

Moscow City Council



Regular Meeting ~Minutes~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208.883.7015

Tuesday, January 19, 2021

7:00 PM

**Council Chambers
206 E. Third St.**

The meeting was called to order at 7:00 p.m.

PRESENT: Mayor Bill Lambert, Art Bettge (Virtual), Sandra Kelly (Virtual), Maureen Laflin (Virtual), Brandy Sullivan (Virtual), Gina Taruscio (Virtual), Anne Zabala (Virtual)

STAFF: Gary J. Riedner, Mia Bautista, Bill Belknap (Virtual), Tyler Palmer (Virtual), Aimee Hennrich (Virtual), Jen Pfiffner (Virtual), Laurie M. Hopkins

PLEDGE OF ALLEGIANCE

Mayor Lambert led the Pledge of Allegiance.

CONSENT AGENDA

1. All Consent Items (ACTION ITEM)

A. Approval of Moscow City Council January 4, 2021 Minutes - Laurie M. Hopkins

Minutes presented for approval.

ACTION: Approve minutes.

B. Disbursement Report December 2020 - Sarah Banks

Staff presented the December 2020 Accounts Payable Report to Public Works / Finance Committee on January 11, 2021. The Committee received the report and approved the disbursements as presented.

ACTION: Receive the Disbursements Report for the month of December, 2020.

C. First Quarter Financial Report October 1, 2020 to December 31, 2020 for FY2021 - Sarah Banks

The financial report for the first quarter of Fiscal Year 2021 (October 1, 2020 to December 31, 2020) was presented to the Public Works / Finance Committee on January 11, 2021 and recommended for approval.

ACTION: Approve the FY2021 First Quarter Report.

D. Lot Line Adjustment: 1212 and 1226 W Pullman Road - Aimee Hennrich

The applicant, the Connelly family, is requesting a lot line adjustment between two properties located at 1212 and 1226 Pullman Road. The proposed lot line adjustment would increase the lot addressed as 1212 Pullman Road from 25,564 sf to 28,079 sf in size and reduce the lot addressed as 1226 Pullman Road from 29,926 sf to 27,411 sf in size. The applicant is requesting the lot line adjustment after a recent survey revealed that the building on the north lot (1212

Pullman Road) is encroaching onto the southern lot (1226 Pullman Road). The southern lot currently contains Zips Restaurant and the northern lot contains a portion of the Hope Center Thrift Store. The subject properties are located within the Motor Business (MB) Zoning District where there is no minimum lot size or lot width requirements. As a result of the proposed lot line adjustment, the Hope Center will no longer be encroaching upon the common property line and will meet all setback requirements of the MB Zone. This was reviewed by the Public Works / Finance Committee on December 14, 2020 and recommended for approval.

ACTION: Approve the lot line adjustment request with no conditions.

E. Idaho Commission on the Arts Grant Applications Public Programs in the Arts - Megan Cherry

The Arts Department seeks approval to apply for an annual grant administered by the Idaho Commission on the Arts (ICA). The Public Programs in the Arts (PPA) grant program is intended to provide general operating support for arts organizations in Idaho. These funds will represent off-setting revenue in the production of Arts Department events including Entertainment in the Park and Artwalk. This was reviewed by the Public Works/Finance Committee on January 11, 2021 and recommended for approval.

ACTION: Approve the Public Programs in the Arts (PPA) grant application for the current cycle.

F. Professional Service Prequalification Process Master Agreements Approval - Scott Bontrager

The City frequently requires the services of design professionals necessary for the design and construction of a variety of public utility, facility and other public construction projects. Idaho requires that procurement of professional service contracts with design professionals (professional engineers, architects and landscape architects), construction managers and professional land surveyors shall be based upon the qualifications and demonstrated competence of the provider of the required services. City staff solicited a Request for Statements of Qualifications (SOQ) on September 26, 2020 for Engineering agencies looking to be included or updated as part of the Professional Services Roster. Submittals were accepted until October 23, 2020. The City received SOQs from a total of 18 engineering firms. Staff is requesting authorization for the City to enter into a Master Services Agreement with those firms, specifying the terms and conditions for the provision of professional services on an on-demand task order basis to the City. This was reviewed by the Public Works/Finance Committee on January 11, 2021 and recommended for approval.

