



## City of Ketchum

September 29, 2020

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

### **Recommendation To Adopt Emergency Ordinance 1212**

#### Recommendation and Summary

It is recommended the City Council make the following motions:

1. I move to waive the first and second reading of Emergency Ordinance 1212.
2. I move to adopt Emergency Ordinance 1212 and read by title only.

The reasons for the recommendation are as follows:

- Emergency Ordinance 1207 was adopted by the Council on March 23, 2020, providing the Mayor and City Council with the legal authority to take action if the City Council deems it is necessary.
- Ordinance 1207 was adopted with a clause providing for its sunset after 182 days. Proposed Ordinance 1212 removes the sunset date and enables the City to adopt certain orders moving forward.

#### Analysis

The ability for the City to adopt and implement measures to protect the health and safety of individuals on an on-going basis in Ketchum during the COVID-19 health emergency is limited without adoption of the proposed ordinance which revises Ordinance 1207 that was passed on March 23, 2020. The proposed ordinance eliminates the sunset date for the previously adopted Ordinance 1207.

Any order issued pursuant to the ordinance would require a public meeting before the City Council approves the order. In addition to providing for the approval of health orders, the ordinance also removes the clause limiting the duration of public health orders issued pursuant to the ordinance. Additionally, the proposed ordinance preserves the ability of the Mayor to cancel meetings and extend processing timelines and deadlines for development permits.

As proposed, the ordinance would go into effect immediately upon passage and posting.

#### Sustainability

The recommendation does not impact the goals of the Ketchum Sustainability Plan.

#### Financial Impact

There is no financial impact from the proposed ordinance.

#### Attachments

Attachment A: Emergency Ordinance 1212

Attachment B: Redline of Ordinance 1212

**ORDINANCE 1212**

**AN EMERGENCY 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, AN EFFECTIVE DATE, AND A SUNSET 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 18, 2020 the Mayor of Ketchum signed a declaration of emergency in response to the COVID-19 threat; 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 Ketchum city limits, 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**, in order 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 COUNCIL OF THE CITY OF KETCHUM, IDAHO:**

**SECTION 1. EMERGENCY POWERS.**

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

and shall be considered as a temporary emergency 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 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 and 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.**

- 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 6 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 7 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 as outlined in section 7A.

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:

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. 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 Blaine County School District, Blaine County and City of Sun Valley.

D. **Term of Order.** Every public health emergency order shall include an effective date and require approval of City Council.

## **SECTION 8 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 9 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 10 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 11 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 12 EMERGENCY POSTING, EFFECTIVE DATE, AND SUNSET.**

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.

PASSED BY the CITY COUNCIL and APPROVED by the MAYOR OF Ketchum Idaho, on this 29<sup>th</sup> day of September 2020.

APPROVED BY the Mayor of the City of Ketchum, Idaho this 29<sup>th</sup> day of September 2020

APPROVED:

\_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
Robin Crotty, City Clerk

**ORDINANCE ~~1207~~1212**

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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 Blaine County School District, Blaine County and City of Sun Valley.

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~~ require approval of City Council.

#### **SECTION 8 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.

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or directive of a social distancing order, isolation order, or quarantine order shall be an infraction under City Code.

**SECTION 10 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 11 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 12 EMERGENCY POSTING, EFFECTIVE DATE, AND SUNSET.**

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 be considered a temporary emergency ordinance and 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 ~~23<sup>rd</sup>~~<sup>29<sup>th</sup></sup> day of ~~March~~<sup>September</sup> 2020.

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APPROVED BY the Mayor of the City of Ketchum, Idaho this ~~23<sup>rd</sup>~~<sup>29<sup>th</sup></sup> day of ~~March~~<sup>September</sup> 2020

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APPROVED:

\_\_\_\_\_  
Neil Bradshaw, Mayor

ATTEST:

\_\_\_\_\_  
Robin Crotty, City Clerk