



**Lewiston City Council
WORK SESSION AGENDA
March 2, 2026 - 3:00 PM
Lewiston Bell Building – Second Floor Conference Room – 215 D Street
Lewiston, Idaho 83501**

Seating will be available on a first-come, first-served basis. All others who wish to observe this meeting may watch and listen to the livestream on their own device(s) by visiting the City of Lewiston's website at cityoflewiston.org.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. CITIZENS COMMENTS

This is an opportunity for individuals wishing to comment on agenda items or other matters they wish to bring to the Council's attention, excluding those scheduled for a public hearing. As there may not be another opportunity to comment once an agenda item is addressed, individuals are encouraged to speak at this time. Individuals are encouraged to discuss operational issues in advance with the Mayor. In consideration of others wishing to speak, commentary is limited to three (3) minutes.

IV. DISCUSSION ITEMS

Please note that identifying an item as an "Action Item" does not require the City Council to vote on that item.

- A. UPDATE ON THE BRYDEN CANYON GOLF COURSE:** Update and presentation regarding current management and operation of the Bryden Canyon Golf Course - Action Item (Parks and Recreation Director Justin Glenn)
- B. INTRODUCTION OF ORDINANCE 4958:** Introduction of proposed Ordinance No. 4958 relating to an amendment of Lewiston City Code Section 21-2 to the definitions of vendors; Sections 21-66 and 21-69 relating to the regulation of temporary vendors; Sections 21-73 and Lewiston City Code Chapter 21, Article XI relating to the regulation of mobile vendors; and Section 31-74 relating to temporary uses of the right-of-way by mobile vendors - Action Item (City Planner Joel Plaskon)
- C. REQUEST FOR RECONSIDERATION OF ZONING CODE AMENDMENT ZA-01-25:** Request from City Staff to reconsider amendments to Lewiston City Code Section 37-153 relating to landscaping - Action Item (City Planner Joel Plaskon)
- D. INTRODUCTION OF ZONING CODE AMENDMENT ZA-04-25:** Introduction and request for direction relating to proposed amendments to Lewiston City Code Chapter 37, Article XVII, associated with telecommunications facilities and broadband infrastructure to comply with legislative changes - Action Item (Assistant Planner Katie Hollingshead)
- E. TRAFFIC CONTROL PLANS FOR PUBLIC ASSEMBLIES AND PARADES:** Discussion regarding traffic control plans related to public assemblies and parades in Lewiston City Code

Chapter 9, Articles IX and X - Action Item (Public Works Director Dustin Johnson)

- F. UNUSED CITY PROPERTIES:** Discussion of unused City property, as requested by Councilor Spickelmire at the January 26, 2026 City Council meeting - Action Item (Councilor John Spickelmire)
- G. AIRPORT OWNERSHIP AND COSTS:** Discussion related to the City's ownership of the airport and review of the City's airport-related costs for the last four (4) years, including the Fiscal Year 2026 lease costs associated with the airport, as requested by Councilor Spickelmire at the February 2, 2026 City Council meeting - Action Item (Councilor John Spickelmire)
- H. BUDGET DISCUSSION:** Discussion of the City's budget, as requested by Councilor Spickelmire at the February 9, 2026 City Council meeting - Action Item (Councilor John Spickelmire)

V. UNFINISHED AND NEW BUSINESS

- A. CITY COUNCILOR COMMENTS:** Comments shall not be related to an item currently before the City Council or an item that may come before the City Council in the foreseeable future, and shall be limited to comments, not discussion.
- B. CITY BOARDS AND COMMISSIONS LIAISON UPDATES**
- C. MAYOR COMMENTS**
- D. AGENDA TOPICS:** - Action Item

VI. ADJOURNMENT - Action Item

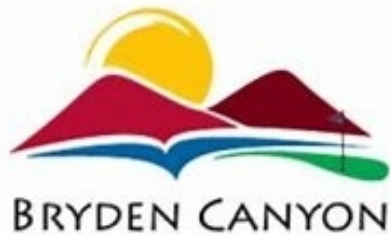
The City of Lewiston is committed to providing access and reasonable accommodation in its services, programs, and activities and encourages qualified persons with disabilities to participate. If you anticipate needing any type of accommodation or have questions about the physical access provided at this meeting, please contact Nikki Province, ADA Coordinator, at least forty-eight (48) hours in advance of the meeting at 208-746-3671 x 6211.



CITY COUNCIL MEETING AGENDA ITEM SUMMARY

ITEM TITLE UPDATE ON THE BRYDEN CANYON GOLF COURSE	AGENDA NO. IV. A. AGENDA DATE: March 2, 2026
ITEM SUMMARY (Background, Discussion, Key Points, Recommendations, etc.) Mr. Kevin Niessner, a representative from CourseCo, INC, the golf course management company that operates Bryden Canyon Golf Course, will be providing a presentation on current financial status, programs and capital investments at the golf course. The intent of this presentation is to better familiarize the Council and community on the state of Bryden Canyon operations.	
BUDGET IMPACT (Identify any or all impacts this proposed action would have on the City budget and/or personnel resources) Informational only.	
ACTION PROPOSED Informational only.	

Bryden Canyon Golf Course



CourseCo



Founded in 1989

47 Golf Courses
8 States

CourseCo Core Values

Financial
Performance

Stakeholder
Communication

Community
Engagement

Environmental
Stewardship

Total Rounds Played

FY2023-2024

Public:	14,112
Tournament:	1,403
Passholders:	11,895
Total	27,410

FY2024-2025

Public:	14,559
Tournament:	1,835
Passholders:	11,379
Total	27,773

By The Numbers

Total Revenue



By The Numbers

Net Operating Income



1st Quarter 2025-2026

Actual

Rounds: 5,145
Revenue: \$188,620
Expense: \$247,789
NOI: -\$59,694

Budget

Rounds: 4,468
Revenue: \$181,313
Expense: \$228,303
NOI: -\$46,990



Making a difference in the Community



Community



Community



BRYDEN CANYON

PLEASE, JOIN US FOR A

COOKIE

DECORATING PARTY

DEC 20 12 PM

445 O'CONNOR RD
LEWISTON, ID 83501

ALL AGES WELCOME –
BRING FAMILY & FRIENDS!

BRYDEN CANYON GOLF COURSE PRESENTS

2ND ANNUAL

Easter Egg

Hunt

Ages 0-5
Ages 6-9
Ages 10+

Complimentary
Event!

SATURDAY
APRIL 19TH, 2025
10AM-11AM



19-20

9AM-4PM



BRYDEN CANYON
**HOLIDAY
SALE**



445 O'CONNOR RD - LEWISTON



BRYDEN CANYON GC PRESENTS

2-Person

TURKEY SHOOT 2025

Sunday, Nov. 23rd
11am Shotgun

\$75 Per Player

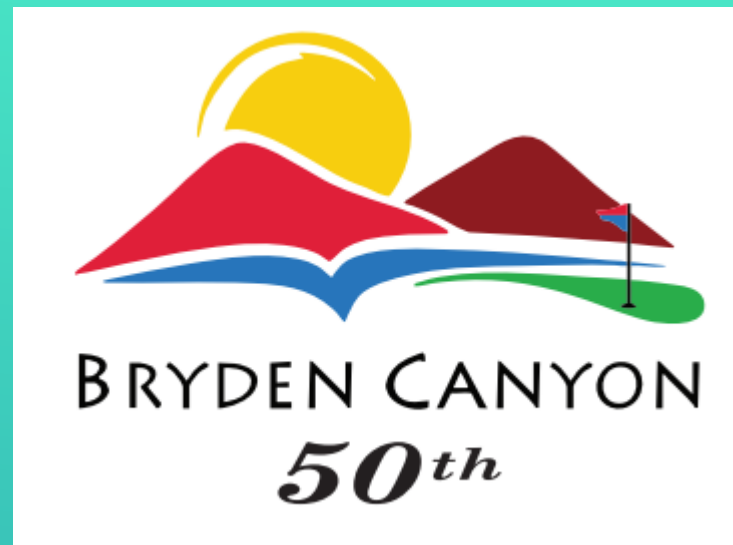
6/6/6
Format

BB, Scramble,
Alternate Shot

*First 50 Registrations
receive a FREE Turkey!*

208.746.0863





In 2025 Bryden Canyon celebrated it's 50th birthday. We had a variety of great events to celebrate this milestone.



Capital

Pro Shop

Paint
Carpet
Pro Shop Heat Pump
Public Address System
New Scoreboards
New Rental Clubs
New Pull Carts
Repaved Entranceway



Restaurant

Kitchen Remodel
Kitchen Mini Split
Bar Top
Glass Shelves
Walk In Cooler



Cart Barn

New Fleet of Golf Carts
Cart Barn Rewired
Private Sheds Rewired
Cart Parking Painted
Cart Wash Bay Installed



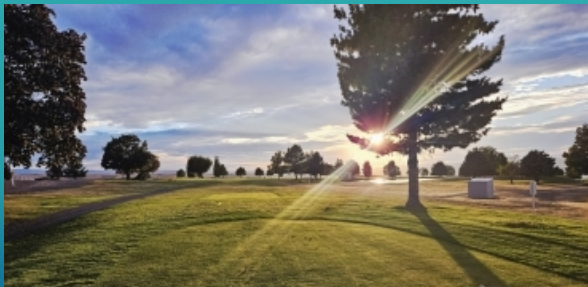
Capital

Golf Course

Driving Range Netting
#3 Tee Box Renovation
Small Putting Green Renovation
Removal of Debris Pile
New Sand in Bunkers
New Stairs on Tee Boxes
New Tee Signs
Wash Bay-- Maintenance Yard
New Stairs On Tee boxes
#4 Tee box rebuild

Equipment

Tractor
Top Dresser
Aerator
Fairway Mower
Greens Mower
Trim Mower
Greens Mower-3600 Hybrid



Customer Service

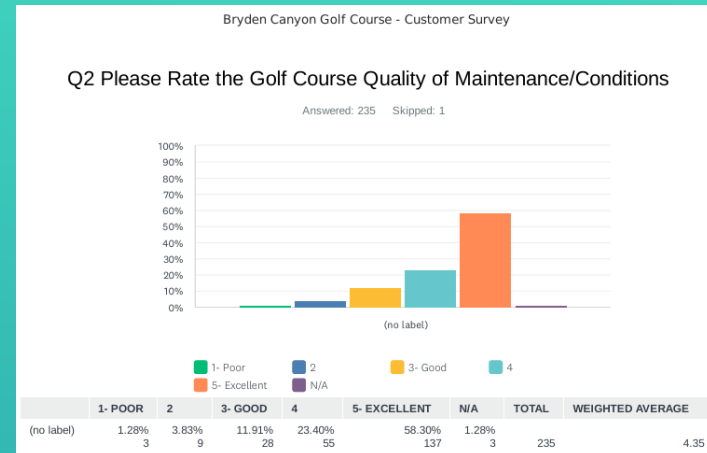
Customer Survey Results

Golf Course Conditions

FY2023-2024 3.74
FY2024-2025 4.35

Overall Experience

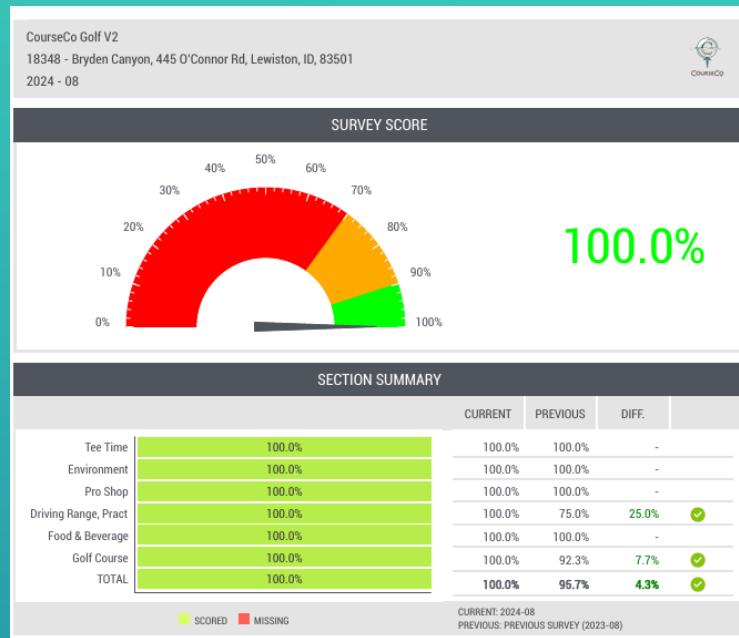
FY2023-2024 4.07
FY2024-2025 4.47



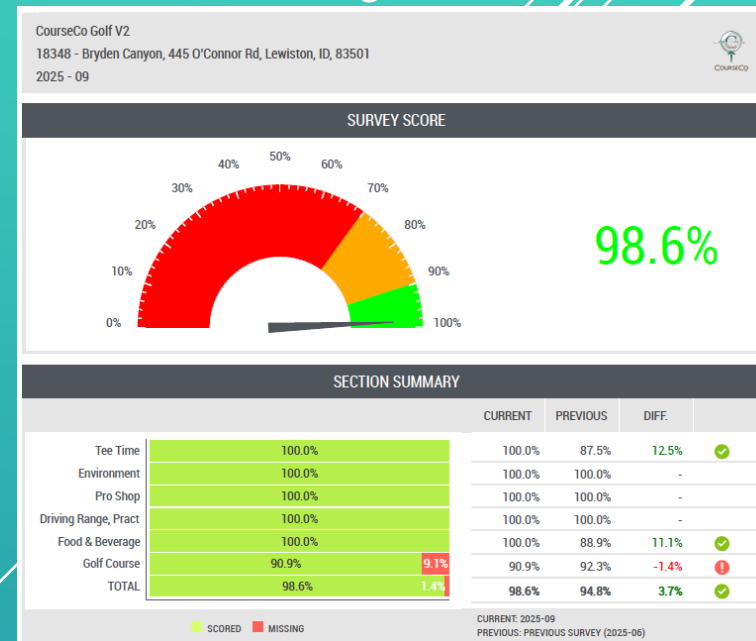
Customer Service

Secret Shopper Reports

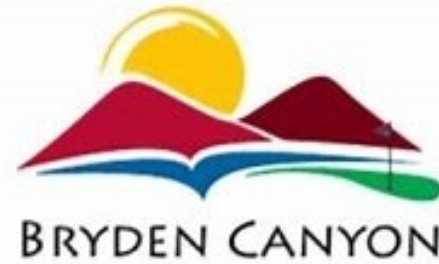
FY2023-2024
100.00 Avg Score



FY2024-2025
96.7 Avg Score



Questions?



COURSECO





CITY COUNCIL MEETING AGENDA ITEM SUMMARY

ITEM TITLE INTRODUCTION OF ORDINANCE 4958	AGENDA NO. IV. B. AGENDA DATE: March 2, 2026
ITEM SUMMARY (Background, Discussion, Key Points, Recommendations, etc.) Lewiston City Code (LCC) Chapter 21, Article XI provides regulations for the (business) licensing of mobile food (and/or beverage) vendors. Recently, staff has been encountering a growing number of people wishing to operate mobile vendor services other than food. However, LCC does not recognize mobile vendors other than food. Therefore, staff has drafted LCC amendments to resolve this problem for consideration by City Council. These amendments are specific to mobile vendor operations on private property. LCC Section 31-74 provides regulations for temporary uses within street rights-of-way. Recently, staff have been approached by mobile vendors wishing to operate within street rights-of-way. However, LCC does not recognize mobile vendor operation in street rights-of-way. Therefore, staff has drafted LCC amendments to resolve this problem for consideration by City Council. These amendments are specific to mobile vendor operations within street rights-of-way. The LCC amendments to Chapters 21 and 31 described above are both proposed via Ordinance 4958.	
BUDGET IMPACT (Identify any or all impacts this proposed action would have on the City budget and/or personnel resources) No budget impact has been identified.	
ACTION PROPOSED Approve LCC amendments to accommodate mobile vendor business licensing and operation on private property and mobile vendor operation within street rights-of-way via Ordinance 4958.	