ACTION: Approve the Professional Services Roster and allow City to enter into Master Services Agreements with respondents to the City's Statement of Qualifications.

G. Idaho Commission on the Arts (ICA) Arts Education Annual Project Grant Application - Megan Cherry

The Arts Department seeks approval to apply for an annual grant administered by the Idaho Commission on the Arts (ICA). The Arts Education Annual Project is a grant program that supports activities that unite education and the arts. These grant funds will sustain the Arts Department's growing MACTivities Toolbox program, which is part of the MAC's fulfillment of the arts education component of their mission. The Toolbox program was initiated during the

early days of the 2020 pandemic as a way to support arts education while maintaining social distance. The Toolboxes contain art supplies and National Core Arts Standards-aligned curriculum designed to serve ages 5 - 13+. The program is produced in partnership with the Prichard Art Gallery and is also supported by the Moscow Arts Commission's FY2021 budget. If received, this grant funding would represent off-setting revenue for FY2021. This was reviewed by the Public Works/Finance Committee on January 11, 2021 and recommended for approval.

ACTION: Approve the Arts Education Annual Project grant application for the current cycle.

H Moscow Farmers Market Design Toolkit RFQ - Amanda Argona

The City of Moscow continues to support a consistent and unified brand, as outlined in the Strategic Plan issue developed in 2015 and moved to operational status in 2018. Branding efforts have included enhancements made to social media use, City Department and Commission logos, and Arts Program Graphics. The Moscow Farmers Market would benefit from a comprehensive and consistent visual/graphic identity. A sub-committee of Moscow Farmers Market Commission members and City staff developed a Request for Qualifications for professional services to assist in a toolkit, which will include a style guide to illustrate and support Market programs and events. The Moscow Farmers Market Commission has reviewed and approved the draft RFQ for presentation to City Council. The branding project was budgeted for \$9,000 in the FY2021 City budget. This was reviewed by the Administrative Committee on January 11, 2021 and recommended for approval.

ACTION: Receive the Moscow Farmers Market Design Toolkit RFQ.

Bettge moved and Laflin seconded approval of the consent agenda. Roll Call
Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REGULAR AGENDA

2. Mayors Appointments (ACTION ITEM)

Mayor Lambert proposed the following appointments: Renee Magee to the Historic Preservation Commission; Julia Parker to the Human Rights Commission; Jamal Lyksett and Natalie Wiley Sustainable Environment Commission; Zena Hartung to the Tree Commission; Art Bettge to the Moscow Urban Renewal Agency. Sullivan moved, Zabala seconded to approve the proposed appointments. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

3. Amending Moscow City Code Title 1 Chapter 11 Emergency Powers (ACTION ITEM) - Gary J. Riedner

On March 20, 2020, in response to the COVID-19 pandemic, the City Council approved Ordinance 2020-03, which created a new Moscow City Code Title 1, Chapter 11 Emergency Powers, vesting the Mayor with temporary powers in times of emergency for a period of seven days (similar to the powers authorized by Idaho Code section 46-1011, and stating that the City Council may choose to extend the time of the Emergency Powers beyond seven days by Resolution. Subsequently, Mayor Lambert issued Public Health Emergency Order 20-01 and 20-02, which were extended to May 5, 2020 by City Council Resolutions 2020-06 and 2020-07 respectively. On April 30, 2020, at 11:59 pm, by Resolution 2020-09, City Council terminated the previous Public Health Emergency Orders, in favor of Idaho Governor Brad Little's implementation of his Idaho Rebounds plan and Stay

Healthy Order, which was implemented on May 1, 2020. Thereafter, on July 1, 2020, in response to continuing effects of the COVID-19 pandemic, Mayor Lambert issued Amended Public Health Emergency Order 20-03 (APHEO 20-03), requiring social/physical distancing when in public settings and face coverings in situations when social/physical distancing cannot be maintained. City Council extended APHEO 20-03 to June 9, 2021, by successive City Council Resolutions. The last Resolution (2020-27), included metrics to be considered by City Council in the determination of early termination of APHEO 20-03. The amendment to Moscow City Code Title 1, Chapter 11 Emergency Powers has been drafted by staff for Council consideration to address issues identified since MCC 1-11 has been enacted. Some of these issues include specific language regarding those emergency powers, which activities are regulated when a public health emergency is declared, and potential penalties for violation. This was reviewed by the Administrative Committee on January 11, 2021.

