



**CITY COUNCIL
SPECIAL MEETING AGENDA**

**March 21, 2020
1:30 PM**

Location: Mayors Conference Room, 408 N. Spokane Street, Post Falls, ID 83854

SPECIAL MEETING – 1:30 pm Mayors Conference Room

CALL TO ORDER BY MAYOR JACOBSON

ROLL CALL OF CITY COUNCIL MEMBERS

Kerri Thoreson, Alan Wolfe, Joe Malloy, Steve Anthony, Lynn Borders, Linda Wilhelm

AMENDMENTS TO THE AGENDA

Final action cannot be taken on an item added to the agenda after the start of the meeting unless an emergency is declared that requires action at the meeting. The declaration and justification must be approved by motion of the Council.

DECLARATION OF CONFLICT, EX-PARTE CONTACTS AND SITE VISITS

The Mayor and members of the City Council have a duty to serve honestly and in the public interest. Where the Mayor or a member of the City Council have a conflict of interest, they may need to disclose the conflict and in certain circumstances, including land use decisions, they cannot participate in the decision-making process. Similarly, ex-parte contacts and site visits in most land use decisions must also be disclosed.

1. NEW BUSINESS

This portion of the agenda is for City Council consideration of items that have not been previously discussed by the Council. Ordinances and Resolutions are generally added to a subsequent agenda for adoption under Unfinished Business, however, the Council may consider adoption of an ordinance or resolution under New Business if timely approval is necessary.

ACTION ITEMS:

- a. Emergency Social Distancing and Quarantine Ordinance

DISCUSSION ITEM:

- b. Public Health Emergency Order

2. MAYOR AND COUNCIL COMMENTS

This section of the agenda is provided to allow the Mayor and City Councilors to make announcements and general comments relevant to City business and to request that items be added to future agendas for discussion. No final action or in-depth discussion of issues will occur.

ADJOURNMENT

Questions concerning items appearing on this Agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 408 Spokane Street or call 208-

773-3511. City Council and City commission meetings are broadcast live on Post Falls City Cable on cable channel 1300 (formerly 97.103). City videos are also available as video on demand on the City website.

Mayor Ronald G. Jacobson

Councilors: Kerri Thoreson, Alan Wolfe, Joe Malloy, Steve Anthony, Lynn Borders, Linda Wilhelm

Mission

The City of Post Falls mission is to provide leadership, support common community values, promote citizen involvement and provide services which ensure a superior quality of life.

Vision

Post Falls, Idaho is a vibrant city with a balance of community and economic vitality that is distinguished by its engaged citizens, diverse businesses, progressive leaders, responsible management of fiscal and environmental resources, superior service, and a full range of opportunities for education and healthy lifestyles.

“Where opportunities flow and community is a way of life”

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF POST FALLS, KOOTENAI COUNTY, IDAHO, ADDING A NEW CHAPTER 8.60 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, 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 City Council of the Post Falls:

SECTION 1. That a new Chapter 8.60, entitled Emergency Powers, is added to the Post Falls Municipal Code as follows:

EMERGENCY POWERS

8.60.010: LEGAL AUTHORITY:

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

8.60.020: 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 certain powers for immediate response to foreseeable, imminent, or present public health emergencies.

8.60.030: 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.

8.60.040: 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.

8.60.050: 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 in order 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 in order 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 pose 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 Police Chief or designee will review such appeal and issue a written decision. The Police Chief's 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 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 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 pose 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 Police Chief or designee will review such appeal and issue a written decision. The Police Chief's decision will be final.

8.60.060: 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 Post Falls 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 outlets; and
6. Notifying other government agencies, including Post Falls School District, Post Falls Highway District, Panhandle Health District.

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

8.60.070: 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 and all 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.

8.60.080: 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. In order 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.

8.60.090: 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 Post Falls any costs incurred, or profits lost, as may be alleged to be attributed to the enactment of a Public Health Emergency Order.

8.60.100: 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 chapter 1.24.

SECTION 2. All provisions of the current Post Falls Municipal Code or ordinances of the City of Post Falls 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 Post Falls 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 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 Post Falls at an emergency session of the City Council on _____, 20_____.

APPROVED, ADOPTED and SIGNED this _____ day of _____, 20_____.