CITY ORDINANCE NO. 4958

AN ORDINANCE OF THE CITY OF LEWISTON AMENDING LEWISTON CITY CODE SECTION 21-2 RELATED TO THE DEFINITIONS OF VENDORS; LEWISTON CITY CODE SECTIONS 21-66 AND 21-69 RELATED TO THE REGULATION OF TEMPORARY VENDORS; LEWISTON CITY CODE SECTION 21-73 AND CHAPTER 21, ARTICLE XI RELATED TO THE REGULATION OF MOBILE VENDORS; AND AMENDING LEWISTON CITY CODE SECTION 31-74 RELATING TO TEMPORARY USES OF THE RIGHT-OF-WAY BY MOBILE VENDORS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEWISTON, IDAHO:

SECTION 1: Lewiston City Code § 21-2 is hereby amended as follows:

Sec. 21-2. Definitions.

For purposes of this chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

...

Event vendor means a person that offers a product or service for sale, rent or hire at an event licensed pursuant to article IX of this chapter, except any mobile ~~food~~ vendor or temporary vendor.

...

Mobile ~~food~~ vendor means a ~~food service~~ business that sells or serves goods and wares ~~food~~ from a:

- (1) Mobile food service vehicle or unit built, ~~such as a trailer on wheels or a truck,~~ and designed to be able to travel on public streets, such as a trailer on wheels or a truck, whether motorized or not and which is not a building, whether stick-built or factory-built. A mobile food service vehicle or unit that is not skirted, not connected to a public water or sewer service, and is removable from the property where the service is being provided; or
- (2) Cart or temporary structure, such as a canopy, tent, stand, booth or kiosk; ~~transported on a trailer.~~
- (3) A mobile ~~food~~ vendor ~~does~~shall not include a vending machine or a temporary vendor, as defined herein.

...

Temporary vendor means a vendor that operates intentionally and planned as a seasonal or otherwise temporary venture in accordance with the time limits and conditions set forth in article VIII of this chapter, ~~on a lot, whether vacant or not; outside of an enclosed building in the open air or under a canopy, tent, or other temporary structure; or from a mobile trailer, cart, or vehicle, except any mobile food vendor regulated~~

~~pursuant to article XI of this chapter, or within a building, whether or not the building has another licensed business. A temporary vendor is subject to article VIII of this chapter.~~

SECTION 2: Lewiston City Code § 21-66 is hereby amended as follows:

Sec. 21-66. Applicability of article.

In addition to the provisions of article I of this chapter, an applicant for a temporary vendor license shall comply with the provisions of this article. The provisions of this article shall not apply to vendors participating in an event licensed under article IX of this chapter or to mobile ~~food~~ vendors licensed pursuant to article XI of this chapter.

SECTION 3: Lewiston City Code § 21-69 is hereby amended as follows:

Sec. 21-69. - Standards.

...

(f) A temporary vendor shall not be connected to a public water or sewer service.

SECTION 4: Lewiston City Code § 21-73 is hereby amended as follows:

Sec. 21-73. Applicability of article.

In addition to the requirements in article I of this chapter, the regulations set out in this article shall apply to events, as defined in article I of this chapter, in the city, as follows:

...

- (3) If serving or selling food, ~~Any a mobile food~~ vendor participating in an event licensed pursuant to this article shall be required to hold his or her own business license but shall not be required to obtain a temporary vendor license pursuant to article VIII of this chapter to participate in the event.

SECTION 5: Lewiston City Code Chapter 21, Article XI is hereby amended as follows:

ARTICLE XI. MOBILE ~~FOOD~~-VENDORS

Sec. 21-82. Applicability of article.

- (a) In addition to the requirements in article I of this chapter, the regulations set out in this article shall apply to all mobile ~~food~~ vendors, as defined in article I of this chapter, operating on private property in the city where such operation is not associated with an event licensed pursuant to article IX of this chapter.

- (b) Mobile ~~food~~ vendors operating ~~in a street or alley right of way, or~~ as part of an event, shall be licensed pursuant to article IX of this chapter. Mobile ~~food~~ vendors licensed pursuant to articles I and XI of this chapter may operate in a city park, subject to the approval of the parks and recreation department.

Sec. 21-83. License application, renewal, and fee required.

- (a) An application for a mobile ~~food~~ vendor license shall be subject to the requirements in article I of this chapter, and shall include:
- (1) A completed mobile ~~food~~ vendor addendum, as provided by the city;
 - (2) A completed local emergency services information form, as provided by the city;
 - (3) A property owner consent form if operating on property not owned by the mobile ~~food~~ vendor, unless operating as part of an event licensed pursuant to article IX of this chapter;
 - (4) Business license application fee, as adopted by resolution of the city council, as may be amended from time to time;
 - (5) If serving or selling food, then a cCurrent food permit or approval from Public Health - Idaho North Central District; and
 - (6) Current approved fire inspection from the Lewiston fire department.
- (b) The annual renewal of a mobile ~~food~~ vendor license shall require the following:
- (1) If service or selling food, then a cCurrent food permit or approval from Public Health - Idaho North Central District; and
 - (2) Current approved fire inspection from the Lewiston Fire Department.

Sec. 21-84. Application denial and license suspension or revocation.

- (a) In addition to the provisions of sections 21-4 and 21-8 of this Code, the business licensing coordinator may deny an application for a mobile ~~food~~ vendor license, and the community development director may suspend or revoke a mobile food vendor license, if an applicant or licensee:
- (1) Fails to maintain compliance with all standards outlined in section 21-85 of this Code; or
 - (2) Has violated a provision of this chapter or ordinance of the city with regard to the premises where the mobile ~~food~~ vendor is located.
- (b) In determining whether to deny, suspend, or revoke a mobile ~~food~~ vendor license, the business licensing coordinator and community development director, as applicable, shall consider the risk to the health and safety of the public based on such factors as:

....

Sec. 21-85. Standards.

- (a) A mobile ~~food~~ vendor shall not operate in a residential zoning district unless:
- (1) The mobile ~~food~~ vendor is located on a permitted church, public use, semi-public use, school, park, conditionally permitted, or nonconforming commercial use property, as defined in chapter 37 of this Code, and is

associated with an event that is licensed pursuant to article IX of this chapter; or

- (2) The mobile ~~food~~ vendor is operating in a catering capacity for the property owner and not selling to the general public. For purposes of this subsection, residential zoning districts shall be F-2, R-1, R-2, R2A, NHN, NHS, R-3, R-4, BASPAB, as described in chapter 37 of this Code and depicted on the official zoning map of the city;
- (3) The mobile vendor is operating under an event license pursuant to article IX of this chapter.
- (b) The driveway or mobile ~~food~~ vendor site access location, width, and design shall be subject to approval by the public works and fire departments.
- (c) ~~The A mobile food vendor operation shall not displace any other required parking.~~
- (d) ~~The A mobile food vendor shall not be parked such that any set up to conduct sales or provide service window allows or requires walk-up customers to be from or on a public sidewalk during service street, right-of-way or sidewalk shall adhere to all applicable provisions of chapters 31 and 35 of this code and obtain approval from the Public Works Director or designee.~~
- (e) ~~The A mobile food vendor shall not be parked in such a manner as to block or impede ingress or egress to/from any building, structure, or use during its operating hours.~~
- (f) ~~An alcohol beverage license or alcohol catering permit shall be required for the serving or sale of alcohol from the mobile food vendor. The mobile food vendor shall adhere to chapter 6 of this code.~~
- (g) If a drive-through service window is used to provide drive-through service, then the drive-through service facilities provisions of chapter 37, article VII of this code shall apply.
- (h) ~~The A mobile food vendor shall not be parked in such a manner as to impede a required clear vision area, as defined in public works department standard drawing 1-12 or as otherwise updated or amended.~~

SECTION 6: Lewiston City Code § 31-74 is hereby amended as follows:

Sec. 31-74. - Temporary right-of-way uses.

- (a) Temporary uses of the right-of-way shall be limited to the following:

....

- (6) Mobile vendors pursuant to the requirements of chapter 21 of this code. Mobile vendors shall operate only in locations approved by the public works director or designee, and shall position the mobile vending unit to maintain a minimum continuous pedestrian clearance that is forty-two inches wide, requiring an unobstructed pathway free from the mobile vendor's signs, equipment, furniture, queuing customers, or other obstacles. Customer queuing shall be organized so that lines do not extend into or block the pedestrian travel way, street crossings, building entrances, or adjacent business frontages without written consent from the affected property owner. The public works director or designee may impose additional conditions, including physical queue guides, signage, or designated waiting areas, to minimize obstruction of the sidewalk and ensure pedestrian safety.

(7) Other uses as permitted upon review and approval of the public works director or his designee.

- (b) In no event shall any temporary uses of the right-of-way cause a nuisance, hazard, danger, or a sight obstruction for any traffic, vehicular, pedestrian, or bicyclist, using the right-of-way, or violate federal requirements for public accessibility pursuant to the Americans with Disabilities Act. The City of Lewiston shall not be liable for any theft, vandalism, etc., of any temporary right-of-way use objects. The owner of any such objects shall be subject to any liability caused by the owner's placement of such objects in the right-of-way.
- (c) Any business placing outdoor eating and drinking area furniture, temporary advertising signage, merchandise display items, ~~and mobile vending units,~~ or other appurtenances upon a public sidewalk or public right-of-way shall provide and maintain proof of general business liability insurance for the associated business, with the city named as an additional insured thereon prior to such use of the public sidewalk or right-of-way. Said insurance shall comply with the limits of liability as set forth in section 31-76 of this code. Failure of any business to comply with this insurance requirement may result in the revocation of the business license for the associated business.
- (d) Any establishment which serves and/or sells beer, wine, or liquor by the drink, as such terms are defined in chapter 6 of this code, must comply with the requirements of chapter 6 of this code.

SECTION 7: This ordinance shall take effect and be in full force from and after its passage and publication.

PASSED this _____ day of _____, 2026.

CITY OF LEWISTON

By: _____
Daniel G. Johnson, Mayor

ATTEST:

Tanya M. Brocke, City Clerk



CITY COUNCIL MEETING AGENDA ITEM SUMMARY

ITEM TITLE REQUEST FOR RECONSIDERATION OF ZONING CODE AMENDMENT ZA-01-25	AGENDA NO. IV. C. AGENDA DATE: March 2, 2026
ITEM SUMMARY (Background, Discussion, Key Points, Recommendations, etc.) The City of Lewiston adopted a new Comprehensive Plan (Envision Lewiston 2044) (the Plan) in 2024, after which the City Council authorized an ad-hoc committee (the Comprehensive Plan Work Plan Implementation Committee) (the Committee) to form initiatives designed to implement prioritized goals, objectives, and actions identified the Plan. The Committee consists of the Mayor, two City Council members, and three Planning and Zoning Commission members, assisted by various city staff, members of other city boards and commissions and other persons who may have expertise in a certain subject area. Early in 2025, the Committee solicited participation of the Chair of the Urban Forestry Commission and several local landscape contractors to work on an initiative to update and improve the landscaping provisions of the Zoning Code. That product was unanimously recommended by the Committee and the Planning and Zoning Commission for approval by City Council. The City Council conducted a public hearing and passed the first reading of the related Ordinance 4942 on May 12, 2025. On June 9, 2025 a motion to combine the second and third readings of the ordinance passed, but a motion to waive the third reading in full and approve it by title only died in a three to three split vote.	
BUDGET IMPACT (Identify any or all impacts this proposed action would have on the City budget and/or personnel resources) None.	
ACTION PROPOSED Reconsider amendments to the landscaping provisions of the Zoning Code, as unanimously recommended by the Comprehensive Plan Work Plan Implementation Committee and the Planning and Zoning Commission for approval by City Council.	



ENVISION LEWISTON 2044

EXPLORE OUR PAST, ENGAGE OUR PRESENT, BUILD OUR FUTURE

COMPREHENSIVE PLAN

JULY 2024

ACKNOWLEDGMENTS

THANK YOU LEWISTON COMMUNITY MEMBERS

Thanks to the thousands of people in Lewiston's community who participated in this process.
Your input and direction were invaluable in shaping this Plan!



CITY COUNCIL

Mayor Daniel Johnson
Jim Kleeburg, *Council President*
Hannah Liedkie
Jessica Klein
John Spickelmire
Kassee Forsmann
Kathy Schroeder
Rick Tousley, *Former Councilor*

PLANNING & ZONING COMMISSION

Cynthia (Cindy) Ball, *Chair*
Gabriel Iacoboni, *Vice Chair*
Emily Wolf
Kathy Branson
Kevin Kelly
Maureen Anderson
Michael Busch, *Former Commission Member*
Shaunita Cable

CITY STAFF

Joel D. Plaskon, AICP, *City Planner*
Katie Hollingshead, *Assistant Planner*
Shannon Grow, *Community Development Director & URA Custodian of Records*
Dawn Ortiz, *Community Development Specialist*
Carol Mauer, *Public Information Officer*
Tim Barker, *Parks & Recreation Director*
Dustin Johnson, *Public Works Director*
Nikki Province, *Human Resources Director*

CONSULTANT TEAM

Logan Simpson
Vitruvian Planning
Leland Consulting Group
Kittelson & Associates

STEERING COMMITTEE

Daniel Johnson, *Mayor*
Hannah Liedkie, *City Council*
Kathy Schroeder, *City Council*
Rick Tousley, *Former City Council*
Gabriel Iacoboni, *Planning and Zoning Commission*
Kevin Kelly, *Planning and Zoning Commission*
Laurinda Riggs, *Historic Preservation Commission*
Ed King, *Historic Preservation Commission*
Tami Meyers, *Business Improvement District*
Shirley Phillips, *Urban Forestry Commission*
Jill Balmer, *Parks and Recreation Commission*
Chelse Maughan, *Nez Perce County Planning*
Mark Havens, *Disability Advisory Commission*
Lance Hansen, *Lewiston School District*
Dovie Willey, *Lewis Clark State College*
Linnea Noreen, *Lewis Clark Valley Chamber of Commerce*
Blake Harrington, *Lewis Clark Valley Chamber of Commerce*
Kristin Kemak, *Lewis Clark Valley Chamber of Commerce*
Barney Metz, *Lewiston Orchards Irrigation District*
Jerry Chavez, *Valley Vision, Inc.*
Kayla Sprenger, *Idaho Public Health District 2*
Scott Corbitt, *Port of Lewiston*
Shannon Grow, *Lewis-Clark Metropolitan Planning Organization*
Dustin Johnson, *City of Lewiston Public Works*
Tim Barker, *City of Lewiston Parks and Recreation*
Nikki Province, *City of Lewiston Human Resources*
Carol Mauer, *City of Lewiston Public Information Office*
Joel D. Plaskon, *City of Lewiston Community Development*
Katie Hollingshead, *City of Lewiston Community Development*
Dawn Ortiz, *City of Lewiston Community Development*

BLUE CROSS OF IDAHO FOUNDATION FOR HEALTH

Thanks to Blue Cross of Idaho Foundation for Health, Inc. for providing financial support to update the Lewiston Comprehensive Plan. The funding from their grant was used to incorporate health and wellbeing considerations into this Comprehensive Plan with focus on outcomes related to the seven social determinants of health and wellbeing. The information in this document does not necessarily represent the views of the Foundation, its staff, or its Board of Directors.

SPECIAL THANKS

Lewiston Library
Lewis Clark State College
Art Under the Elms
Lewiston Farmers Market





Photo: Downtown Lewiston and the Railway Bridge
Credit: Logan Simpson

INTRODUCTION

COMMUNITY OVERVIEW

Lewiston is a historic city with a downtown that sits at the confluence of the Clearwater and Snake Rivers. With dramatic topography, Idaho's only seaport, and the mildest climate in the state, Lewiston has many unique and distinguishing characteristics. People enjoy the small-town community feel while having access to the amenities and services of a larger city. Lewiston anchors the Lewis and Clark Valley's economy and is the premier destination for educational services and employment in the area, such as Lewis-Clark State College and St. Joseph's Regional Medical Center. With relatively stable population growth, Lewiston is home to over 33,000 people, many of whom have chosen to retire here.

As Lewiston looks to 2044, a new Vision was created through public engagement and serves as the guiding beacon for this Comprehensive Plan (this/the Plan). This Plan builds on the voices of the community, describes various components for how and where Lewiston should grow and change in the years to come, and includes a robust guide to ensure the implementation of the Plan.

PLAN OVERVIEW

Envision Lewiston 2044 will be used and referenced to guide community development over the coming decades. This Plan allows the City to grow and adapt to an ever-changing future while supporting the market, private initiatives, strategic public investments, and innovation. This Plan is designed to improve Lewiston's quality of life and health in the City for generations to come.