PROPOSED ACTIONS: Approve the Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary; or consider the Ordinance on first reading and that it be read by title; or reject the Ordinance; or take such other action deemed appropriate.

Riedner introduced the item and went through pertinent Idaho code sections regarding powers of the mayor and council. See attached presentation. Bautista discussed the first amendment, emergency powers versus civil liberties, and cited *Jacobson v. Massachusetts (1905)* and *Roman Catholic Diocese of Brooklyn, NT v. Andrew M. Cuomo, Governor of New York*. She also provided a history of the Governor's orders. Highlights from the Governor's orders include six-foot distancing from non-household members and size limitations to gatherings. Size limitations do not apply to political activities or religious assembly, but they are required to adhere to the social distancing and sanitation requirements. Amendments include removal of section 11-07 exclusions and address exclusions / exceptions that are appropriate at the time the order is put in place. The penalty section is expanded to allow a range of penalties. Bautista did include an optional edit to the appeal process to add more review and flexibility.

Julia Parker (Moscow) is a nurse and gave her story regarding how she caught COVID and missed five weeks of work. She has permanent lung damage because of it and is now on inhalers and medication. She appreciates the measures the Mayor and Council are putting in place and is in support of the emergency order edits.

Will Boyd (Moscow) agreed assisted living homes should be cautious but doesn't think the rest of the world needs to have those restrictions. He asked which epidemic the case Bautista cited was regarding. As a biology teacher, he doesn't want to compare pandemic that are not similar as not all viruses are created equally nor are vaccines. He asked how do you define social strife as it was used quite a few times. The pandemic may have indirectly led to social strife but there were many decisions in between, including overreach. Council should make decisions when most informed and not out of fear. The Council checks the Mayor, who checks the City Council?

Daniel Bradley (Moscow) asked for clarification of inclusive versus exclusive order. Riedner explained inclusion is if not excluded by language of the order, then it is included up to the authority of the State, Constitution and City ordinance. The ordinance indicated that unless the order specifically says it relates to these certain things, they are excluded by operation of law.

Elizabeth Landis (Moscow) said the virus is not a game but feels the responses to it are. Religious exclusion being proposed to be struck is the fabric of America based on the First Amendment of the Constitution. Allowing people to worship without the government interfering is the spirit of the First Amendment. It is a very serious covenant and not a place for a mask.

Bautista responded to Boyd that *Jacobson v. Massachusetts (1905)* was related to a vaccine for the small pox outbreak.

Riedner stated a state of public emergency is something that is imminent and needs to be taken care of quickly, such as cases of flood, communicable diseases, riots, etc. There is no laundry list of what can be an emergency. There is redress in the court of law which allows petitioning the district court if a city council is exceeding authority. The proposed amendments are a larger perspective of all types of emergencies and not just for the current emergency. The current public health emergency process began when the Mayor, Councilmember Bettge and Riedner were attending the National League of Cities in Washington DC in March and COVID was spreading along the east coast. After returning to Moscow, Mayor and staff assessed the situation by speaking with the public health district, the State of Idaho, local healthcare providers, many authorities and input from restaurants asking for something to be done. The Mayor made the decision per Idaho Code that something needed to be done, which resulted in the proclamation. The City Council then weighed the evidence, and determined that the Mayor acted in accordance with law, the order was reasonable, and continued the order with the passing of a resolution. Bautista added that previous to March, on January 30, 2020, the Emergency Committee of the World Health Organization declared the outbreak a public health emergency of international concern. Also, on January 31, 2020 Health and Human Services Secretary declared a health emergency for the United States. There were also other states declaring emergencies. Idaho Code 46-1002 defines emergency as “occurrence or imminent threat of a disaster or condition threatening life or property that requires state emergency assistance to supplement local efforts to save lives and protect property or to avert or lessen the threat of a disaster.”

