the discretion of the Council, but a public hearing shall not be required. Following approval by the City Council, the Mayor shall prepare and publish and/or publicly post a written order. Except as may be specifically stated in the Public Health Emergency Order, such order shall be effective upon posting at Ketchum City Hall.
- B. **Summary Enactment.** When necessary to summarily enact a Public Health Emergency Order, the Mayor shall prepare and publish and/or publicly post a written order. Within seven (7) days of the issuance of such an order the Mayor shall present the order to the City Council for approval in the same manner as in subsection A of this section.
- C. **Publication of Public Health Emergency Order.** As possible and prudent under the circumstances, the Mayor shall cause a Public Health Emergency Order to be published by:

1. Posting the order in a prominent place at Ketchum 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. Providing the order to local television and radio broadcast outlets; and
5. Notifying other government agencies, including Blaine County School District, Blaine County and cities of Sun Valley, Hailey and Bellevue.

D. **Term of Order.** Every public health emergency order shall include an effective date and a termination date that shall be no more than ninety (90) days from the effective date, which may be extended upon approval of City Council.

SECTION 7. SUSPENSION AND WAIVER OF CERTAIN CITY SERVICES, ORDINANCES, AND POLICIES AND PROCEDURES.

During this Public Health Emergency and based upon the approval of a declaration of an emergency, 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 the Planning & Zoning 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 certain deadlines and the timelines for processing applications may 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.

SECTION 8. 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 under City Code.

SECTION 9. CONFLICTS.

All ordinances, resolutions, orders, or parts thereof or in conflict with this ordinance, if any, are hereby revoked for the term of this Ordinance.

SECTION 10. 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 11. EMERGENCY POSTING AND IMMEDIATE EFFECTIVE DATE.

Due to an imminent situation of contagious disease, a proclamation of this Ordinance shall be posted in at least five public locations in the City and this Ordinance shall take effect immediately upon such posting in accordance with Idaho Code 50-901. This Ordinance shall sunset and revoke as to effect one-hundred and eighty-two (182) days from its effective date.

PASSED BY the CITY COUNCIL and APPROVED by the MAYOR OF KETCHUM, IDAHO, on this _____ day of September 2021.

APPROVED:

Neil Bradshaw, Mayor

ATTEST:

Tara Fenwick, City Clerk

CITY OF KETCHUM
PUBLIC HEALTH EMERGENCY ORDER 21-02
(REQUIRING FACE COVERINGS INDOORS AND
REQUIRING SOCIAL DISTANCING WHEN
POSSIBLE)

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, and can be spread from person to person who are in close contact; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern; and

WHEREAS, on and after 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 issued a series of Orders addressing public health measures to slow the spread of COVID-19 including the Idaho Rebounds Plan; and

WHEREAS, on March 18, 2020, the Mayor of the City of Ketchum declared a local disaster emergency, and on March 23, 2020 the Ketchum City Council adopted the Declaration as per the Disaster Preparedness Act (Title 46, Chapter 10 of the Idaho Code), due to the threat that COVID-19 poses to the health and welfare of the residents of Ketchum; and

WHEREAS, Idaho Code 50-304 authorizes cities to provide for public health and Idaho Code 50-606 authorizes the Mayor to provide for the enforcement of any health or quarantine ordinance and regulation; and

WHEREAS, infection rates in Idaho have significantly increased in recent weeks, and Blaine County and the City of Ketchum are experiencing an increase in the numbers of verified cases of COVID-19 and the number of hospitalizations are increasing throughout the state; and

WHEREAS, the CDC recommends that people maintain social distancing and wear cloth face coverings in public settings, especially when other social distancing measures are difficult to maintain; and

WHEREAS, there is a continuing and urgent need to protect all residents, employees and visitors in the city of Ketchum from the risks relating to the COVID-19 pandemic through the protection provided by wearing facial coverings and practicing social distancing; and

WHEREAS, Blaine County School District has mandated mask wearing for students and staff, and a modified schedule to ensure in-school learning throughout the entire school year; and

WHEREAS, the emergency services and local healthcare facilities have limited capacity to handle a significant increase in COVID-19 confirmed cases in Blaine County, while healthcare facilities statewide are reaching capacity; and

WHEREAS, healthcare facilities operating at or above capacity may result in reduced healthcare availability to persons with COVID or with any other illness; and

WHEREAS, Ketchum’s labor shortage could be amplified with more local COVID exposure.