In preparation for this Plan, the Lewiston community has come together to articulate a common Vision that embraces the future and builds on the City's shared values, quality of life, geographical location, and outdoor recreational opportunities. To realize this Plan's Vision and Themes, the City must act boldly to build on its strengths and confront challenges by both proactively and reactively implementing this plan on consistent and on-going basis. The goals, objectives, and actions set forth in this Plan will define the City's future.

This Plan is one of the City's most influential tools for immediate and long-range decision-making, enabling Lewiston's leaders, businesses, and residents to play a meaningful role in creating the kind of community they want to live in, offering better choices for a better future.

The City of Lewiston partnered with the Blue Cross of Idaho Foundation for Health to integrate health throughout this planning process. The Plan provides objectives and goals that holistically support the health and well-being of the Lewiston community and is based on the [Social Determinants of Health](#) (SDOH)—the conditions in the environments where people are born, live, learn, work, play, worship, and age that affect a wide range of health and wellbeing outcomes and risks.

CONTEXT

THE RIVERS AND RIVERFRONT

Lewiston's natural environment has contributed greatly to the City. The Snake and Clearwater rivers have provided tremendous economic benefits as industry has flourished in these areas. However, the riverfront location of the Downtown area did come with additional risk of flooding, which was mitigated in the 1970s with an extensive levee system. These levees are critical infrastructure that protects the City and aids in navigability of the river.

VIEW CORRIDORS

Lewiston's dramatic topography provides many scenic views, the most prominent of which is the 2,000-foot Lewiston Hill to the north of the City. Other areas such as the Normal Hill and Country Club neighborhoods enjoy views of the rivers as well.

GROUNDWATER

The Idaho Department of Water Resources (IDWR) monitors groundwater levels and quality throughout Idaho including the Lewiston Plateau. Quality testing is for contaminants such as metals, pesticides, and other characteristics such as pH and common ions. In general, Lewiston's groundwater levels and quality are relatively good, however there is known contamination in the Lindsay Creek Nitrate Priority Area and Lewiston Plateau Groundwater Management Area. Most of this contamination is from pesticides, nitrates, and other agricultural chemicals are of interest due to proximity of agricultural practices in the area. Potential contaminants from septic system failures is present given the number and age of septic systems.

SOILS AND AGRICULTURE

Lewiston's less developed areas, particularly in the AOI, are utilized for agricultural uses. This active farmland primarily accommodates winter wheat, grass, and pasture. Some soils constitute farmlands of statewide importance. There are some nearby designated public rangelands, but most of these agricultural areas are privately owned and maintained grass and pasture. Less than 1% of Lewiston's labor force is in the agricultural sector. It is expected that many of the agricultural areas in Lewiston's AOI, particularly those in the southeast portion of the City, will transition to residential uses over time.

HAZARDS

Lewiston is in a relatively stable geologic location but has experienced flooding in the past. Today, climate change increases the risk that natural hazards pose. Climate change has caused overall temperatures to rise, and it is predicted that this pattern of warming will continue. While Lewiston enjoys one of Idaho's mildest climates, periods of extreme heat are predicted to be more prevalent in the future. These climatic shifts often result in longer, more extreme shifts in weather patterns such as drought and flooding. With increased temperatures, snow becomes less frequent, and more precipitation comes in the form of rain increasing the risk of flooding. While Lewiston's levees protect from major flooding on the waterfront, more extreme rain events can cause flash flooding and increase the demand on stormwater infrastructure or impact the stability of steep topography. With more extreme climate shifts, the risk of extended droughts is also increased. Such droughts can cause aquifer levels to drop and may require deeper wells to maintain water supplies. Drought also increases wildfire risks. While Lewiston is surrounded primarily by agricultural lands, wildfire can significantly impact air quality for long distances. To reduce the risks posed, reduction in carbon emissions and increasing the resiliency of infrastructure is key.

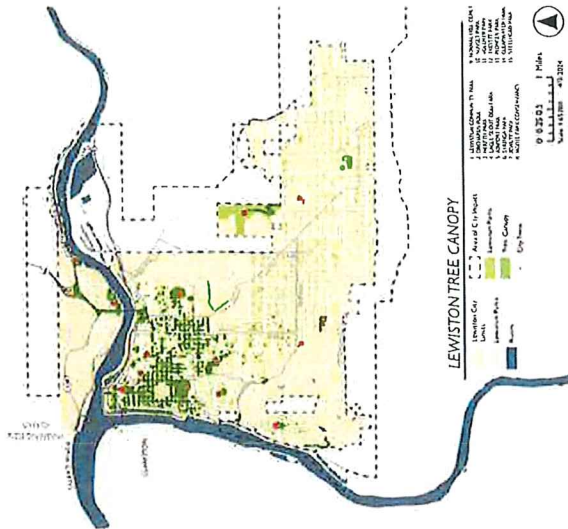
RENEWABLE ENERGY

Renewable energy helps to reduce the need for high-carbon emission sources and can help improve air quality. While most energy in Lewiston is provided by hydroelectric, there is a potential need for additional diversified renewable energy sources such as wind and solar. These energy sources can often be found in areas of large-scale agricultural production, generally over five acres. Benefits of such uses include increase in native vegetation, wildlife and pollinator habitat, stormwater absorption, and reductions in pollutants compared to agricultural uses. However, the introduction of commercial wind and/or solar power also comes with adverse impact to natural resources and/or environmental conditions. Lewiston should explore these opportunities with intent to allow or support them only with assurance that they will not result in undue cost to natural resource(s) or environment. Determining where these uses should go in the future should weigh the positives with other potential impacts such as viewsheds and compatible surrounding uses.

URBAN FOREST AND STREET TREES

Lewiston has a long-standing pride in the trees found in the City and has been designated as a Tree City USA for many years, having also received several Growth Awards from the Arbor Day Foundation. Urban street trees are important in helping mitigate urban heat islands, improve air quality, absorb stormwater runoff, and improve resident health and wellbeing. Older areas like Normal Hill have expansive tree canopies that help the City maintain an overall tree canopy coverage of 8%. While some areas of the City, such as the airport and the levees are largely treeless for functional reasons, many of the City's residential areas are well-covered. All trees within the city are managed through a GIS inventory created by staff in partnership with the Idaho Department of Lands. As additional residential and commercial uses are created from formerly agricultural areas, new trees will continue to help expand this coverage and provide a safe haven from weather. While trees in more dense areas such as Downtown can be challenging due to lack of space due to high percentages of the lots being covered by buildings, utilities, and other spatial constraints, they are still a vital component of the streetscape and provide shade for pedestrians and customers alike. Bi-annual tree orders as well as the City's Legacy Tree Program assist in further developing the city's overall canopy to supplement what the private sector contributes.

Additional information on Lewiston's natural resources and hazards is contained in [Appendix C: Existing Conditions Report](#).



NATURAL RESOURCES AND HAZARDS HEALTH AND WELLBEING CONSIDERATIONS

A clean environment is fundamental to health and wellbeing. Air and water quality are important aspects in physical health, while access to natural areas and green spaces are critical components to emotional health. Recognizing potential hazards and assets allows for potential impacts to be mitigated and assets to be protected for the future. In the past, areas closer to pollutants and hazards have disproportionately affected marginalized communities. These effects are expected to be amplified with climate change, and action to change these patterns are needed to ensure a healthy future for all of Lewiston's community members.

NATURAL RESOURCES AND HAZARDS GOALS AND OBJECTIVES

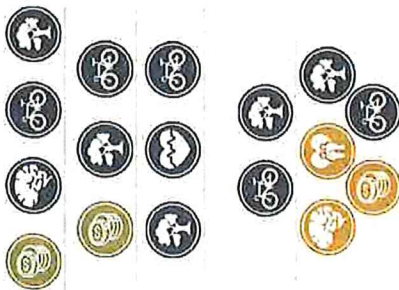
GOAL NH.1 MINIMIZE RISKS FROM ENVIRONMENTAL HAZARDS.

NH.1.1 Avoid high-risk development. Limit development in hazardous areas to protect health and safety.

NH.1.2 Manage stormwater for pollution reduction. Utilize stormwater Best Management Practices to reduce pollutant loads and slow runoff rates.

NH.1.3 Improve air quality by providing additional transportation options. Promote the use of low-emission modes of transportation, including ridesharing, bicycling, walking, and transit.

NH.1.4 Coordinate community Education on hazard mitigation. Educate and inform residents on how to mitigate impacts from wildfires, winter storms, floods, extreme heat, and other high-risk hazards.



GOAL NH.2 INCREASE RESILIENCE AND SUSTAINABILITY BY BEING GOOD STEWARDS OF THE ENVIRONMENT.

NH.2.1 Expand the urban-tree canopy. Promote and expand the urban tree canopy where possible.

NH.2.2 Promote and incentivize water conservation. Conserve aquifer resources to ensure access to water.

NH.2.3 Adopt renewable energy expansion. Encourage the use of renewable energy and establish development standards for such uses.

NH.2.4 Protect ground water quality and improve storm water quality. Encourage the reduction of pollutants and potential contaminants.

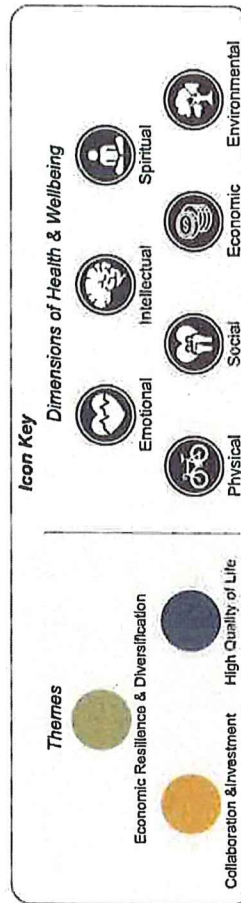


GOAL NH.3 COLLABORATE WITH PARTNERS TO MAXIMIZE POSITIVE IMPACTS.

NH.3.1 Ensure flood protection while enhancing natural environments and wildlife habitat. Work with USACE and other partners to coordinate these efforts.

NH.3.2 Develop clean air standards. Support regional pollution mitigation strategies and attract clean industries.

NH.3.3 Collaborate for effective hazard mitigation. Coordinate with Nez Perce County to implement the County of Nez Perce All Hazard Mitigation Plan.



NATURAL RESOURCES AND HAZARDS (NH)		TYPE	PRIORITY	TIMELINE	ANTICIPATED COST
NH.1	Minimize risks from environmental hazards.				
NH.1.1	Avoid high-risk development. Limit development in hazardous areas to protect health and safety.				
NH.1.1.1	Evaluate current zoning and development regulations to ensure limited development in hazardous areas to safeguard the health and safety of residents.	Regulatory Reform	High	Short-term	\$
NH.1.2	Manage stormwater for pollution reduction. Utilize stormwater Best Management Practices to reduce pollutant loads and slow runoff rates.				
NH.1.2.1	Incorporate stormwater management best practices into City standards and regulations. Special attention should be made to manage runoff rates effectively to preserve water quality.	Regulatory Reform	Medium	Mid-term	\$
NH.1.3	Improve air quality by providing additional transportation options. Promote the use of low-emission modes of transportation, including ridesharing, bicycling, walking, and transit.				
NH.1.3.1	Develop and implement initiatives to encourage the use of low-emission transportation modes, such as ridesharing, bicycling, walking, and transit. Collaborate with relevant organizations and provide infrastructure support.	Program or Resource	Medium	Long-term	\$
NH.1.3.2	Promote compact, infill, and mixed use development to increase opportunity for people to choose non-auto-oriented transportation and reduce adverse transportation impacts to the environment.	Regulatory Reform	Medium	Long-term	\$
NH.1.4	Coordinate community Education on hazard mitigation. Educate and inform residents on how to mitigate impacts from wildfires, winter storms, floods, extreme heat, and other high-risk hazards.				
NH.1.4.1	Implement community-wide education programs to inform residents about the mitigation of impacts from wildfires, winter storms, floods, extreme heat, and other high-risk hazards. Use various channels, including workshops, informational materials, and online resources to reach the public.	Program or Resource	Medium	Mid-term	\$
NH.2	Increase resilience and sustainability by being good stewards of the environment.				
NH.2.1	Expand the urban tree canopy. Promote and expand the urban tree canopy where possible.				
NH.2.1.1	Allocate resources and exceed baseline funding requirements to invest in programs like Tree City USA, promoting and expanding the urban tree canopy. Focus efforts on areas with less tree coverage.	Program or Resource	Medium	Short-term	\$\$
NH.2.1.2	Incentivize or require tree planting in new developments, especially along streets and in and around parking lots. Incorporate street tree planting standards into the subdivision code.	Regulatory Reform	Medium	Short-term	\$
NH.2.1.3	Explore allocating resources or incentives for existing commercial properties with large paved parking areas to incorporate trees to mitigate urban heat islands.	Program or Resource	Medium	Mid-term	\$\$
NH.2.2	Promote and incentivize water conservation. Conserve aquifer resources to ensure access to water.				
NH.2.2.1	Review and align current ordinances and programs with best practices for water conservation.	Regulatory Reform	Medium	Mid-term	\$
NH.2.2.3	Introduce incentives to encourage residents and businesses to adopt water-saving practices.	Program or Resource	Medium	Long-term	\$\$
NH.2.3	Adopt renewable energy expansion. Encourage the use of renewable energy and establish development standards for such uses.				
NH.2.3.1	Promote the adoption of renewable energy sources within the community through public education resources.	Program or Resource	Low	Long-term	\$

CITY ORDINANCE NO. 4942

AN ORDINANCE OF THE CITY OF LEWISTON AMENDING LEWISTON CITY CODE SECTION 37-3 RELATING TO THE DEFINITION OF "PARKING LOT"; AMENDING LEWISTON CITY CODE SECTION 37-153 RELATING TO LANDSCAPING; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEWISTON, IDAHO:

SECTION 1: Lewiston City Code

Sec. 37-3. - Definitions.

As used in this chapter:

...

Parking lot means a parcel of land of more than

four (4) motor vehicles, contiguous

...

SECTION 2: Lewiston City Code § 37-153 is hereby amended as follows:

Sec. 37-153. Landscaping.

- (a) Purpose: Landscaping requirements are to be an integral part of all site and parking lot development and redevelopment. The intent is to create shade and reduce heat buildup, reduce the barren appearance of parking lots, create aesthetic environments, buffer adjoining land uses, slow stormwater runoff, and mitigate pollution, buffer incompatible uses, reduce the barren appearance of parking lots, create aesthetic environments, create shade and reduce heat buildup while maintaining design flexibility.
- (b) Landscaping shall be required for all off-street parking areas lots for more than five (5) vehicles, except for those uses enumerated unless otherwise exempted in subsection (j) of this section and to provide landscaped buffers between public rights-of-way and parking lot areas, subject to the following provisions:
- (1) A five-foot wide minimum buffer/landscape strip is required between the a parking lot and a public rights-of-way with a minimum of one (1) one and one-half-inch caliper shade tree and five (5) shrubs every thirty-five (350) linear feet. The plantings therein shall not interfere with motorist sight distance within a clear vision area, as defined in Section 32-1 of this Code.

- (2) All parking lots under ten thousand (10,000) square feet of vehicular surface area shall have a minimum of ~~two-three (3)~~ foot wide perimeter ~~planting area~~ landscape strip around that portion of the parking ~~area~~ lot not adjacent to ~~the~~ a public rights-of-way. All lots over ten thousand (10,000) square feet are to have a minimum of five-foot perimeter ~~planting~~ landscape strip around that portion of the parking ~~area~~ lot not adjacent to ~~the~~ a public right-of-way. All perimeter planting strips are to have a minimum of one (1) shade street of one and one-half-inch caliper and five (5) shrubs every thirty-five (350) linear feet.
- (3) All landscaping required by this section shall be in healthy condition at the time of planting, planted in soil type and depth appropriate to ensure its growth and health, and maintained to an extent that it furthers the stated purpose of this section. The topping, heading, or stubbing of trees required by this section is prohibited, unless authorized by the City Forester or deemed necessary in writing by a certified arborist.
- (4) All landscape areas required by this section shall contain groundcover appropriate for the continued health of the plantings therein and for the prevention of erosion.
- (35) Interior landscaping is to be a percentage of the total vehicular surface area and is in addition to the perimeter and right-of-way landscaping requirements.