Sullivan asked for clarification whether the proposed amendments change the powers the mayor and council have and do they result in the ability for the city to enforce laws and are they constitutional. Bautista said the proposed amendments are more restrictive and does not allow the city to create unconstitutional laws.

Bettge pointed out Title 1 Chapter 11 is for all emergencies. The emergency order is regarding the current emergency. He feels the amendments are not unconstitutional and the Code does not prohibit assembly or practice of religion. He also likes the optional changes to the appeal process. Sullivan reiterated in Julia's story the spread was brought into the care facility by someone who is not an at-risk elderly person. This is not just about protecting the vulnerable as they interact with others. She does not believe following the science to reduce the spread is a game. Kelly stated she is grateful to be able to discuss this again. She agrees this is not a game and Council is reacting to what has happened, still currently happening, and reviewing metrics. By masking up and social distancing Moscow will save lives. Taruscio thanked the citizens for their public comments and does not take these decisions lightly. The amendments do not create ultimate power for the Mayor. The community needs to pull together. Zabala prefers the penalty be an infraction, not a range to choose from, and start enforcing where applicable. Laflin thanked everyone for their work. She explained it may seem Council doesn't listen because they didn't adopt someone's particular opinion. However, the Council has acted deliberately through this process. There are many religious groups that do not think their rights are being infringed

upon. Sullivan was uncomfortable with the words “out of” with restrictions on travel in section 11-05.E. in regards to the ability of keeping people here.

Riedner explained “travel into, out of, and through” is quarantine language in which you cannot leave your home. Quarantine in the Idaho Code is specifically stated as an emergency. The amended ordinance encompasses all types of emergencies and is not specific to this pandemic and emergency order, and is providing flexibility for future emergencies. An emergency order can include or not include the “out of” language dependent on the type of emergency. The language providing for a range of penalties provides flexibility and can be determined by the severity of the emergency.

Bettge moved to approve the ordinance with inclusion of the suggested edits to the appeals section under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Laflin seconded the motion. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Mayor Lambert read Ordinance 2021-02:

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO FOR REVISING, CODIFYING AND COMPILING THE GENERAL ORDINANCES OF THE CITY OF MOSCOW; PROVIDING FOR THE AMENDMENT OF CHAPTER 11 TO TITLE 1, OF MOSCOW CITY CODE ENTITLED EMERGENCY POWERS; SETTING FORTH THE AUTHORITY, PURPOSE AND INTENT, SCOPE, DEFINITIONS, PUBLIC HEALTH EMERGENCY ORDERS, PROCESS FOR ENACTING PUBLIC HEALTH EMERGENCY ORDERS, SUSPENSION OF SERVICES, FORCE MAJEURE, PENALTY, APPEAL, ADOPTING A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF ANY OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERANCE AND SAVINGS CLAUSE; AND FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

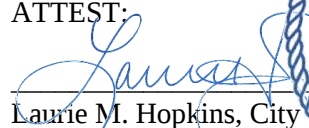
4. COVID-19 Update - Gary J. Riedner

Riedner read the metrics adopted by Resolution 2020-27. The trend line for confirmed COVID cases is currently down: Thursday, January 14, 2021 – 23 cases with a 7-day moving average of 20.1; Friday, January 15, 2021 – 8 cases with a 7-day moving average of 17.4; Monday, January 18, 2021 – 4 cases with a 7-day moving average of 14. There were 8.71 hospitalizations last week and testing results are being reported in 1-4 days. Governors determination is that Idaho is still in a Modified Stage 2. Whitman County is still in the red category. Riedner said Moscow is moving in the right direction but not meeting the metrics yet.

ADJOURN

The meeting adjourned at 8:43 p.m.

ATTEST:


Laurie M. Hopkins, City Clerk




Bill Lambert, Mayor

INTRODUCTION

CONSTITUTION OF THE STATE OF IDAHO Article XII. CORPORATIONS, MUNICIPAL

§ 2. LOCAL POLICE REGULATIONS AUTHORIZED

Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws.