WHEREAS, this Public Health Emergency Order 21-02 was considered and approved by the City Council.

NOW, THEREFORE, the Mayor and City Council do hereby adopt the following regulations, which shall supersede and replace all prior Public Health Emergency Orders issued by the City of Ketchum, and which shall be in effect until rescinded, superseded or amended by the Mayor or City Council.

SECTION 1. FACE COVERINGS

Every person, shall, when in any indoor public place, completely cover their nose and mouth when members of the public are physically present and within six (6) feet. Persons, when in outdoor public places, are recommended to completely cover their nose and mouth when members of the public are present and within six feet.

1. **DEFINITIONS:** For purposes of this Public Health Emergency Order, “public place” shall mean any place open to all members of the public without specific invitation, including but not necessarily limited to, retail business establishments, government offices, medical, educational, arts and recreational institutions, public transportation, including taxi cabs and ridesharing vehicles. “Members of the public” shall mean persons not therein employed or present without invitation.
2. **EXEMPTIONS:**
 - a. Children under the age of 5.
 - b. Persons who cannot medically tolerate wearing a face covering. A person is not required to provide documentation demonstrating that the person cannot medically tolerate wearing a face covering.
 - c. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
 - d. Persons, including on-duty law-enforcement officers, for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

- e. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the face covering is necessary to perform the service.
- f. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as the person is able to maintain a distance of 6 feet away from persons who are not members of the same household or party as the person.
- g. Persons who are engaged in indoor exercise so long as they engage in social distancing as recommended by the CDC.

SECTION 2. SOCIAL DISTANCING

All gatherings of non-household members shall be organized to maintain 6 feet of separation between parties in every indoor public space. All gatherings of non-household members in outdoor spaces are recommended to maintain 6 feet of separation between non-household parties. As defined by the CDC, “gathering” means “a planned or spontaneous event, indoors or outdoors, with a small number of people participating or a large number of people in attendance such as a community event or gathering, concert, festival, conference, parade, wedding, or sporting event.”

- 1. DEFINITIONS: For purposes of this Public Health Order, “indoor” space shall mean any roofed space with two or more walls or impermeable vertical barriers preventing natural airflow and/or confining natural movement of air through said space, whether public or private. Rooms within a building are separate “indoor” spaces. An “outdoor” space is any other place, not an indoor space, that is owned by any single entity, public or private.
- 2. EXEMPTIONS:
 - a. Gatherings for political expression and religious activities are not subject to the provisions of this Section; provided, however, that gatherings for purposes of political expression and religious activities must adhere to physical distancing and sanitation requirements per CDC guidelines.
 - b. Gatherings as defined in this Section do not include “educational activities.” The term “educational activities” means activities involving students taught by an educator in a school or equivalent setting.
 - c. Extra-curricular activities, including athletics, practice, matches, performances and games may continue. Participants necessary for the extra-curricular activity to occur include, but are not limited to players, instructors, coaches, officials, and personnel to broadcast the activity. Attendance by non-participants, including spectators, remains subject to the requirements specified in this Order.
 - d. Institutional facilities operated by government, taxing districts and/or genuine non-profit organizations.

- e. Any other private business, open to the public without specific invitation, that has adopted, implemented and posted written instructions at all entrances, and in other prominent public places, clearly visible throughout the business, COVID-19 mitigation strategies, enforced by the business, including at a minimum provision of hand sanitizer or hand washing stations.

SECTION 5. PENALTIES

Any person who violates any provision of this Order, shall be guilty of an infraction, punishable by a fine of \$100.

SECTION 6. EFFECTIVE DATE AND SUNSET DATE

This Emergency Order shall take effect at 12:00 a.m., on September 15, 2021, and shall remain in effect until rescinded, superseded or amended by the Mayor or City Council.

Passed and approved by the Ketchum City Council on the 14th day of September 2021.

APPROVED:

Neil Bradshaw
Mayor

ATTEST:

Tara Fenwick, City Clerk