Vehicular surface area	Percent of interior landscaping
2,500—6,999 square feet	3%
7,000—49,999 square feet	5%
50,000—149,000 square feet	8%
150,000 or larger	10%

Interior plantings are to include trees with a minimum size of one and one-half-inch caliper. ~~To ensure proper growth of vegetation, a~~ All interior planting beds shall have a minimum ~~dimension~~ area of five (5) feet by five (5) of six (6) feet at the narrowest point with a soil depth appropriate for the trees selected. See City of Lewiston tree planting standards and techniques for proper tree planting procedures. No shrub landscaping is required for interior planting.

Required shade trees will be of such species and canopy shape to provide a predicted fifty (50) percent canopy cover of the parking lot area after a ten-year growth period.

All tree species shall be classified by the City Tree Selection Guide as drought, insect and disease resistant. Exceptions may be approved by the community development director upon the recommendation of the city forester.

Preservation of healthy trees existing on the site before construction may be used to satisfy species and landscaping requirements.

(46) An irrigation system shall be provided for all required landscaping.

- ~~(c) In the commercial (C), manufacturing (M) zones, airport (A) and port (P) zone, all required front yard setbacks shall be landscaped. Landscaping shall consist of a minimum of one (1) tree of one and one half inch caliper and five (5) shrubs per thirty-five (35) linear feet.~~
- ~~(d) In the commercial (C), manufacturing (M), airport (A), and port (P) zones, when abutting a residential zone, the required side and rear yards, which share a common property line with the residential zone, shall be landscaped or fenced except as provided for in this section. Landscaping shall consist of a minimum of sixty (60) percent coniferous plants, a minimum of six (6) feet in height at the time of planting, spaced in a manner to create a complete visual screen between the abutting land uses within three (3) years from time of planting. Fencing shall consist of six foot tall wood, slatted chained link or masonry panels. Prior to installation of the landscaping or fencing, the adjacent residential property owner shall be contacted and asked for input whether the buffer will be landscaping or fencing. The adjacent residential owner may also waive the buffer. The adjacent residential property owner shall be given fifteen (15) days to indicate their preference. If no response is provided within fifteen (15) days, the nonresidential property owner may install fencing or landscaping as described above.~~
- (ec) Trees and shrubs may be arranged to achieve the desired effect provided the required number is provided.
- ~~(f) A performance bond may be required to ensure compliance with this section and to cover maintenance for a period not to exceed one (1) year after time of planting.~~
- (gd) An occupancy permit shall not be issued by the community development department until the required landscaping is completed. Occupancy of a building is not allowed unless the following condition applies:

 - (1) If, due to seasonal weather considerations, it is not feasible to install required landscaping, a temporary certificate of occupancy may be issued ~~after a performance bond or other security instrument acceptable to the city attorney has been posted with the city in the amount of one hundred twenty-five (125) percent of the value of the required improvements upon showing by the property owner of a written commitment to install the required landscaping by a date certain and calling the Community Development Department for inspection thereof.~~
- (he) It is not the intent of this chapter to inhibit creative solutions to land use problems. An alternative design or modification of these requirements may be allowed with the approval of the community development director. This is not a variance of or waiver

of existing standards and the proposed alternative must meet or exceed existing requirements. Requirements may be modified when:

- (1) Soil or slope limitations make strict adherence impractical;
- (2) Safety considerations are involved, especially in the clear vision triangles;
- (3) Due to a change of use of an existing site, the required buffer yard is larger than can be provided.

~~(i) In all manufacturing and commercial zones, all undeveloped land areas that were disturbed during the construction phase, excluding the building footprints and parking areas, shall be leveled to grade, removing all surface irregularities, weed growth and construction debris in preparation for installation of approved erosion control measures. All areas that were previously disturbed during the construction phase and subsequently prepared for seeding, must be properly planted with specified grass during the first seasonally appropriate planting period. All areas which will not be seeded with grasses shall be stabilized with approved erosion control measures prior to issuance of a certificate of occupancy for the primary structure.~~

(jf) Exemptions:

- (1) Single-family residential off-street parking areas;
- (2) Properly licensed auto and vehicle dealers are exempt from providing landscaping within the interior of the sales and display area;
- (3) Parking areas of less than five (5) contiguous parking spaces.

SECTION 3: This ordinance shall take effect and be in full force from and after its passage and publication.

PASSED this _____ day of _____, 2025.

CITY OF LEWISTON

By: _____
Daniel G. Johnson, Mayor

ATTEST:

Tanya M. Brocke, City Clerk

ORDINANCE NO. 4942

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CITY COUNCIL MEETING AGENDA ITEM SUMMARY

ITEM TITLE INTRODUCTION OF ZONING CODE AMENDMENT ZA-04-25	AGENDA NO. IV. D. AGENDA DATE: March 2, 2026
ITEM SUMMARY (Background, Discussion, Key Points, Recommendations, etc.) The State of Idaho Legislature passed House Bill 180 in 2025, which amended Idaho Code Chapter 65, Title 67 by adding a new section, 67-6540, to provide for the siting of Telecommunications Facilities and Broadband Infrastructure. Staff is proposing amendments to Lewiston City Code Chapter 37 Section 215 to be in conformance with the amendments made to state code.	
BUDGET IMPACT (Identify any or all impacts this proposed action would have on the City budget and/or personnel resources) None.	
ACTION PROPOSED Provide direction to staff on the proposed amendments so that staff can schedule a public hearing and ordinance reading at a future City Council meeting.	

ARTICLE XVII. ~~TELE~~WIRELESS COMMUNICATION FACILITIES REGULATIONS

Sec. 37-215. Purpose.

The provisions of this article shall be known as the ~~telecommunications facilities and broadband infrastructure~~~~wireless communication facilities~~ regulations. It is the purpose of these provisions to delineate restrictions, development standards and siting criteria, and establish removal procedures in order to protect the city from the uncontrolled siting of ~~telecommunications facilities~~~~wireless communication facilities~~ in locations that have significant adverse effects and cause irreparable harm. It is further the purpose of these provisions:

- (1) To protect the community's visual quality and safety while facilitating the reasonable and balanced provision of wireless communication services. More specifically, it is the city's goal to minimize the visual impact of ~~telecommunication facilities~~~~wireless communication facilities~~ on the community, particularly in and near residential zones, the central business district, the Normal Hill heritage overlay zone, and historic districts;
- (2) To promote and protect the public health, safety and welfare, preserve the aesthetic character of the Lewiston community, and to reasonably regulate the development and operation of ~~telecommunications facilities~~~~wireless communication facilities~~ within the city to the extent permitted under state and federal law;
- (3) To minimize the impact of ~~telecommunication facilities~~~~wireless communication facilities~~ by establishing standards for siting design and screening;
- (4) To preserve the opportunity for continued and growing service from the wireless industry;
- (5) To accommodate the growing need and demand for wireless communication services;
- (6) To establish clear guidelines and standards and an orderly process for review intended to facilitate the deployment of ~~broadband infrastructure~~~~wireless transmission equipment~~, to provide advanced communication services to the city, its residents, businesses and community at large;
- (7) To minimize the number of new towers and encourage the collocation of antennas of more than one (1) wireless communication service provider on a single tower or ~~telecommunications~~ ~~WCF~~ support structure;
- (8) To ensure city zoning regulations are applied consistently with federal and state telecommunications laws, rules, regulations and controlling court decisions; and
- (9) To provide regulations that are specifically not intended to, and shall not be interpreted or applied to:
(a) prohibit or effectively prohibit the provision of wireless services, (b) unreasonably discriminate among functionally equivalent service providers, or (c) regulate ~~telecommunications facilities~~~~wireless communication facilities~~ and ~~broadband infrastructure~~~~wireless transmission equipment~~ on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 1, 11-23-20)

Sec. 37-216. Definitions.

As used in this article, the following terms shall have the meanings set forth below:

Antenna is a ~~telecommunications facility~~WCF and means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that sends or receives digital signals, analog signals, radio frequencies or wireless communication signals.

Antenna array is a ~~telecommunications facility~~WCF and means a group of antenna elements, not including small cells, and associated mounting hardware, transmission lines, or other appurtenances that share a common attachment device for the sole purpose of transmitting or receiving wireless communication signals.

Applicant means any person engaged in the business of providing wireless communication services or the ~~broadband wireless communication~~ infrastructure required for wireless communication services and who submits an application.

Application means the process by which an applicant submits a written request on a form provided by the city and indicates a desire to be granted a permit pursuant to this article. A complete application means all written documentation, in whatever form or forum, made by an applicant to the city concerning the construction of ~~telecommunication wireless communication~~ facilities; the wireless services proposed to be provided; and any other matter pertaining to a proposed system or service, including, if applicable and without limitation, information related to a request for a conditional use permit or an exception to a standard.

Base station is a ~~telecommunications facility~~WCF and means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this article or any equipment associated with a tower.

- (1) The term includes, but is not limited to, equipment associated with wireless communication services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul.
- (2) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks).
- (3) The term includes any structure other than a tower that, at the time the relevant application is filed with the city under this article, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (4) The term does not include any structure that, at the time the relevant application is filed with the state or the city under this article, does not support or house equipment described in this section.

Breakpoint design technology means the ability of a tower to break at a specified point so that the entire tower does not collapse.

Broadband means wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads, or as may otherwise be defined in Idaho Code Section 40-517, as may be amended from time to time.

Broadband Infrastructure means networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broadband and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools or public institutions, or as may otherwise be defined in Idaho Code Section 40-517, as may be amended from time to time.

Broadband Provider means any entity that:

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- (1) Provides broadband services, including but not limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, or internet service provider; or
 - (2) Builds broadband infrastructure, including but not limited to a port, nonprofit organization, or private-public partnership established for the purpose of expanding broadband in the state;
 - (3) or as may otherwise be defined in Idaho Code Section 40-517, as may be amended from time to time.

Central business district means that area described as the central business district in section 37-145 of this Code.

City means City of Lewiston, Idaho.

Collocation means mounting or installing an antenna facility on a preexisting structure and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure. For purposes of an eligible facilities request, "collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Commercial zone means the following zoning districts within the City of Lewiston: the local commercial (C-1) zone; the tourist commercial (C-2) zone; the community commercial (C-3) zone; the general commercial (C-4) zone; the central commercial (C-5) zone, except that portion of the C-5 zone located in the central business district; the regional commercial (C-6) zone; the light industrial (M-1) zone; the heavy industrial (M-2) zone; the planned unit development (PD) zone, where commercial uses are allowed; the port (P) zone; and the airport (A) zone.

Community development director means the director of the community development department of the City of Lewiston and his/her designee(s).

Distributed antenna system or *DAS* is a telecommunications facilityWCF and means a central network consisting of equipment that can both transmit and receive to support multiple antenna locations throughout the desired coverage area.

Eligible facilities request means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) Collocation of new transmission equipment;
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment.

Eligible support structure is a telecommunications facilityWCF and means any tower or base station as defined in this section; provided, that it is existing at the time the relevant application is filed with the city under this article.

Existing means a tower or base station that has been reviewed and approved under an applicable zoning or siting process, or under another state or local regulatory review process; provided, that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Historic district(s) means that historic district(s) described in chapter 19.5 of this Code.

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Macro cell means a ~~telecommunications facility~~WCF and means a high-powered ~~telecommunications~~wireless ~~communication~~ facility that provides broad network coverage (typically one (1) mile or greater). Generally, macro cell antennas are mounted on ground-based towers, rooftops and other existing structures, at a height that provides a clear view over the surrounding buildings and terrain. Macro cells are typically capable of hosting multiple wireless service providers and accompanied by base stations.

Mixed use zone means the following zoning districts within the City of Lewiston: The Bryden Avenue special planning area A (BASPAA) zone; the North Lewiston mixed use development (MXD-NL) zone; the Normal Hill special planning area mixed use (NHMU) zone; and the planned unit development (PD) zone, where commercial and residential uses are allowed.

Normal Hill heritage overlay zone or NHHO means the NHHO zone described in chapter 37, article III of this Code.

Operator means ~~any person who provides service over a wireless communication system and directly or through one (1) or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.~~

Person means and includes any individual, corporation, limited liability company, partnership, association, joint stock company, trust, or any other legal entity, but not the city.

Protected areas means all real property located in residential zones, within two hundred (200) feet of a residential zone, the central business district, the Normal Hill heritage overlay zone, and all historic districts.

~~*Provider* means an operator, wireless infrastructure provider, or wireless services provider.~~

Residential zone means the following zoning districts within the City of Lewiston: The agricultural transitional (F-2) zone; the suburban residential (R-1) zone; the low density residential (R-2) zone; the low density residential (R-2A) zone; the medium density residential (R-3) zone; the higher density residential (R-4) zone; the Bryden Avenue special planning area B (BASPAB) zone; the Normal Hill north (NHN) zone; the Normal Hill south (NHS) zone; and the planned unit development (PUD) zone, where residential uses are allowed.

RF means radio frequency emissions at such levels as are determined by the FCC.

Rights-of-way means the same as defined or referenced in chapter 31 of this Code.

Site means, in relation to a tower that is not in the public right-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. In relation to a support structure that is not in the public right-of-way other than a tower, site means an area in proximity to the structure and to other transmission equipment already deployed on the ground.

Small cells and small wireless facilities mean facilities that meet the following conditions:

- (1) The facilities:
 - a. Are mounted on structures fifty (50) feet or less in height, including their antennas;
 - b. Are mounted on structures no more than ten (10) percent taller than other adjacent structures; or
 - c. Do not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three (3) cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume;

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- (4) The facilities do not require antenna structure registration under federal law;
 - (5) The facilities are not located on tribal land as defined under federal law; and
 - (6) The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified under federal law.

Stealth design means a design that minimizes the visual impact of ~~telecommunication~~wireless communication facilities by camouflaging, disguising, screening or blending into the surrounding environment. Examples of stealth design include, but are not limited to, WCFs disguised as trees (monopines), flagpoles, utility and light poles, bell towers, clock towers, ball field lights, and architecturally screened roof-mounted antennas.

Substantial change means a modification that substantially changes the physical dimensions of a tower or base station, as provided in 47 CFR § 1.6100(b)(7), as amended from time to time.

Tower is a ~~telecommunications facility~~WCF and means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and associated facilities, including structures that are constructed for wireless communication services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the associated site.

Tower height means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure, including the antenna; or, where the tower is mounted on a rooftop, the vertical distance at grade from the base of the building to the highest point of the tower structure, including the antenna. A lightning rod, not to exceed ten (10) feet in height, shall not be included within tower height.

Telecommunications~~WCF support structure~~ means any tower, building, pole, water tank, water tower, or other structure to which an antenna is or antennas are attached.

~~Tele~~Wireless communication facilities ~~or WCF~~ means equipment for the transmission or reception of:

- (1) Radio frequency signals or other wireless communications; or
- (2) Other signals for communications purposes. Such equipment may consist of, for example, antennas, antenna arrays, base stations, distributed antenna systems, macro cells, small cells, towers, and transmission equipment; or
- (3) Broadband infrastructure.

~~Wireless infrastructure provider means a person, other than a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities' utility poles, or wireless support structures.~~

~~Wireless services provider means a person that provides wireless services.~~

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 2, 11-23-20)

Sec. 37-217. Applicability.

- (a) The regulations set forth in this article shall apply to all ~~telecommunications facilities~~WCFs located or proposed to be located within the city, except in public rights-of-way. ~~Tele~~Wireless communication facilities regulations that apply to public rights-of-way within the City of Lewiston are addressed in chapter 31, article VI, of this Code.
- (b) Exempt facilities. The following are exempt from this article:
 - (1) FCC-licensed amateur (ham) radio facilities;

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- (2) Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter in diameter;
 - (3) A government-owned telecommunications facilityWCF installed upon the declaration of a state of emergency by the federal, state, or local government, or a written determination of public necessity by the city; except that such facility must comply with all federal and state requirements. The telecommunications facilityWCF shall be exempt from the provisions of this article for up to one (1) month after the duration of the state of emergency;
 - (4) A temporary telecommunications facilityWCF installed for providing coverage of a special event, such as news coverage or a sporting event. At least five (5) business days' written notice shall be given to the community development department prior to installation of such temporary telecommunications facilityWCF. Such temporary telecommunication facilitiesWCFs shall only be allowed two (2) weeks before and one (1) week after the special event; and
 - (5) Other temporary telecommunications facilityWCFs installed for a period of up to ninety (90) days. At least five (5) business days' written notice shall be given to the community development department prior to the installation of such temporary telecommunication facilityWCF. Additionally, such temporary telecommunications facilityWCF shall comply with applicable setbacks and height requirements in residential zones, historic district(s), and the Normal Hill heritage overlay zone.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-218. General requirements.

