

ORDINANCE NO. 428

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF ATHOL, KOOTENAI COUNTY, IDAHO, ADDING A NEW CHAPTER 11 UNDER TITLE 1 ADMINISTRATION, ENTITLED 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; PROVIDING FOR SUSPENSION OF SERVICES; FORCE MAJEURE CLAUSE; PROVIDING THAT VIOLATIONS OF PUBLIC HEALTH EMERGENCY ORDERS ARE A MISDEMEANOR PUNISHABLE BY A FINE OF \$1,000.00 OR BY IMPRISONMENT FOR UP TO 6 MONTHS OR BY BOTH A FINE AND IMPRISONMENT; PROVIDING FOR A WAIVER OF THE READING RULES; AND PROVIDING AN EFFECTIVE DATE UPON PROCLAMATION BY THE MAYOR POSTED IN FIVE PUBLIC PLACES OF THE CITY.

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, under Idaho Code section 50-304, the Mayor 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 the city limits, any health or quarantine ordinance and regulation thereof; and

WHEREAS, under Idaho Code section 50-606, the Mayor will have such jurisdiction as may be vested in him by ordinance over all places within the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof; and

WHEREAS, to effectively preserve the health and safety of the public, the Mayor is granted the emergency powers contained within this ordinance; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of Athol:

SECTION 1. That a new Title 1, Chapter 11, entitled Emergency Powers, is added to the Athol Municipal Code as follows:

EMERGENCY POWERS

1-11-1: LEGAL AUTHORITY:

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

1-11-2: 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 emergencies. Therefore, the City hereby authorizes the Mayor certain powers for immediate response to foreseeable, imminent, or present public health emergencies.

1-11-3: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.

1-11-4:DEFINITIONS:

For the purposes of this Chapter, the following terms, phrases, words, and derivations will 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 words "shall", "will", or "must" are always mandatory and not merely directory. Words used throughout this Chapter, but not defined herein will have their plain, ordinary, and common meaning. Words in any gender apply to the feminine, masculine, and nonbinary 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 or 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 such as by ordering the closure of bars, restaurants and other places of public accommodation.

1-11-5:PUBLIC HEALTH EMERGENCY ORDERS:

The Mayor, as authorized by this ordinance and Idaho Code sections 50-304 and 50-606, may issue the following orders, as deemed appropriate by the Mayor following consultation with or review of information issued by local, regional, statewide, or nationwide public health authorities.

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.
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. Measures to be taken to prevent, avoid, detect, address, or mitigate a foreseeable, imminent, or present public health hazard.
6. A social distancing order must 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 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 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 must 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 will be effective only when and for so long as the public health emergency is present or for so long as the subject(s) of the isolation order poses a threat to public health. Any person who is the subject of an isolation order is entitled to appeal the isolation order or to request a modification of any provision of such order by filing a written appeal with the City Clerk. Such appeal will be heard by City Council at their next meeting, or, if no meeting is scheduled during the term of the isolation order, the Sherriff or designee will review such appeal and issue a written decision. The Sherriff decision will 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 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 to prevent, avoid, detect, address, or mitigate a foreseeable, imminent, or present public health hazard.
6. Conditions of the quarantine.
7. A quarantine order must 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 will be effective only when and for so long as the public health emergency is present or for so long as the subject(s) of the quarantine order poses a threat to public health. Any person who is the subject of a quarantine order is entitled to appeal the quarantine order, or to request a modification of any provision of such order by filing a written appeal with the City Clerk. Such appeal will be heard by City Council at their next meeting, or, if no meeting

is scheduled during the term of the quarantine order, the Sherriff or designee will review such appeal and issue a written decision. The Sherriff decision will be final.

1-11-6:PROCESS FOR ENACTING PUBLIC HEALTH EMERGENCY ORDERS:

- A. Issuance of an Order. The Mayor will prepare a written order and publish it pursuant to this section.
- B. Notice to the City Council. Following the issuance of any order authorized by this chapter, the Mayor will advise the City Council at a properly noticed public meeting of the issuance of the order and the basis for its issuance as soon as is reasonably practicable but no later than seven (7) days after the date that the order is issued.
- C. Council Veto. The City Council may reverse or alter the order issued by the Mayor by a majority vote of the full City Council.
- D. Publication of Public Health Emergency Order. As soon as possible and prudent under the circumstances, the Mayor will cause a Public Health Emergency Order to be published as follows:
 - 1. Posting the order in a prominent place at the Athol City Hall;
 - 2. Posting the order on the City's website;
 - 3. Posting the order to some Community social media accounts;
 - 4. Providing the order to local media outlets; and
 - 5. Notifying other government agencies, including Lakeland School District, Lakes Highway District, Panhandle Health District, and Kootenai County Sheriff's office.

Except as may be specifically stated in the Public Health Emergency Order, such order will be effective upon posting at the Athol City Hall.

1-11-7:EXCLUSIONS:

Unless otherwise specifically prohibited by a Public Health Emergency Order duly enacted by the Mayor, the following activities are exempt from the scope of such order:

- 1. Any expressive and associative activity that is protected by the United States and Idaho Constitutions, including speech, press, assembly, and/or religious activity.
- 2. Activities necessary to operate critical infrastructure and utilities.
- 3. Activities necessary to operate and use medical facilities and services.

4. Activities necessary to buy, sell, or otherwise deliver food and necessities.

1-11-8: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-critical 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 and the Parks and Recreation Commission. To facilitate such suspension of meetings, the ordinances providing for the regular meetings of these commissions will be temporarily suspended. Those ordinances providing the timeline for processing applications will 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. The Mayor may authorize the City Administrator to act on his/her behalf and exercise the authority granted to the Mayor under this section.

1-11-9:FORCE MAJEURE:

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

1-11-10: PENALTY:

It is 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 is a misdemeanor punishable as provided in Municipal Code 1-4-1.

SECTION 2. All provisions of the current Athol Municipal Code or ordinances of the City of Athol and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. Neither the adoption of this ordinance nor the repeal of any ordinance will, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Athol City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

SECTION 4. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any

SECTION 4. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability will not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

SECTION 5. That this ordinance, consistent with Idaho Code section 50-901, will be effective immediately upon its passage and proclamation of the Mayor with publication via posted notice in at least five (5) public places of the City.

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an Ordinance of the City of Athol at an emergency session of the City Council on March 24, 2020.

APPROVED, ADOPTED and SIGNED this 24th day of March 2020.

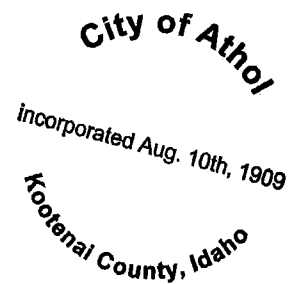


Bill Hill, Mayor

ATTEST:



Lori Yarbrough, City Clerk/Treasurer



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