IDAHO CODE § 50-301 CORPORATE AND LOCAL SELF-GOVERNMENT POWERS

Cities governed by this act shall be bodies corporate and politic; may sue and be sued; contract and be contracted with; accept grants-in-aid and gifts of property, both real and personal, in the name of the city; acquire, hold, lease, and convey property, real and personal; have a common seal, which they may change and alter at pleasure; may erect buildings or structures of any kind, needful for the uses or purposes of the city; and exercise all powers and perform all functions of local self-government in city affairs as are not specifically prohibited by or in conflict with the general laws or the constitution of the state of Idaho.

IDAHO CODE § 50-302 PROMOTION OF GENERAL WELFARE – PRESCRIBING PENALTIES

(1) Cities shall make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the laws of the state of Idaho as may be expedient, in addition to the special powers in this act granted, to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry. Cities may enforce all ordinances by fine, including an infraction penalty, or incarceration; provided, however, except as provided in subsection (2) of this section, that the maximum punishment of any offense shall be by fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

IDAHO CODE § 50-302A CONFINEMENT IN CITY OR COUNTY JAIL FOR VIOLATING ORDINANCE

Any person charged with or convicted of violation of a city ordinance and subject to imprisonment shall be confined in the city jail; provided, however, that any city shall have the right to use the jail of the county for the confinement of such persons but it shall be liable to the county for the cost of keeping such prisoners.

MOSCOW CITY CODE 2-1-7

Sec. 1-7. Police Power of Mayor. The Mayor shall have jurisdiction over all places within five (5) miles of the City for the enforcement of any health or quarantine ordinance and regulations thereof, and shall have jurisdiction in all matters, except taxation, within one mile of the City, and over such properties as may be owned by the City without the corporate limits.

IDAHO CODE § 50-304 PRESERVATION OF PUBLIC HEALTH

Cities may establish a board of health and prescribe its powers and duties; pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious diseases into the city; make quarantine laws for that purpose and enforce the same within five (5) miles of the city.

IDAHO CODE § 50-310 HAZARDOUS MATERIALS

Cities are empowered: to regulate or prohibit the loading or storage of any material deemed hazardous, or transporting the same over the streets or waters in the city, or within three (3) miles of the limits thereof; to prevent the discharge of firearms, rockets, powder, fireworks or other dangerous combustible or explosive material in the streets, lots, grounds, alleys or in and about the vicinity of any building and punish violators therefor.

IDAHO CODE §50-606 POLICE POWERS OF MAYOR

The mayor shall have such jurisdiction as may be vested in him 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 shall have jurisdiction in all matters vested in him by ordinance, except taxation, within one (1) mile of the corporate limits of said city and over such properties as may be owned by the city without the corporate limits.

IDAHO CODE § 50-607 GENERAL POWERS

The mayor shall have and exercise such powers, prerogatives and authority as is conferred by the laws of the state of Idaho or as may be conferred upon him by the city council, and shall have the power to administer oaths, and shall sign all contracts and conveyances in the name of and on behalf of the city.

IDAHO CODE §50-609

MAYOR MAY REQUIRE AID IN ENFORCING LAW

The mayor is hereby authorized to call on every resident in the city over twenty-one (21) years of age to aid in enforcing the laws.

IDAHO CODE § 50-901

ORDINANCES - STYLE - PUBLICATION - WHEN EFFECTIVE - IMMEDIATE OPERATION IN EMERGENCIES

The style of all ordinances shall be: "Be it ordained by the mayor and council of the city of" and all ordinances of a general nature, unless otherwise required by law, shall, before they take effect and within one (1) month after they are passed, be published in full or by summary as provided in section 50-901A, Idaho Code, in at least one (1) issue of the official newspaper of the city, or mailed as provided in section 60-109A, Idaho Code; provided, however, that in cases of riot, infections or contagious disease, or other impending danger requiring immediate enforcement, such ordinances shall take effect upon the proclamation of the mayor or president of the council, posted in at least five (5) public places of the city

IDAHO CODE §50-903

GRANT OF POWER

Any city is hereby empowered to revise, codify, and compile from time to time and to publish in book or pamphlet form all ordinances of such city of a general and permanent nature and to make such changes, alterations, modifications, additions and substitutions therein as it may deem best to the end that a complete simplified code of such ordinances then in force shall be presented, but with errors, inconsistencies, repetitions and ambiguities therein eliminated.