- (a) All telecommunication facilitiesWCFs shall comply with the following regulations:
 - (1) *Color.* All telecommunication facilitiesWCFs shall be placed and colored to blend into their surroundings. The use of grays, blues, greens, dark bronze, browns or other site specific colors may be appropriate; however, each case should be evaluated individually.
 - (2) *Lighting.* Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is permitted, as long as it is appropriately down shielded to keep light within the boundaries of the site.
 - (3) *State or federal requirements.* Towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
 - (4) *Permits.* All telecommunication facilitiesWCFs shall be required to obtain permits in accordance with chapter 10 of this Code.
 - (5) *Certificate of appropriateness.* All telecommunication facilitiesWCFs located in historic district(s) or the Normal Hill heritage overlay zone shall be required to obtain a certificate of appropriateness from the historic preservation commission so that the telecommunication facilitiesWCF's stealth design blends into the historic district(s) or into the Normal Hill heritage overlay zone in accordance with code requirements for new construction. All telecommunication facilitiesWCFs that are proposed to be located in a historic district(s) or the Normal Hill heritage overlay zone shall be subject to the additional regulations governing those areas, including, but not limited to, securing a certificate of appropriateness when required. The processes for obtaining a certificate of appropriateness and conditional use permit shall proceed simultaneously.
 - (6) *Airport notice.* When seeking an administrative permit or approval pursuant to this article, except when making an eligible facilities request, the applicant shall notify the Lewiston-Nez Perce County Regional Airport. A copy of such notice shall be submitted with the filing of an application to the city

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and shall include a site plan and either an elevation drawing or a photo simulation of the proposed telecommunication facilityWCF indicating the proposed height of the telecommunication facilityWCF.

- (7) *Signs.* A telecommunication facilityWCF shall not bear any signage or advertisement other than signage required by law or expressly required by the city.
- (8) *Visual impact.* All telecommunication facilitiesWCFs, except for those located in the commercial and mixed use zones, shall be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, but without adverse impact to the proper functioning of the telecommunication facilityWCF. Such telecommunication facilityWCFs and equipment enclosures shall be integrated through location, design, and/or screening to blend in with or be hidden within the existing characteristics of the site.
- (9) *Use of stealth design.* Stealth design is required as provided in table 1 of section 37-222 of this Code, and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall be designed and constructed to substantially conform to surrounding building designs or natural settings, so as to be visually unobtrusive.
- (10) *Installation on city property.* Installation of any telecommunication facilityWCF on city-owned property requires a duly executed written agreement with the city prior to installation.
- (11) *Equipment mounting.* All equipment shall be mounted as close as possible to the structure, pole, or building so as to reduce the overall visual profile to the maximum extent feasible.
- (12) *Setbacks and fencing.*
 - a. If any setback prescribed within this chapter requires a greater distance than required in this article, the greater distance shall apply.
 - b. A sight-obscuring fence no less than six (6) feet in height from the finished grade shall be constructed around any macro cell tower, including around related support or guy anchors, and around its base station. Access shall only be through a locked gate.
- (13) *Collocation encouraged.* A written statement shall be provided demonstrating the applicant's willingness to allow transmission equipment owned by others to collocate with the proposed wireless communication facility whenever technically and economically feasible.
- (14) *Accessory uses.*
 - a. Accessory uses shall be limited to such structures and equipment that are necessary for transmission or reception functions, and shall not include broadcast studios, offices, vehicles or equipment storage, or other uses not essential to the transmission or reception functions.
 - b. All accessory buildings shall be constructed of building materials equal to or better than those of the primary building on the site, built to blend into the surrounding architectural style, and subject to applicable permits.
 - c. No equipment shall be stored or vehicle parked on the site of the tower, unless used in direct support of the antennas or the tower that is being repaired.
 - d. In protected areas, all accessory equipment located at the base of a WCF shall be located or placed (at the applicant's choice) in an existing building, underground, or in an equipment shelter or cabinet that is:
 - 1. Designed to blend in with existing surroundings, using architecturally compatible construction and colors; and

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2. Located so as to be as unobtrusive as possible consistent with the proper functioning of the telecommunication facilityWCF.

(15) *Compliance report.* A written report shall be prepared by a licensed professional engineer or another person with demonstrated expertise in the field of RF engineering. Such report shall attest that the proposed telecommunication facilityWCF (whether it be new or replacement equipment) complies with the RF emissions limits established by the FCC. Such report shall be submitted with every permit application.

- (b) Site design flexibility. Individual telecommunication facilityWCF sites vary in the location of adjacent buildings, existing trees, topography, and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, the telecommunications facilityWCF and supporting equipment may be installed so as to best camouflage, disguise or conceal them, to make the telecommunication facilityWCF more closely compatible with and blend into the setting or host structure, upon approval from the community development director or the planning and zoning commission, as applicable.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 3, 11-23-20)

Sec. 37-219. Building-mounted telecommunication facilitiesWCFs.

With the exception of commercial and mixed use zones:

- (1) All transmission equipment shall be concealed within existing architectural features to the maximum extent feasible. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use, and shall use materials in similar quality, finish, color, and texture as the existing underlying structure.
- (2) All roof-mounted transmission equipment shall be set back from all roof edges to the maximum extent feasible consistent with the need for "line-of-sight" transmission and reception of signals.
- (3) Antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise, or conceal them to make them closely compatible with and blend into the setting or host structure.

Towers located on roofs shall be subject to the provisions of section 37-222 of this Code rather than this section.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-220. Antenna arrays.

- (a) Unless a conditional use permit is obtained, antenna arrays shall not be permitted:
- (1) In residential zones;
 - (2) On single-family houses and duplexes;
 - (3) On signs;
 - (4) In historic districts; or
 - (5) In the Normal Hill heritage overlay zone.

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The notice and procedural provisions of article IX of this chapter ("conditional uses") and the factors set forth in section 37-222(h) of this Code (substituting "antenna array" for "tower") shall apply to conditional use permits sought for the purpose of locating antenna arrays in one (1) of the preceding zones.

- (b) Subject to subsection (a) of this section, antenna arrays are permitted if located on an existing structure such that they do not extend more than fifteen (15) feet above said structure.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-221. Small cells and distributed antenna systems.

- (a) Small cells are allowed in all zones, provided the applicant complies with all federal laws and state laws and requirements and structural industry standards.
- (b) Small cells are subject to approval via permits and administrative review unless their installation requires the construction of a pole that exceeds the maximum height limitation of the affected zoning district or building. If the height limitation is exceeded, an exception pursuant to section 37-223 of this article is required. An exception shall not be required for replacement utility support structures, so long as the height of a replacement structure, including antennas, is no greater than ten (10) feet taller than the existing utility support structure.
- (c) Distributed antenna systems are allowed in all zones, provided the applicant complies with all federal laws and state laws and requirements and structural industry standards.
- (d) Distributed antenna systems are subject to approval via permits and administrative review.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 4, 11-23-20)

Sec. 37-222. Towers.

- (a) *Preferred macro cell tower locations.* The following siting priorities, for wireless infrastructure providers, ordered from most-preferred (1) to least-preferred (7), are as follows and require an alternative sites analysis, as set forth in subsection (e) of this section:
- (1) City-owned property and facilities, except those in protected areas, and not including rights-of-way;
 - (2) Commercial zones, except the central business district;
 - (3) Mixed-use zones;
 - (4) Rights-of-way in nonresidential zones;
 - (5) City-owned property and facilities in protected areas, but not including rights-of-way;
 - (6) Other parcels of land in protected areas, but not including rights-of-way;
 - (7) Rights-of-way in protected areas.
- (b) *Towers in protected areas.* Towers in protected areas are permitted only upon the issuance of a conditional use permit, pursuant to the requirements set forth in subsection (h) of this section.
- (c) *Height restrictions and stealth design for towers.* Towers shall be subject to the height restrictions and stealth design requirements set forth below in Table 1:

Table 1: Tower Height Restrictions		
Zone	Maximum Tower Height	Stealth Design ^[1]

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Residential Zones	35 feet	Required
Central Business District	45 feet	Required
Normal Hill Heritage Overlay	35 feet	Required
Historic District(s)	45 feet	Required
Commercial Zones	120 feet ^[2]	Optional
Mixed Use Zones	90 feet ^[2]	Optional
[1] Stealth design is subject to approval by the community development director, the planning and zoning commission, or historic preservation commission, as appropriate, based upon the general requirements in section 37-218 of this Code. [2] An additional thirty (30) feet in height is allowed if applicant uses stealth design.		

(d) *Setback requirements.*

- (1) A tower shall be set back from property lines as required by the zone in which the tower is located or a minimum of one (1) foot for every foot of tower height, whichever produces the greater setback, unless the tower is constructed with breakpoint design technology. If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to one hundred ten (110) percent of the distance from the top of the tower to the breakpoint level of the tower, or the applicable zone's minimum side setback requirements, whichever is greater. For example, on a one hundred-foot tall tower with a breakpoint design at eighty (80) feet, the minimum setback requirement would either be:
 - a. Twenty-two (22) feet (one hundred ten (110) percent of twenty (20) feet, the distance from the top of the tower to the breakpoint); or
 - b. The minimum side setback requirements for that zone, whichever is greater.

If an applicant proposes to use breakpoint design technology to reduce the required setback, the issuance of the building permit for the tower shall be conditioned, in part, upon approval of the tower design, including the breakpoint design, by a structural engineer licensed in Idaho.
- (2) All equipment shelters, cabinets, or other on the ground ancillary equipment shall meet the setback requirement of the zone in which it is located.

(e) *Alternative sites.*

- (1) *Analysis.*
 - a. For proposed towers, the applicant must address the city's preferred tower locations with a detailed explanation justifying why a site of higher priority was not selected. The city's tower location preferences must be addressed in a clear and complete written alternative sites analysis that shows at least three (3) higher ranked, alternative sites considered that are in the geographic range of the service coverage objectives of the applicant, together with a factually

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detailed and meaningful comparative analysis between each alternative site and the proposed site that explains the substantive reasons why the applicant rejected each alternative site.

- b. A complete alternative sites analysis provided under this subsection may include less than three (3) alternative sites so long as the applicant provides a factually detailed written rationale for why it could not identify at least three (3) potentially available, higher ranked, alternative sites.
- c. For purposes of disqualifying potential collocations or alternative sites for the failure to meet the applicant's service coverage or capacity objectives, the applicant shall provide:
 - 1. A description of its objective, whether it be to address a deficiency in coverage, capacity, or frequency;
 - 2. Detailed maps or other exhibits with clear and concise RF data to illustrate that the objective is not met using the alternative (whether it be collocation or a more preferred location); and
 - 3. A description of why the alternative (collocation or a more preferred location) does not meet the objective.
- d. An applicant must apply for and be granted a conditional use permit in order to locate a tower at an alternative site. The notice and procedural provisions of article IX of this chapter ("Conditional Uses") and the factors set forth in subsection (h) of this section shall apply to conditional use permits sought for the purpose of locating a tower at an alternative site. For a sitting application that requires a conditional use permit, the governing board shall, within thirty (30) days, hold a public hearing to approve, approve with modification, or deny the application.

(2) *Documentation.* The following materials shall be submitted with an alternative sites analysis:

- a. A copy of the applicant's FCC license or registration.
- b. A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four (4) angles, together with a map that shows the location of each view, including all equipment and ground wires.
- c. A written analysis that explains how the proposed design complies with the applicable design standards under this article to the maximum extent feasible. A complete design justification must identify all applicable design standards under this article and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.
- d. A noise study for the proposed tower and all associated equipment.
- e. A scaled site plan clearly indicating the location, type, height, and width of the proposed tower; on-site improvements; land uses and zoning; adjacent land uses and zoning (including when adjacent to the county); separation distances from a tower to property lines; adjacent roadways; buildings on adjoining properties; photo simulations; a depiction of all proposed transmission equipment; proposed means of access; setbacks from property lines; elevation drawings or renderings of the proposed tower; identification and dimensions of property lines and lease lines; and any other structures, topography, parking, utility runs, or other information deemed by the community development department to be necessary to assess compliance with this article.
- f. Legal description of the entire lot and/or leased site (if applicable) on which the tower is proposed to be located.
- g. The setback distance between the proposed tower and the nearest residential unit and the nearest residentially zoned property.

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- h. The separation distance from other towers described in the inventory of existing sites submitted pursuant to this article shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - i. A landscape plan showing locations and types of trees and shrubs.
 - j. Location, type, height, and color of fencing and, if applicable, the method of camouflage and illumination.
 - k. A description of compliance with all applicable federal, state, and local laws.
 - l. Identification of cellular sites owned or operated by the applicant in the municipality.
 - m. A written statement of purpose, which shall minimally include:
 - 1. A description of the objective to be achieved;
 - 2. A to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and
 - 3. Full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites.

These materials shall be reviewed, signed, and sealed by an Idaho-licensed professional engineer.

- (f) *Separation requirements.* No macro cell tower may be constructed within one-half (½) mile of an existing macro cell tower unless an exception is obtained pursuant to section 37-223 of this Code or through a conditional use permit waiving or modifying this separation standard pursuant to article IX of this chapter ("conditional uses") and the applicant can demonstrate that:
 - (1) The existing macro cell tower is not available or feasible for collocation of an additional wireless communication facility;
 - (2) The location of the existing macro cell tower does not satisfy the operational requirements of the applicant; or
 - (3) Another departure from this standard is needed.

Factors to be considered in determining whether an applicant has made this demonstration include those listed in subsection (h) of this section.

- (g) *Inventory of existing sites.* Each applicant, at the time of its application for a macro cell, shall provide to the community development department an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower or antenna. The community development department may share such information with other applicants applying for administrative approvals or conditional use permits under this article or other organizations seeking to locate macro cells within the jurisdiction of the city; provided, however, that the community development department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (h) *Conditional use permit for towers.* In applying for a conditional use permit for a tower, the notice and procedural provisions of article IX of this chapter ("conditional uses") shall apply, except that for a sitting application that requires a conditional use permit, the governing board shall, within thirty (30) days, hold a public hearing to approve, approve with modification, or deny the application, pursuant to Idaho Code

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Section 67-6540(a). Additionally, an applicant shall notify the Lewiston-Nez Perce County Regional Airport if a tower is proposed to be located within a three-mile radius of the center of the Lewiston-Nez Perce County Regional Airport. Further, the applicant shall address and the planning and zoning commission shall consider the following factors in determining whether to issue a conditional use permit for a tower, in lieu of the factors set forth in article IX of this chapter. The planning and zoning commission may waive or reduce the burden on the applicant of one (1) or more of these factors if the commission concludes that the purposes of this article are, nevertheless, served thereby.

- (1) Whether the proposed tower meets the other applicable provisions of this article.
- (2) Surrounding topography, trees, buildings and antennas that would impair RF signals.
- (3) Proximity of the tower to residential structures and residential zone boundaries and whether the tower impairs the view shed.
- (4) Proximity of the tower to structures in historic district(s) or in the Normal Hill heritage overlay zone so as to impair visual aesthetics.
- (5) Nature of uses on adjacent and nearby properties and compatibility with those uses.
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (7) Whether existing structures or towers are available in accordance with this section and located within the geographic area that meets the applicant's service coverage and structural requirements.
- (8) Whether existing towers or structures have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (9) Whether the applicant demonstrates that there are other limiting factors not enumerated herein that render existing towers and structures unsuitable.
- (10) Whether the telecommunication facilityWCF will be within the RF emission limits allowed by the FCC. The applicant shall provide documentation from an expert regarding this requirement. The FCC shall determine whether the applicant's proposed antenna would cause electromagnetic interference with antennas on existing towers or structures, or whether antennas on existing towers or structures would cause interference with the applicant's proposed antenna.
- (11) Whether the tower will comply with FAA requirements, rules, regulations, and orders.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 5, 11-23-20)

Sec. 37-223. Exceptions to standards.