Ronald G. Jacobson, Mayor

ATTEST:

Shannon Howard, City Clerk

PUBLIC HEALTH EMERGENCY ORDER

No. _____

RESTAURANTS AND BARS

March 21, 2020

WHEREAS, on March 11, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 (coronavirus) a pandemic, and 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 of the city of Post Falls, Ronald G. Jacobson, declared a local disaster emergency, as per the Disaster Preparedness Act (Title 46, Chapter 10 of the Idaho Code), in the city of Post Falls due to the threat that COVID-19 poses to the health and welfare of the residents of Post Falls, and on March 17, 2020, the Post Falls City Council ratified and extended the Declaration of Emergency; and

WHEREAS, on March 17, 2020, the Council for the city of Post Falls adopted a Resolution ratifying the emergency declaration of the Mayor and extending the emergency for the duration of the COVID-19 epidemic; and

WHEREAS, the risk of community spread throughout the city of Post Falls impacts the life and health of the public and public health is imperiled by the person-to-person spread of COVID-19, and the reduction of opportunities for the person-to-person transmission of COVID-19 is necessary to combat the spread of the disease.

WHEREAS, both the Department of Health and Human Services Centers for Disease Control and Prevention ("CDC") and the White House have recommended practices to prevent the rapid spread of COVID-19, including social distancing; and

WHEREAS, on March 18, 2020, Governor Brad Little adopted these recommendations in Idaho. The recommendations include that individuals practice social distancing by not gathering in groups of more than ten (10) people and that they avoid eating at bars, restaurants and food courts. The recommendations further include that individuals use drive-up, take-out and delivery options for meals; and

WHEREAS, there are currently thirty-one (31) cases of COVID-19 within Idaho, three (3) of which are within Kootenai County; and

WHEREAS, on March 21, 2020 the Post Falls City Council adopted an ordinance granting the Post Falls Mayor the authority to issue Public Health Emergency Orders, including the authority to require bars and restaurants to close or otherwise alter their operations.

NOW, THEREFORE, I, Ronald G. Jacobson, Mayor of the City of Post Falls, Idaho, by virtue of the authority vested in me by Post Falls City Code 8.60, and the common law authority to protect the public in the event of an emergency hereby order as follows:

Section 1. Bars.

All bars, taverns, nightclubs, private liquor clubs, taprooms, tasting rooms, mobile bars, cabarets and saloons, as well as all other alcohol licensed premises for by the glass sales of alcoholic beverages as defined by Post Falls Municipal Code Chapter 5.04, IDAPA 11.05.01, or I.C. § 39-5502, 23-942, or 23-902, within the city limits of the City of Post Falls shall close to members, guests, patrons, customers, and the general public.

Section 2. Restaurants.

All restaurants and dine-in food service within the city limits of the City of Post Falls, as defined by I.C. 23-942 or I.C. 39-5502, whether inside or outside the establishment, is prohibited. Restaurants and dine-in service means any eating establishment including, but not limited to, coffee shops, cafes, private dining clubs, and cafeterias that give or offer for sale food to the public, guests or employees. Restaurants may not admit members, guests, patrons or customers inside the establishment except to pick up food for take-out.

Curbside take-out and drive-through food service (in addition to pickup service as noted above) is permitted.

Where possible online (e.g., Venmo, Google Pay, ApplePay) and telephonic credit card transactions are strongly encouraged. Cash payments are strongly discouraged.

Delivery food service is permitted. Where possible on-line and telephonic credit card transactions are strongly encouraged, cash payments are strongly discouraged.

Employees who handle cash or credit cards shall use cleansing methods between each transaction. All employees are strongly encouraged to wear protective items when preparing, delivering, or completing transactions.

Section 3. Exemptions.

This order shall not apply to emergency overnight or day shelters that provide food service to persons experiencing homelessness, grocery stores, and gas stations.

Section 4. Penalty.

In accordance with Post Falls City Code Section 1.24, any person who knowingly violates the provisions of this order shall be guilty of a misdemeanor.

Section 5. Duration.

This Emergency Order shall take effect at 12:00 am on March 23, 2020 and shall remain in effect for fourteen (14) days unless extended, terminated or modified prior.

Ronald G. Jacobson, Mayor