IDAHO CODE §46-1011

LOCAL DISASTER EMERGENCIES

A local disaster emergency may be declared only by a mayor or chairman of the county commissioners within their respective political subdivisions. It shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the governing board of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the local county recorder.

EMERGENCY POWERS VS. INDIVIDUAL RIGHTS

CONGRESS SHALL MAKE NO LAW *respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

 **THE FIRST AMENDMENT
TO THE U.S. CONSTITUTION**
15 DECEMBER 1791

FIRST AMENDMENT

Jacobson v. Massachusetts (1905) 197 U.S. 11 “[T]he liberty secured by the Constitution of the United States to every person . . . does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good.”

EMERGENCY POWERS VS. CIVIL LIBERTIES

Cite as: 592 U. S. ____ (2020)

1

Per Curiam

SUPREME COURT OF THE UNITED STATES

No. 20A87

ROMAN CATHOLIC DIOCESE OF BROOKLYN,
NEW YORK *v.* ANDREW M. CUOMO,
GOVERNOR OF NEW YORK

ON APPLICATION FOR INJUNCTIVE RELIEF

[November 25, 2020]

ON NOVEMBER 25, 2020, THE US SUPREME COURT ISSUED A 5-4 RULING GRANTING AN APPLICATION FOR INJUNCTIVE RELIEF FROM THE ENFORCEMENT OF NEW YORK GOVERNOR CUOMO'S EXECUTIVE ORDER 202.68'S, 10 AND 25 PERSON OCCUPANCY LIMITS.

ULTIMATELY, THE COURT HELD THAT PLACES OF WORSHIP WERE TREATED MORE HARSHLY THAN OTHER BUSINESSES IN THE SAME ZONE AND THERE WAS NOT A COMPELLING STATE INTEREST FOR THE MORE RESTRICTIVE RULES.

In re Juan C (1994) 28 Cal. App. 4th 1093

- "[T]he government must make every effort to avoid trammeling its citizens' constitutional rights. By the same token, those rights are not absolute. '[T]he Government's regulatory interest in community safety can, in appropriate circumstances, outweigh an individual's liberty interest.'"

- "An ***inherent tension*** exists between the exercise of First Amendment rights and the government's need to maintain order during a period of social strife."

EMERGENCY POWERS VS. CIVIL LIBERTIES

"[W]hen faced with a society-threatening epidemic, a state may implement emergency measures that curtail constitutional rights so long as the measures have at least some 'real or substantial relation' to the public health crisis and are not 'beyond all question, a plain, palpable invasion of rights secured by the fundamental law.' (Jacobson at *31.) Courts may ask whether the state's emergency measures lack basic exceptions for 'extreme cases,' and whether the measures are pre-textual—that is, arbitrary or oppressive. (Id. at *38.) At the same time, however, courts may not second-guess the wisdom or efficacy of the measures." (*In re Abbott*, 956 F.3d 696, 705 (5th Cir. 2020).)

EMERGENCY POWERS VS. CIVIL LIBERTIES

REGULATION AIMED AT BEHAVIOR, NOT
AIMED AT COMMUNICATION, WILL BE
VIEWED MORE REASONABLE IN THE
COURTS:

- MAINTAIN 6 FT PHYSICAL DISTANCE
- WEAR FACE COVERING WHEN UNABLE TO MAINTAIN 6 FT PHYSICAL DISTANCING
- GOAL IS TO LIMIT EXPOSURE AND SPREAD OF CV19

THERE IS NO CONSTITUTIONAL
RIGHT TO BE FREE FROM FACE
COVERINGS.