- (a) *Applicability.* No telecommunication facilityWCF shall be developed or modified contrary to any applicable development standard set forth in this article unless an exception has been granted pursuant to this section or through a conditional use permit waving or modifying a development standard pursuant to article IX of this chapter ("conditional uses").
- (b) *Procedure type.* An exception to an applicable telecommunication facilityWCF development standard shall require approval by the planning and zoning commission in lieu of article XI of this chapter ("variances"); provided, however, the notice and procedural requirements in article XI of this chapter ("variances") shall apply to exceptions sought pursuant to this section.
- (c) *Submittal requirements.* An application for an exception to an applicable telecommunication facilityWCF development standard shall include the following:
 - (1) Payment of the required fee, as adopted by resolution of the city council.

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- (2) A description of the requested exception.
 - (3) A written statement demonstrating how the exception would not contradict or conflict with the purposes of this article.
 - (4) A site plan that includes:
 - a. Description of the proposed telecommunication facility'sWCF's design and dimensions, as it would appear with and without the exception.
 - b. Elevations showing all components of the telecommunication facilityWCF, as it would appear with and without the exception.
 - c. Color simulations of the telecommunication facilityWCF after construction demonstrating compatibility with the vicinity, as it would appear with and without the exception.
 - (5) An explanation that demonstrates the following:
 - a. The telecommunication facilityWCF development standard materially limits or inhibits the ability of the provider to compete in a fair and balanced legal and regulatory environment;
 - b. The problem can only be resolved by an exception to one (1) or more of the standards in this article;
 - c. The exception is narrowly tailored such that the telecommunication facilityWCF conforms to this article's standards to the greatest extent possible; and
 - d. The impact on development standards such as height, setbacks and landscape requirements.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-224. Independent RF technical and other review.

- (a) Although the city intends for city staff to review applications to the extent feasible, the city may retain the services of an independent RF expert and other consultants of its choice to provide technical and other evaluations of permit applications for telecommunication facilitiesWCFs. The third party expert shall have recognized training or qualifications in their fields of radio frequency engineering or wireless communication facilities regulations.
- (b) The expert's review may include, but is not limited to:
 - (1) The accuracy and completeness of the items submitted with the application;
 - (2) The applicability of analysis and techniques and methodologies proposed by the applicant;
 - (3) The validity of conclusions reached by the applicant;
 - (4) Whether the proposed telecommunication facilityWCF complies with the applicable approval criteria set forth in this article; and
 - (5) An evaluation of the functionality of the equipment after addition or replacement.
- (c) The applicant shall pay the cost for any independent consultant fees through a deposit, estimated by the city, within ten (10) days of the city's request. When the city requests such payment, the application shall be deemed incomplete for purposes of application processing timelines until the deposit is received. In the event that such costs and fees do not exceed the deposit amount, the city shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the city receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the city before the permit is issued.

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(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-225. Final inspection.

A certificate of completion shall only be granted upon satisfactory evidence that the telecommunication facilityWCF was installed in substantial compliance with the approved plans and photo simulations. If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall make any and all such changes required to bring the WCF installation into compliance promptly and in any event prior to putting the telecommunication facilityWCF in operation. If the telecommunication facilityWCF is not brought into substantial compliance within thirty (30) days of notice of noncompliance by the city, the applicant shall remove the noncompliant components.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-226. Compliance.

- (a) All telecommunication facilitiesWCFs shall comply with all standards and regulations of the FCC and FAA and any state or other federal government agency with the authority to regulate wireless communication facilities.
- (b) The site and telecommunication facilitiesWCFs, including all landscaping, fencing and related transmission equipment, shall be maintained at all times in a neat and clean manner and in accordance with all approved plans.
- (c) All graffiti on telecommunication facilitiesWCFs shall be removed at the sole expense of the permittee after notification by the city to the owner/operator of the telecommunication facilitiesWCF.
- (d) If any FCC or FAA, state, or other governmental license or any other governmental approval to provide communication services is revoked as to any site permitted or authorized by the city, the permittee shall inform the city of the revocation within thirty (30) days of receiving notice of such revocation and cease using the site. The owner of the telecommunication facilityWCF shall also be subject to the removal provisions of section 37-227 of this Code.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-227. Removal of abandoned towers and antennas.

- (a) Any telecommunication facilityWCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such telecommunication facilityWCF shall so notify the city in writing and remove the same within ninety (90) days of giving notice to the city of such abandonment. Failure to remove an abandoned telecommunication facilityWCF within said ninety (90) days shall be grounds to remove the telecommunication facilityWCF at the owner's expense, including all costs and attorneys' fees.
- (b) Additionally, the city may contact the owner of the telecommunication facilityWCF to make a determination as to whether such telecommunication facilityWCF is abandoned. If the owner of such telecommunication facilityWCF does not respond within ninety (90) days, the city may remove the telecommunication facilityWCF (including its foundation) at the owner's expense, including all costs and attorneys' fees associated with such removal. Such notice by the city shall be by certified mail, return receipt requested; or posted on or near the telecommunication facilityWCF for fifteen (15) days; or both. Irrespective of any agreement between them to the contrary, the owner of such abandoned WCF and the owner of a building or land upon which the telecommunication facilityWCF is located shall be jointly and severally responsible for the removal of abandoned telecommunication facilityWCF.

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- (c) If there are two (2) or more users of a telecommunication facilityWCF, then this section shall not become effective until all users cease using the telecommunication facilityWCF.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-228. Indemnification.

Each permit issued for a telecommunication facilityWCF located on city property shall be deemed to have as a condition of the permit a requirement that the applicant defend, indemnify, and hold harmless the city and its officers, agents, employees, volunteers, and contractors from any and all liability, damages, or charges (including attorneys' fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, a granted permit, construction, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the telecommunication facilityWCF.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-229. Eligible facilities modification request.

- (a) *Purpose.* This section implements Section 6409(a) of the Spectrum Act (47 U.S.C. Section 1455(a)), as it may be amended from time to time and as interpreted by the FCC in its Report and Order No. 14-153 and Declaratory Ruling and Third Report and Order released September 27, 2018 (FCC 18-133), and the Declaratory Ruling and Notice of Proposed Rulemaking released June 10, 2020 (FCC 20-75), which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. Eligible facilities requests shall be governed solely by the provisions in this section and federal law.

- (b) *Application review.*

- (1) *Application.* The community development department shall prepare and make publicly available an application form, which form shall be used by the applicant. No information may be required from an applicant for any documentation intended to illustrate the need for any such wireless facilities or to justify the business decision to modify such wireless facilities.
- (2) *Review.* The community development department shall, within sixty (60) days of the date on which an applicant satisfies both of the following criteria, review and act upon the application, subject to the tolling provisions set forth below:
 - a. The applicant takes the first procedural step that the city requires as part of its Section 6409(a) regulatory review process, and, to the extent that the applicant has not done so as part of the first required procedural step;
 - b. The applicant submits written documentation that addresses the eligible facilities request criteria and indicates that the proposed modification will not cause a substantial change to an existing structure.

The community development department shall make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.

- (3) *Tolling of the time frame for review.* The sixty-day review period may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines that the application is incomplete.
 - a. To toll the time frame for incompleteness, the community development department must provide written notice to the applicant within twenty-onehirty (2130) business days of

Commented [JP2]: We need add preceding the following application type processing sections a section addressing the new I.C Secs. 67-6540(2-8). That's the part that really got my head spinning.

Commented [KH3R2]: I think we just add that section at the end. It applies if we did not make a decision in a timely manner, then it either goes for public hearing or is automatically approved.

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application submission, specifically delineating all missing documents or information required in the application.

- b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
 - c. Following a supplemental submission, the community development department shall have ten (10) days to notify the applicant if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for any tolling), the request shall be deemed granted provided the applicant notifies the community development department in writing after the review period has expired.
- (c) *Change in federal law.* If federal law changes regarding an eligible facilities request, then this section shall be deemed amended to comply with federal law without further action by the city.
- (Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 6, 11-23-20)

Sec. 37-230. Small wireless facilities—Collocation on existing structures.

- (a) *Purpose.* This section implements a shot clock that is contained in the FCC's Declaratory Ruling and Third Report and Order released September 27, 2018, regarding the collocation of small wireless facilities on existing structures.
- (b) *Application review.*
 - (1) *Application.* The community development department shall prepare and make publicly available an application form, which form shall be used by the applicant.
 - (2) *Review.* Upon submission of an application for collocation of small wireless facilities on an existing structure pursuant to this section, the community development department shall, within sixty (60) days (subject to resetting of the shot clock and the tolling provisions set forth below), review such application, make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.
 - (3) *Tolling of the time frame for review.* The sixty-day review period begins to run when the application is submitted. The community development department shall notify the applicant in writing within ten (10) days as to whether the application is incomplete. Upon resubmission by the applicant, a new sixty-day shot clock shall commence, and the community development department shall have ten (10) days to notify the applicant again of an incomplete application. The shot clock may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines upon a resubmission that the application is incomplete.
- a. The time frame is tolled in the case of subsequent notices pursuant to the procedures identified in this section. Subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

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- (4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for resetting the shot clock once or any tolling), the applicant may pursue judicial relief.
 - (c) *Change in federal law.* If federal law changes regarding the collocation of small wireless facilities on an existing structure, then this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 7, 11-23-20)

Sec. 37-231. Small wireless facilities—Deployment on a new structure.

- (a) *Purpose.* This section implements a shot clock that is contained in the FCC's Declaratory Ruling and Third Report and Order released September 27, 2018, regarding the deployment of small wireless facilities on a new structure.
- (b) *Application review.*
 - (1) *Application.* The community development department shall prepare and make publicly available an application form, which form shall be used by the applicant.
 - (2) *Review.* Upon submission of an application for the deployment of small wireless facilities on a new structure pursuant to this section, the community development department shall, within ninety (90) days (subject to resetting of the shot clock and the tolling provisions set forth below), review such application, make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.
 - (3) *Tolling of the time frame for review.* The ninety-day review period begins to run when the application is submitted. The community development department shall notify the applicant in writing within ten (10) days as to whether the application is incomplete. Upon resubmission by the applicant, a new ninety-day shot clock shall commence, and the community development department shall have ten (10) days to notify the applicant again of an incomplete application. The shot clock may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines upon a resubmission that the application is incomplete.
 - a. The time frame is tolled in the case of subsequent notices pursuant to the procedures identified in this section. Subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for resetting the shot clock once or any tolling), the applicant may pursue judicial relief.
- (c) *Change in federal law.* If federal law changes regarding the deployment of small wireless facilities on a new structure, then this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 8, 11-23-20)

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Sec. 37-232. Collocation applications for other than small wireless facilities using an existing structure.

- (a) *Purpose.* This section implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as it may be amended from time to time and as interpreted by the FCC in its Report and Order No. 14-153 and Declaratory Ruling and Third Report and Order released September 27, 2018. The following time frames apply to applications for collocation for other than small wireless facilities using an existing structure.
- (b) *Application review.*
- (1) *Application.* The community development department shall prepare and make publicly available an application form, which shall be used by the applicant.
 - (2) *Review.* Upon submission of an application for a collocation for other than small wireless facilities using an existing structure pursuant to this section, the community development department shall, within ~~sixty-ninety~~ (6090) days (subject to the tolling provisions set forth below), review such application, make its final decision to approve or deny the application, and advise the applicant in writing of its final decision.
 - (3) *Tolling of the time frame for review.* The ~~sixty-ninety~~-day review period begins to run when the application is submitted, and may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines that the application is incomplete.
 - a. To toll the time frame for incompleteness, the community development department must provide written notice to the applicant within ~~twenty-onethirty~~ (2130) business days of application submission, specifically delineating all missing documents or information required in the application.
 - b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
 - c. Following a supplemental submission, the community development department shall notify the applicant within ten (10) days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (4) *Failure to act.* In the event the community development department fails to approve or deny a complete application under this section within the time frame for review (accounting for any tolling), the applicant may pursue judicial relief.
- (c) *Change in federal law.* If federal law changes regarding collocations for other than small wireless facilities using an existing structure, this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 9, 11-23-20)

Sec. 37-233. Application to deploy a facility other than a small wireless facility using a new structure (new macro cell tower applications).

- (a) *Purpose.* This section also implements, in part, 47 U.S.C. Section 332(c)(7) of the Federal Communications Act of 1934, as it may be amended from time to time and as interpreted by the FCC in its Report and Order No.

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14-153 and Declaratory Ruling and Third Report and Order released September 27, 2018. The following time frames apply to applications to deploy a facility other than small wireless facilities using a new structure.

(b) *Application review.*

- (1) *Application.* The community development department shall prepare and make publicly available an application form, which shall be used by the applicant.
 - (2) *Review.* The community development department shall approve or deny an application to deploy a facility other than a small wireless facility using a new structure, which does not require a conditional use permit or exception approval by the planning and zoning commission, and notify the applicant of such decision within one hundred fifty (150) days, subject to the tolling provisions set forth below. If an application requires a conditional use permit or exception approval by the planning and zoning commission in addition to the required permit from the community development department, then both the planning and zoning commission and the community development department shall approve or deny their respective applications within one hundred fifty (150) days, subject to the tolling provisions set forth below.
 - (3) *Tolling of the time frame for review.* The one hundred fifty-day review period begins to run when the application is submitted, and may be tolled only by mutual agreement between the community development department and the applicant, or in cases where the community development department determines that the application is incomplete.
 - a. To toll the time frame for incompleteness, the community development department must provide written notice to the applicant within ~~twenty-onethirty~~ (2130) business days of submission of the application, specifically delineating all missing documents or information required in the application.
 - b. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
 - c. Following a supplemental submission, the community development department shall notify the applicant within ten (10) days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - (4) *Failure to act.* In the event that an application to deploy a facility other than a small wireless facility using a new structure is not approved or denied within the required time frame for review (accounting for any tolling), the applicant may pursue judicial relief.
- (c) *Change in federal law.* If federal law changes regarding the deployment of a facility other than a small wireless facility using a new structure, this section shall be deemed amended to comply with federal law without further action by the city.

(Ord. No. 4742, § 1, 8-19-19; Ord. No. 4790, § 10, 11-23-20)

Sec. 37-234. Application fees.

In connection with the filing of an application, the applicant shall pay all applicable application fees, as set by resolution of the city council.

(Ord. No. 4742, § 1, 8-19-19)

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Sec. 37-235. Laws, rules, and regulations.

This article shall be subject to all applicable laws, rules, and regulations.

(Ord. No. 4742, § 1, 8-19-19)

Sec. 37-236. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

(Ord. No. 4742, § 1, 8-19-19)



Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 65

LOCAL LAND USE PLANNING

67-6540. SITING OF TELECOMMUNICATIONS FACILITIES AND BROADBAND INFRASTRUCTURE. (1) A city, county, or highway district shall approve, approve with modification, or deny a siting application for a telecommunications or cable service facility, for telecommunications or cable equipment, or for broadband infrastructure within a reasonable period of time as defined in subsection (7)(b) of this section.

(2) If the city, county, or highway district fails to approve, approve with modification, or deny the application within a reasonable period of time as defined in subsection (7)(b) of this section:

(a) For a siting application that requires a special use permit as provided for in section 67-6512, Idaho Code, or a variance as provided for in section 67-6516, Idaho Code, the governing board shall, within thirty (30) days, hold a public hearing to approve, approve with modification, or deny the application; and

(b) For a siting application that complies with the jurisdiction's applicable zoning ordinances and does not require a special use permit as provided for in section 67-6512, Idaho Code, or a variance as provided for in section 67-6516, Idaho Code, the application shall be deemed approved.

(3) If an application is incomplete, the city, county, or highway district shall notify the applicant in writing within twenty-one (21) business days of submittal of the application. The notice shall inform the applicant of the specific requirements necessary to complete the application. The provisions under subsection (2) of this section shall apply only if the applicant satisfies the specific requirements of the notice and submits a complete application within five (5) business days of receipt of the notice. The tolling period for an application pursuant to this subsection shall be from the day after the date when the siting authority notifies the applicant the application is incomplete pursuant to this subsection until the date when the applicant submits all the documents and information identified to render the application complete.

(4) The reasonable period of time pursuant to subsection (7)(b) of this section may be extended by mutual agreement between the applicant and the city, county, or highway district.

(5) The automatic approval provisions of subsection (2) of this section shall only apply if:

(a) The applicant provided all public notices required under applicable law; and

(b) The applicant provided notice to the city, county, or highway district that the reasonable period of time expired and that the application is deemed approved pursuant to this section.

(6) Within thirty (30) days of the notice provided pursuant to subsection (5)(b) of this section, the city, county, or highway district may seek judicial review regarding the application pursuant to the provisions of this section.

(7) As used in this section, the following terms have the following meanings:

(a) "Broadband infrastructure" has the same meaning as that term is defined in section 40-517, Idaho Code.

(b) "Reasonable period of time" for an application means:

(i) For broadband infrastructure permits, sixty (60) days;

(ii) To collocate a small wireless facility on existing equipment, sixty (60) days;

(iii) To deploy a small wireless facility on new equipment, ninety (90) days;

(iv) To collocate a facility other than a small wireless facility on existing equipment, ninety (90) days; and

(v) To deploy a facility other than a small wireless facility on new equipment, one hundred fifty (150) days.

(8) This section shall not apply to any request for modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station and that involves:

(a) Collocation of new transmission equipment;

(b) Removal of transmission equipment; or

(c) Replacement of transmission equipment.

(9) Except as provided in subsection (1) of this section, nothing in this section limits or affects the authority of a city, county, or highway district over decisions regarding the placement, construction, and modification of a wireless telecommunications facility.

History:

[67-6540, added 2025, ch. 325, sec. 2, p. 1342.]

How current is this law?

Memo

To: Mayor Johnson
Lewiston City Council

From: Dustin Johnson, PE, Public Works Director

Copy: Jason Kuzik, Police Chief

Date: February 20, 2026

Subject: **City of Lewiston Parade/Traffic Control Policies**

City Code Overview/History

The City of Lewiston has a long history of parades and public gatherings on Main Street and the downtown. There are multiple community events that are hosted in the downtown area that can draw hundreds of people. These events are a community tradition and repeat each year around the same time each year.

The City of Lewiston regulates public assemblies and parades in Articles IX and X, section 35.175 to 35.218 of City Code. The intent is to balance First Amendment rights with public safety, the flow of traffic, and the protection of private property and emergency services. Per Sec. 35-202, a permit from the Public Works Director is required for any procession of persons, animals, or vehicles on public streets, with exceptions only for funeral processions and "spontaneous events" triggered by breaking news.

Application Requirements and Fees

Applicants must file with the Public Works Department within specific windows:

- **Standard permits:** At least 5 business days in advance.
- **Permits requiring traffic control plans:** At least 10 business days in advance.

A nonrefundable fee (set by City Council) is required at filing. Applications must include a detailed route, participant counts, a certified traffic control plan, and plans for sanitation and cleanup. The current fees for the review of a parade or public gathering is \$200 for a new event, or \$60 for a renewal of previously approved event. This fee only covers the cost of reviewing and issuing the permit application.

Insurance and Liability

Permittees must sign a hold harmless agreement and maintain specific insurance coverage, including \$2 million in general aggregate liability and workers' compensation. The City must be named as an "additional insured." Exceptions to these insurance requirements are only granted if the applicant provides proof that insurance is unavailable or submits an affidavit of indigence.

Determination and Restrictions

The Public Works Director issues permits on a first-come, first-served basis. Denials may occur due to incomplete applications, potential interference with emergency services, or unreasonable risks to public safety. The City may also issue "conditional approvals" that modify the time or route.

- **Time Limits:** Parades may only occur between 7:00 a.m. and 11:00 p.m. and cannot exceed three hours in duration.

Enforcement and Appeals

The Police Department may halt or disband a parade if participants violate permit terms or if violence becomes imminent. Interfering with a permitted parade is unlawful. If an application is denied or a permit is revoked, the applicant has 48 hours to file a written appeal to the Mayor, whose decision is final. Violations of this article are classified as misdemeanors.

The complete section of Lewiston Code that outlines Public Assemblies and Parades have been included in the Councils packet in preparation for the March 2nd work session.

Typical Downtown Parades/Events

In recent memory all reoccurring parades and major public events are hosted downtown or the LCSC Campus. These events include:

- Round Up Parade
- Hot August Nights
- LCSC Move-in
- Disney Celebration Parade
- Crazy Days
- NAIA World Series
- Seaport River Run
- Art Under the Elms
- Winter Spirit
- Veterans Day Parade
- Pumpkin Palooza
- Art Walk

Some of these parades/events are major public events that require significant City staff time and resources. For events such as the Round Up Parade, Hot August Nights, and Pumpkin Palooza City staff sets up and takes down traffic control. Additionally, there is typically Police, Fire, and Parks/Recreation staff working the event itself.

Other events such as Winter Spirit, Crazy Days, and Art Walk typically don't require full street closures or significant amounts of Public Works staff time or resources. Below is a table of the labor costs for the Public Works Department for the last three years. Many of the events have not occurred yet in FY 26 so there is no data yet for these events. Disney Celebration, Winter Spirit, Pumpkin Palooza, and Art Walk did not require any staff time for set up or tear down in FY 24. The costs listed below only include Public Works Traffic Division labor costs for setting up traffic control.

<u>EVENT</u>	<u>FY26</u>	<u>FY25</u>	<u>FY24</u>
Round Up Parade	*	\$2,612.10	\$2,338.35
Hot August Nights	*	\$3,972.96	\$3,164.90
LCSC Move-in	*	\$732.44	\$756.74
Disney Celebration Parade	*	\$1,354.10	***
Crazy Days - F St Concert	*	\$483.53	\$574.98
NAIA World Series	*	\$1,097.90	\$1,215.97
Seaport River Run	*	\$962.82	\$692.50
Art Under the Elms	*	\$485.62	\$518.05
Winter Spirit	\$92.86	\$550.82	***
Veterans Day Parade	\$4,074.85	\$2,230.58	\$2,299.45
Pumpkin Palooza	\$2,166.08	\$954.09	***
Art Walk	\$338.08	\$1,118.22	***

Starting in the Fall of 2025, the City has been utilizing city equipment to better secure the entrances into the downtown events. This was requested by the Police Department in order to provide an additional layer of safety and security to these heavily attended events. Large dump trucks or other equipment has been parked at the primary intersections to block off traffic. This is in addition to the standard signage that has always been used to direct traffic to the appropriate detours.

The addition of public works equipment as part of the set up and tear down for these major events has had a significant impact on the overall cost. The best example of this would be to look at the costs for the Veterans Day Parade from FY 2024 to FY 2026. The cost without the addition of parked equipment was in the \$2,200 range, in FY 2026 the cost went to the \$4,000 range. We can expect a similar impact to the costs of future events scheduled for this summer and fall. These types of events are typically limited to about four times each year, but these costs would need to be absorbed within the Streets Departments operating budget.

Policy Discussion/Feedback from City Council

Over the years there has been discussions regarding who should be responsible for the cost of traffic control for these public events. Most of the entities that sponsor these events don't have the staff or resources to adequately provide for the traffic control themselves. Section 35-179 outlines the requirements for providing a traffic control plan for Public Assemblies, but does not speak to who is responsible for paying for implementing the approved plans.

Previous City Councils have considered requiring the applicants for the public assemblies and parades to pay for all costs associated with the event. This was met by public feedback that these are community events that should be handled by the city. Staff is bringing this issue back to the City Council to update them on the specifics on how they are managed, how the code is currently structured and how much these events impact the overall transportation budget.

During the work session city staff will be looking to gain feedback on the following items:

- Should the city continue to manage the traffic control for these events? If so, should there be a limit on the number of events each year, or a cap on the number of staff hours dedicated to individual events?
- Should the city code be amended to better reflect the current practices? Or should code be amended to better clarify responsibilities of the city and the event organizers?
- Is there anything operationally the Council would like to see the city change with regards to how public gatherings and parades are permitted and set up?

ARTICLE IX. - PUBLIC ASSEMBLIES

Footnotes:

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Editor's note— Ord. No. 4727, adopted August 19, 2019, repealed and replaced article IX, pertaining to special events, derived from Ord. No. 4036, § 1.

Sec. 35-175. - Purposes.

The purposes of the regulations set forth in this article are to:

- (1) Set forth the standards for issuance of a public assembly permit;
- (2) Ensure that emergency services, such as police, fire, and ambulance, are available for a public assembly taking place within the corporate limits of the City of Lewiston;
- (3) Ensure that emergency services, such as police, fire, and ambulance, are not prevented or unreasonably inhibited from providing such emergency services due to a public assembly;
- (4) Ensure that private businesses are not unreasonably impacted by public assemblies;
- (5) Ensure that traffic on public streets, alleys, and sidewalks is not unreasonably disrupted by public assemblies;
- (6) Maintain public safety during public assemblies; and
- (7) Protect public property.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 2, 3-22-21; Ord. No. 4815, § 1, 5-24-21)

Sec. 35-176. - Definitions.

The following words and phrases when used in this article shall have the meanings set forth in this section:

- (1) *Applicant* means any person applying for a public assembly permit pursuant to this article.
- (2) *Chief of police* means the chief of police of the City of Lewiston or the chief of police's authorized designee.
- (3) *Community development director* means the community development director of the City of Lewiston or the community development director's authorized designee.
- (4) *Fire chief* means the fire chief of the City of Lewiston or the fire chief's authorized designee.
- (5) *Public assembly permit* means the permit as required by this article for a public assembly that will result in closure of a sidewalk or public street or alley. An approved application will serve as the public assembly permit.

- (6) *Permittee* means any person, firm, partnership, association, corporation, company or organization of any kind granted a public assembly permit.
- (7) *Person* means a person, firm, partnership, association, corporation, company, or organization of any kind.
- (8) *Public assembly* means any meeting, demonstration, rally, or gathering that is open to the public of more than fifty (50) persons for a common purpose as a result of prior planning.
- (9) *Public street or alley* means any place or way set aside or open to the general public for primary purposes of vehicular traffic, including any berm or shoulder, parkway, right-of-way, or median strip thereof.
- (10) *Public works director* means the public works director of the City of Lewiston or the public works director's authorized designee.
- (11) *Sidewalk* means any area or way set aside or open to the general public for purpose of pedestrian or nonmotorized traffic, whether or not it is paved.
- (12) *Spontaneous event* means a gathering for the purpose of First Amendment expressive activity that occurs in response to breaking or emerging news.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 3, 3-22-21; Ord. No. 4815, § 2, 5-24-21)

Sec. 35-177. - Public assembly permit requirements.

A public assembly permit shall not be required unless the public assembly will result in closure of a sidewalk or public street or alley, in which case a public assembly permit shall be obtained from the public works director in accordance with the requirements of this article.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 4, 3-22-21; Ord. No. 4815, § 3, 5-24-21)

Sec. 35-178. - Spontaneous events.

A public assembly permit shall not be required for a spontaneous event; provided, however, that participants in spontaneous events shall not block or interfere with the normal flow of vehicular traffic on any public street or alley or block pedestrian access on any sidewalk, unless prior written permission from the public works director has been obtained. A person conducting a spontaneous event is encouraged to notify the public works director about such event as soon as possible.

(Ord. No. 4815, § 5, 5-24-21)

Editor's note— Ord. No. 4815, adopted May 24, 2021, repealed and replaced section 35-178, pertaining to exceptions to permit requirement and parking plans, derived from Ord. No. 4727, § 2.

Sec. 35-179. - Written notice and traffic control plan requirements; exceptions.

(a) *Written notice and traffic control plan requirements.*

- (1) If a public assembly is expected to result in substantial interference with the normal flow or regulation of pedestrian or vehicular traffic, including, but not limited to, overflow parking, but will not result in closure of a sidewalk or public street or alley, then the organizer of such public assembly shall notify the public works department, in writing, of such public assembly and provide a traffic control plan to the public works department at least five (5) business days prior to such public assembly.

The written notice shall contain, at a minimum, the following information:

- a. The name and telephone number of the organizer of the public assembly;
- b. The date, time, and location of the public assembly;
- c. The approximate number of participants who will participate in the public assembly; and
- d. The approximate number of vehicles at the public assembly.

The traffic control plan shall:

- a. Include, at a minimum, a drawing specifying the location(s) of temporary signage and general traffic flow for the ingress and egress of traffic associated with the public assembly; and
- b. Address, at a minimum, parking for and emergency access to and from the public assembly.

The public works director may require that the traffic control plan be prepared by an engineering firm or by a traffic control supervisor certified through the American Traffic Safety Services Association (ATSSA) or the Evergreen Safety Council.

The public works department shall review the traffic control plan and assist the organizer of the public assembly in ensuring that traffic on sidewalks and public streets and alleys is not unreasonably impacted; emergency services are not prevented or unreasonably inhibited from providing such services; and public safety will be maintained during the public assembly. The public works department shall forward the written notice and traffic control plan to the appropriate city departments.

- (2) If a public assembly will occur on property owned or leased by or dedicated to the City of Lewiston, such as public parks, then the organizer of such public assembly shall notify the public works department, in writing, of such public assembly at least five (5) business days prior to such public assembly. The written notice shall contain the information required by subsection (a)(1) of this section. The public works department shall forward the written notice to the appropriate city departments.

(b)

Exceptions. The written notice and traffic control plan requirements set forth in subsection (a) of this section shall not apply to the following:

- (1) Yard sales or garage sales; or
- (2) Spontaneous events.

(Ord. No. 4315, § 7, 5-24-21)

Sec. 35-180. - Application for public assembly permit.

If a public assembly permit is required pursuant to section 35-177 of this article, then an applicant shall obtain an application form from the city and file a completed application with the public works department. An application for a public assembly permit that does not require a new or modified traffic control plan shall be filed at least five (5) business days, but not more than one (1) year, in advance of the date of the proposed public assembly. An application for a public assembly permit that requires a new or modified traffic control plan shall be filed at least ten (10) business days, but not more than one (1) year, in advance of the date of the proposed public assembly. Late applications shall not be accepted.

The public works department shall forward a completed and timely filed application to the appropriate city departments for comments, including, but not limited to, the police department, fire department, and community development department. City departments may request information from the applicant that is necessary to demonstrate compliance with applicable provisions of law. Information may be requested on the public assembly permit application form or through written or oral inquiries.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 5, 3-22-21; Ord. No. 4815, § 6, 5-24-21)

Sec. 35-181. - Application fee.

The application fee for a public assembly permit shall be set by resolution of the city council. The application fee shall be paid at the time an application is filed. The fee is nonrefundable unless the application is withdrawn on the same date it is submitted.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 6, 3-22-21; Ord. No. 4815, § 8, 5-24-21)

Sec. 35-182. - Contents of application.

(a) *Contents of application.* Each public assembly permit application shall contain, at a minimum, the following information:

- (1) The full name, street address, telephone number, email address, and facsimile number, if any, of the applicant;
- (2) The full name, street address, telephone number, email address, and facsimile number, if any, of the person in charge of the public assembly, if different from the applicant;

- (3) The date when the public assembly is to be conducted;
 - (4) The name of the public assembly, if any;
 - (5) The time the public assembly will begin and end;
 - (6) The location of the public assembly;
 - (7) The approximate number of participants who will participate in the public assembly;
 - (8) The number of public assemblies organized by the applicant in the City of Lewiston within the past five (5) years;
 - (9) A certification that the applicant will comply with the city's noise control regulations, as set forth in chapter 24, article II (noise control and regulation) of this Code;
 - (10) A thorough plan for controlling disorderly or violent conduct if such might reasonably be expected;
 - (11) A traffic control plan, which shall: (a) include, at a minimum, a drawing specifying the location(s) of temporary signage and general traffic flow for the ingress and egress of traffic associated with the public assembly; and (b) address, at a minimum, parking for and emergency access to and from the public assembly. The public works director may require that such traffic control plan be prepared by an engineering firm or by a traffic control supervisor certified through the American Traffic Safety Services Association (ATSSA) or the Evergreen Safety Council;
 - (12) A plan for sanitary facilities;
 - (13) A plan for cleanup;
 - (14) The certificate of insurance and additional insured, primary and noncontributory, and waiver of subrogation endorsements required by subsection (c) of this section, unless an exception to the insurance requirements applies, as set forth in subsection (d) of this section;
 - (15) A certification that the applicant agrees to adhere to and be bound by all commitments and requirements set forth in the application;
 - (16) Requests for exceptions from one (1) or more requirements established by this article due to unique circumstances associated with the public assembly; and
 - (17) Such other information as the public works director, chief of police, fire chief, or community development director may deem reasonably necessary.
- (b) *Hold harmless agreement.* At the time of application, the applicant shall be required to sign a hold harmless agreement provided by the public works department wherein the applicant agrees to defend, indemnify, and hold the City of Lewiston, its officers, agents, and employees harmless for injuries to persons or property resulting from the negligent or otherwise wrongful acts or omissions of the applicant, its officers, agents, or employees related in any way to the public assembly.