IDAHO DEPARTMENT OF HEALTH AND WELFARE
ORDER OF THE DIRECTOR

ORDER TO SELF-ISOLATE
DATE OF ORDER: March 25, 2020

IDAHO DEPARTMENT OF HEALTH AND WELFARE
ORDER OF THE DIRECTOR

ORDER TO SELF-ISOLATE
DATE OF ORDER: March 25, 2020
DATE OF AMENDMENT: April 2, 2020

IDAHO DEPARTMENT OF HEALTH AND WELFARE
ORDER OF THE DIRECTOR

ORDER TO SELF-ISOLATE
DATE OF ORDER: March 25, 2020
DATE OF AMENDMENT: April 15, 2020

STATE OF IDAHO
IDAHO DEPARTMENT OF HEALTH AND WELFARE
STAY HEALTHY ORDER

May 16, 2020

STATE OF IDAHO
IDAHO DEPARTMENT OF HEALTH AND WELFARE
STAY HEALTHY ORDER

May 30, 2020

STATE OF IDAHO
IDAHO DEPARTMENT OF HEALTH AND WELFARE
STAY HEALTHY ORDER

October 27, 2020

STATE OF IDAHO
IDAHO DEPARTMENT OF HEALTH AND WELFARE
STAY HEALTHY ORDER

November 14, 2020

GOVERNOR'S ACTIONS

ALL INDIVIDUALS, BUSINESSES, AND GOVERNMENTAL AGENCIES MUST ADHERE TO THE MANDATORY PORTIONS OF THE PHYSICAL DISTANCING AND SANITATION REQUIREMENTS SET OUT IN SECTION 3 OF THIS ORDER.

The Governor and Director of the Idaho Department of Health and Welfare ("Director") hereby issue this order of isolation pursuant to Article IV, § 5 of the Idaho Constitution and Idaho Law.

The Director is authorized by Idaho Code § 56-1003(7) "to impose and enforce orders of isolation and quarantine to protect the public from the spread of infectious or communicable diseases."

This Order is intended to be temporary and is effective as of 12:00 a.m. December 30, 2020 and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the Governor and Director.

NOW, THEREFORE, THE GOVERNOR OF IDAHO AND IDAHO DEPARTMENT OF HEALTH AND WELFARE DIRECTOR ORDER:

1. Gatherings.

- a. Gatherings of more than 10 people, both public and private, are prohibited. People participating in gatherings of 10 or fewer people, while permitted, must adhere to the Physical Distancing and Sanitation Requirements in Section 3.
- b. 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."

3. Physical Distancing and Sanitation Requirements.

- a. Individuals not residing within the same household must maintain at least six-foot physical distancing from other individuals whenever possible.

PAGE 2
20

THE CITY OF MOSCOW
LOCAL EMERGENCY PROCLAMATION

THE CITY OF MOSCOW

PUBLIC HEALTH EMERGENCY ORDER No. 20-01

MASS GATHERINGS, RESTAURANTS AND BARS

March 20, 2020

THE CITY OF MOSCOW

PUBLIC HEALTH EMERGENCY ORDER No. 20-02

MASS GATHERINGS, SCHOOLS, CHURCHES, GYMS, TATTOO PARLORS, BARBER SHOPS AND SALONS

March 24, 2020

THE CITY OF MOSCOW

AMENDED PUBLIC HEALTH EMERGENCY ORDER No. 20-03

FACE COVERINGS AND 6 FOOT SOCIAL/PHYSICAL DISTANCING

July 1, 2020

THE CITY OF MOSCOW

PUBLIC HEALTH EMERGENCY ORDER No. 20-04

TEMPORARY SUSPENSION OF DAYCARE AND ZONING REGULATIONS TO ASSIST WITH THE COVID-19 PANDEMIC RESPONSE AND MITIGATION

September 2, 2020

RESOLUTION NO. 2020-05

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE CONTINUATION OF THE MAYOR'S PROCLAMATION OF LOCAL DISASTER EMERGENCY MADE EFFECTIVE MARCH 13, 2020; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

RESOLUTION NO. 2020-06

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE ACCEPTANCE AND EXTENSION OF THE MAYOR'S PUBLIC HEALTH EMERGENCY ORDER 20-01 MADE EFFECTIVE MARCH 21, 2020; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

RESOLUTION NO. 2020-07

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE ACCEPTANCE AND EXTENSION OF THE MAYOR'S PUBLIC HEALTH EMERGENCY ORDER 20-02 MADE EFFECTIVE MARCH 24, 2020; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

RESOLUTION NO. 2020 – 17

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE CONTINUED ACCEPTANCE AND EXTENSION OF THE MAYOR'S AMENDED PUBLIC HEALTH EMERGENCY ORDER 20-03 MADE EFFECTIVE JULY 2, 2020 AND EXTENDED BY COUNCIL ON JULY 6, 2020 WITH AN EXPIRATION AT 11:59 P.M. OF AUGUST 4, 2020; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

RESOLUTION NO. 2020 – 22

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE CONTINUED ACCEPTANCE AND EXTENSION OF THE MAYOR'S AMENDED PUBLIC HEALTH EMERGENCY ORDER 20-03 MADE EFFECTIVE JULY 2, 2020 AND EXTENDED BY COUNCIL ON JULY 6, 2020 AND AGAIN ON AUGUST 3, 2020, WITH AN EXPIRATION AT 11:59 P.M. OF OCTOBER 6, 2020; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

RESOLUTION NO. 2020 – 27

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE CONTINUED ACCEPTANCE AND EXTENSION OF THE MAYOR'S AMENDED PUBLIC HEALTH EMERGENCY ORDER 20-03 TO 11:59 PM ON JUNE 9, 2021, UNLESS CITY COUNCIL TERMINATES EARLIER; AND PROVIDING THIS RESOLUTION SHALL BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

PROPOSED AMENDMENTS TO EMERGENCY POWERS ORDINANCE

Sec. 11-07. Exclusions.

~~Unless otherwise specifically prohibited by a Public Health Emergency Order duly enacted by the Mayor, 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.~~

~~B. Educational institutions and airports, 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 or necessities purchased in or at grocery or convenience stores, gas stations, and pharmacies.~~ **Section Repealed in its Entirety.**

PROPOSED AMENDMENTS TO EMERGENCY ORDER ORDINANCE: EXCLUSIONS

Sec. 11-10. Penalty.

~~It shall be unlawful to violate any provision or directive of a duly enacted **social distancing** emergency order, isolation order, or quarantine order while such order is in effect. The violation of any provision or directive of an **emergency** social distancing order, isolation order, or quarantine order shall be a misdemeanor, unless a different penalty is designated by the emergency order or by Resolution of the City Council. Different penalties may include infractions or civil penalties.~~

PROPOSED AMENDMENTS TO EMERGENCY ORDER ORDINANCE: PENALTY

Sec. 11-11. Appeal.

Any person shall be entitled to appeal an isolation order or 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 isolation order or quarantine order, the City Supervisor or designee shall review such appeal and issue a written decision. The City Supervisor's decision shall be final.

PROPOSED AMENDMENTS TO EMERGENCY ORDER ORDINANCE: APPEAL

§Sec. 11-11. Appeal.

Any person shall be entitled to appeal an isolation order or quarantine order, or to request a modification of any provision of such order by filing a written appeal with the City Clerk. Such appeal, unless a different appeal process is designated by the emergency order or by Resolution of the City Council, shall be heard by City Council at their next scheduled meeting, or, if no meeting is scheduled during the term of the isolation order or quarantine order, the City Council may schedule an emergency meeting to hear the appeal. The decision by the City Council shall be final. If the City Council is unable to schedule an emergency meeting where a quorum will be present, and the appellant requests expedited review, then the City Supervisor or designee shall review such appeal and issue a written decision. The City Supervisor's or designee's decision shall be final may be appealed by filing a written appeal with the City Clerk. The Mayor and Council President will review the written appeal and determine whether the City Supervisor's or designee's decision should be upheld or reversed. The decision of the Mayor and Council President shall be final.

ALTERNATE APPEAL AMENDMENTS

QUESTIONS?