(c) *Insurance requirements.* The applicant shall comply with the following insurance requirements:

(1) The applicant, at its sole expense, shall procure and maintain in full force and effect insurance written by an insurance company or companies with AM Best's rating(s) of A VIII or better. All insurance companies must be authorized to do business in the State of Idaho. By requiring insurance herein, the City of Lewiston does not represent that coverage and limits are necessarily adequate to protect the applicant, and such coverage and limits shall not be deemed as a limitation on the applicant's liability under the indemnities granted to the City of Lewiston in the hold harmless agreement referenced in subsection (b) of this section.

(2) All certificates of insurance must be signed by an authorized representative of the applicant's insurance carrier. Certificates must evidence the following minimum coverages:

a. Workers' compensation insurance meeting the statutory requirements of the State of Idaho, if applicable.

b. Commercial general liability insurance, if applicable, providing limits of liability in the following amounts:

General aggregate: Two million dollars (\$2,000,000.00).

Product/completed operations aggregate: Two million dollars (\$2,000,000.00).

Personal and advertising injury liability: One million dollars (\$1,000,000.00).

Per occurrence: One million dollars (\$1,000,000.00).

Damage to rented premises: Fifty thousand dollars (\$50,000.00).

The commercial general liability ("CGL") insurance policy shall be written on an "occurrence" form and shall cover liability arising from premises, operations, independent contractors, products, completed operations, personal injury, advertising injury, and liability assumed under an insured contract (including tort liability of another assumed in a contract).

c. Comprehensive automobile liability insurance, if applicable, including owned, nonowned, and rented autos (as applicable), in an amount of not less than five hundred thousand dollars (\$500,000.00) per occurrence, combined single limit, written on an occurrence form.

(3) The applicant shall name the City of Lewiston, its officers, officials, employees, and volunteers ("additional insureds") as additional insureds on the applicant's commercial general liability policy and comprehensive automobile liability policy. To the maximum extent permitted by law, the coverage provided to the additional insureds under the commercial general liability policy shall be provided by a policy provision or an endorsement that is at least as broad as CG 20 10 07 04 (ongoing operations) in combination with CG 20 37 07 04 (completed

operations). Notwithstanding the foregoing, the applicant shall provide ISO Form B - CG 20 10 11 85 or equivalent coverage where available from its carrier. The additional insured endorsement must be provided with the certificate(s) of insurance. Such policy provision(s) or endorsement(s) shall further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

- (4) The workers' compensation, commercial general liability, and comprehensive automobile liability insurance policies carried by the applicant shall include an endorsement expressly waiving any right of subrogation on the part of the insurer against the City of Lewiston and its elected officials, agents, employees, successors and assigns. The applicant shall pay any additional costs or charges for obtaining such waiver. A copy of the waiver of subrogation endorsement shall accompany the certificate(s) of insurance.
 - (5) The applicant waives all rights against the City of Lewiston, its officers, officials, employees, and volunteers for recovery of damages to the extent these damages are covered by commercial general liability, comprehensive automobile liability, or workers' compensation insurance policies maintained pursuant to the requirements herein or any other insurance policies obtained by the applicant.
 - (6) Any acceptance of policies, certificates of insurance, or endorsements by the City of Lewiston, or failure of the applicant to provide policies, certificates of insurance, or endorsements, shall in no way limit or relieve the applicant of its duties and responsibilities set forth herein.
 - (7) The applicant shall keep the workers' compensation, commercial general liability, and comprehensive automobile liability insurance policies required herein in effect for the duration of the public assembly.
- (d) *Exceptions to insurance requirements.* The applicant shall not be required to obtain the insurance required by subsection (c) of this section if:
- (1) Insurance is not available for the public assembly, and the applicant provides proof of such with the public assembly permit application; or
 - (2) Insurance is available for the public assembly, but the applicant is unable to afford such insurance,
- in which case the applicant shall be required to complete and sign an affidavit of indigence provided by the public works department.

(e) *[Public assembly permit.]* An approved application shall serve as a public assembly permit.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 7, 3-22-21; Ord. No. 4815, § 9, 5-24-21)

Sec. 35-183. - Issuance or denial of public assembly permit.

- (a) *Standards for issuance.* Only one (1) public assembly permit may be issued for the same time and location. The public works director shall issue public assembly permits on a first come, first served basis. Subject to subsections (b) and (c) of this section, the public works director shall issue a public assembly permit upon receipt and review of an application.
- (b) *Conditional approval.* Based on the factors listed in subsection (c) of this section and in accordance with the time, place, and manner restrictions set forth in section 35-184 of this Code, the public works director may authorize a public assembly permit on a date, at a time, for a duration, at a location, or in a manner different than that requested by the applicant. In such event, the public works director may propose a conditional public assembly permit setting forth the conditions that differ from those proposed by the applicant. If the applicant desires to accept such conditions, then the applicant shall consent to such conditions in writing within five (5) business days from the date of the public works director's notice of determination. Upon written consent by the applicant to the conditions, the public works director shall issue the public assembly permit.
- (c) *Standards for denial.* The public works director may deny an application for a public assembly permit when the public works director finds that:
- (1) The applicant failed to file a complete application;
 - (2) The applicant failed to timely file an application;
 - (3) The applicant failed to pay the full application fee;
 - (4) The application contains false information;
 - (5) The applicant has, on prior occasions, made material misrepresentations regarding the nature or scope of a public assembly;
 - (6) The applicant has violated terms of prior public assembly permits issued to the applicant;
 - (7) The public assembly would interfere with another public assembly for which a public assembly permit has been issued;
 - (8) Sufficient emergency services, such as police, fire, and ambulance, are not available for the public assembly;
 - (9) The public assembly would prevent or unreasonably inhibit emergency services from being provided to the public;
 - (10) The public assembly would unreasonably impact private businesses;
 - (11) The public assembly would unreasonably disrupt traffic on public streets or sidewalks;
 - (12) The public assembly presents an unreasonable risk to public safety;
 - (13) The public assembly would cause damage to public property;
 - (14)

There is clear and convincing evidence that the applicant intends to engage in violence during the public assembly; or

- (15) The applicant failed to demonstrate compliance with applicable laws and regulations, including, but not limited to, the requirements of this article, Idaho Code, or the Idaho Department of Transportation.
- (d) *Time for determination.* The public works director shall act on an application for a public assembly permit that does not require a new or modified traffic control plan within three (3) business days from the filing of a complete application. The public works director shall act on an application for a public assembly permit that requires a new or modified traffic control plan within five (5) business days from the filing of a complete application. However, if additional information is requested by other city departments pursuant to section 35-180 of this Code, then the time for acting on an application shall be extended by the number of days that it takes the applicant to satisfactorily respond to such request for additional information, not to exceed two (2) additional business days for a public assembly permit that does not require a new or modified traffic control plan or five (5) additional business days for a public assembly permit that requires a new or modified traffic control plan.
- (e) *Notice of determination.* The public works director shall provide written notification to the applicant of the director's determination within the time frames set forth in subsection (d) of this section. If the public works director's determination is to deny the public assembly permit, then the written notice of determination shall set forth the reason(s) for denial, and the applicant shall have the right of appeal set forth in section 35-191 of this Code.
- (f) *Additional amenities.* Upon or after issuance of a public assembly permit, the public works director may require the applicant to provide certain amenities, such as portable toilets, garbage cans, security, and signage, based on the anticipated number of participants and the area in which a public assembly will be held. The city shall be under no obligation to provide additional services to the applicant.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 8, 3-22-21; Ord. No. 4815, § 10, 5-24-21)

Sec. 35-184. - Time, place, and manner restrictions.

- (a) The terms and conditions of a public assembly permit shall not infringe upon rights of petition, assembly, or free expression protected by the First Amendment of the United States Constitution and/or the Idaho Constitution. Provided, however, the City of Lewiston may impose reasonable time, place, and manner restrictions in accordance with applicable law.
- (b) The following restrictions shall apply to public assemblies that require a public assembly permit:
 - (1) It shall be unlawful for a permittee to knowingly fail to comply with any term or condition of a public assembly permit.

(2) No public assembly permit shall be issued for a public assembly to commence before 7:00 a.m. All public assemblies requiring a permit shall terminate prior to 11:00 p.m. No public assembly requiring a permit shall exceed three (3) hours in length. City street setup and dispersal, including barricade removal, shall not be included in such time limit.

(3) All public assembly participants shall assemble for the public assembly at the time and in the location designated in the public assembly permit and shall disperse from the sidewalk and/or public street or alley after the conclusion of the public assembly in order that regular traffic patterns can be restored.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 9, 3-22-21; Ord. No. 4815, § 11, 5-24-21)

Sec. 35-185. - Officials to be notified.

Upon the issuance of a public assembly permit, the public works director shall send a copy thereof to the chief of police, fire chief, community development director, mayor, and other persons or city staff, as appropriate.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 10, 3-22-21; Ord. No. 4815, § 12, 5-24-21; Ord. No. 4842, § 6, 1-10-22)

Sec. 35-186. - Duties of permittee and participants.

- (a) A permittee shall comply with all public assembly permit terms and conditions.
- (b) Prior to commencement of a public assembly, a permittee shall inform all participants in the public assembly, either orally or in writing, of the terms and conditions of the approved public assembly permit.
- (c) Permittees and participants in public assemblies shall comply with all applicable federal, state, and local laws and regulations.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 11, 3-22-21; Ord. No. 4815, § 13, 5-24-21)

Sec. 35-187. - Other permits may be required.

- (a) If a permittee wishes to hold a public assembly in a park, as defined in chapter 26 of this Code, then the permittee shall comply with the requirements of chapter 26 (parks and recreation) of this Code, in addition to the requirements set forth in this article.
- (b) If a permittee wishes to serve and/or sell beer, wine, or liquor by the drink, as such terms are defined in chapter 6 of this Code, at a public assembly, then the permittee shall comply with the requirements of chapter 6 (alcohol beverages) of this Code, in addition to the requirements set forth in this article.
- (c)

If a permittee wishes to sell goods or services at a public assembly, then the permittee shall comply with the requirements of chapter 21 (licenses) of this Code, in addition to the requirements set forth in this article.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 12, 3-22-21; Ord. No. 4815, § 14, 5-24-21)

Sec. 35-188. - Revocation of public assembly permit.

- (a) *Violation.* A public assembly permit issued pursuant to this article may be revoked by the public works director for a violation of the terms or conditions of the public assembly permit. Written notice of such action revoking a public assembly permit shall be delivered to the permittee by personal service or by certified mail.
- (b) *Emergency.* A public assembly permit issued pursuant to this article may be immediately revoked by the chief of police if the chief of police determines that the conduct of the public assembly would incite violence that would, with reasonable certainty, endanger the public or public safety personnel or result in damage to public or private property. Notice of such action revoking a public assembly permit shall be communicated to the permittee as soon as possible after such determination has been made and shall be delivered, in writing, to the permittee by personal service or by certified mail.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 13, 3-22-21; Ord. No. 4815, § 15, 5-24-21)

Sec. 35-189. - Halting of public assembly.

The Lewiston Police Department may halt and/or disband a public assembly at any time if participants fail to conform to the terms and conditions of a public assembly permit or if an imminent risk of violence arises.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 14, 3-22-21; Ord. No. 4815, § 16, 5-24-21)

Sec. 35-190. - Interference with public assembly.

It shall be unlawful for any person to in any manner interfere with the orderly conduct of a public assembly.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 15, 3-22-21; Ord. No. 4815, § 17, 5-24-21)

Sec. 35-191. - Appeals.

- (a) An applicant for a public assembly permit shall have the right to appeal the public works director's conditional approval or denial of a public assembly permit to the mayor within forty-eight (48) hours after receipt of the notice of denial or conditional approval. An applicant must file a written notice of appeal with the city clerk setting forth the specific bases of appeal. The mayor

may hold a hearing on the appeal or issue a decision without holding a hearing based on the application materials submitted; comments from city staff including, but not limited to, the chief of police, fire chief, and community development director; the written decision of the public works director; and the notice of appeal. The mayor shall issue a decision prior to the planned date and time of the public assembly and, in any event, within seven (7) business days from the date the notice of appeal is filed with the city clerk. The mayor's decision shall be final and binding.

- (b) A permittee who has been issued a public assembly permit, which public assembly permit has been revoked pursuant to section 35-188 of this Code, shall have the right to appeal such revocation to the mayor within forty-eight (48) hours after receipt of written notice of revocation. An applicant must file a written notice of appeal with the city clerk setting forth the specific bases of appeal. The mayor may hold a hearing on the appeal or issue a decision without holding a hearing based on the application materials submitted; comments from city staff including, but not limited to, the chief of police, fire chief, and community development director; the written decision of the public works director to issue the public assembly permit; the written notice of revocation; the evidence relied upon in deciding to revoke the public assembly permit; and the notice of appeal. The mayor shall issue a decision prior to the planned date and time of the public assembly and, in any event, within seven (7) business days from the date the notice of appeal is filed with the city clerk. The mayor's decision shall be final and binding.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 16, 3-22-21; Ord. No. 4815, § 18, 5-24-21; Ord. No. 4842, § 6, 1-10-22)

Sec. 35-192. - Penalty.

Any person who violates or fails to comply with the provisions of this article or a term or condition of a public assembly permit shall be guilty of a misdemeanor and, upon conviction, shall be subject to the penalty as set forth in section 1-7 of this Code.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 17, 3-22-21; Ord. No. 4815, § 19, 5-24-21)

Sec. 35-193. - Controlling municipal law.

This article is subject to amendment at any time. An application for a public assembly permit shall be issued pursuant to the standards set forth in this article at the time the application is filed. Conduct during the public assembly shall be governed by standards set forth in this article at the time the public assembly occurs.

(Ord. No. 4727, § 2, 8-19-19; Ord. No. 4807, § 18, 3-22-21; Ord. No. 4815, § 20, 5-24-21)

Editor's note— Ord. No. 4815, adopted May 24, 2021, repealed and replaced section 35-193, pertaining to severability, derived from Ord. No. 4727, § 2.

Secs. 35-194—35-199. - Reserved.

ARTICLE X. - PARADES

Sec. 35-200. - Purposes.

The purposes of the regulations set forth in this article are to:

- (1) Set forth the standards for issuance of a parade permit;
- (2) Ensure that emergency services, such as police, fire, and ambulance, are available for a parade taking place within the corporate limits of the City of Lewiston;
- (3) Ensure that emergency services, such as police, fire, and ambulance, are not prevented or unreasonably inhibited from providing such emergency services due to a parade;
- (4) Ensure that private businesses are not unreasonably impacted by parades;
- (5) Ensure that traffic on public streets, alleys, and sidewalks is not unreasonably disrupted by parades;
- (6) Maintain public safety during parades; and
- (7) Protect public property.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-201. - Definitions.

The following words and phrases when used in this article shall have the meanings set forth in this section:

- (1) *Applicant* means any person applying for a permit pursuant to this article.
- (2) *Chief of police* means the chief of police of the City of Lewiston or the chief of police's authorized designee.
- (3) *Community development director* means the community development director of the City of Lewiston or the community development director's authorized designee.
- (4) *Fire chief* means the fire chief of the City of Lewiston or the fire chief's authorized designee.
- (5) *Parade* means a procession consisting of persons, animals, floats, or other vehicles, or a combination thereof, in a public street or alley.
- (6)

Permit means the permit as required by this article for a parade. An approved application will serve as the permit.

- (7) *Permittee* means any person, firm, partnership, association, corporation, company or organization of any kind granted a permit for a parade.
- (8) *Person* means a person, firm, partnership, association, corporation, company, or organization of any kind.
- (9) *Public street or alley* means any place or way set aside or open to the general public for primary purposes of vehicular traffic, including any berm or shoulder, parkway, right-of-way, or median strip thereof.
- (10) *Public works director* means the public works director of the City of Lewiston or the public works director's authorized designee.
- (11) *Sidewalk* means any area or way set aside or open to the general public for purpose of pedestrian or nonmotorized traffic, whether or not it is paved.
- (12) *Spontaneous event* means a gathering for the purpose of First Amendment expressive activity that occurs in response to breaking or emerging news.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-202. - Permit required.

Except as provided in section 35-203 of this Code, it shall be unlawful for any person to conduct or participate in a parade in the city unless and until a permit to conduct such parade has been obtained from the public works director in accordance with this article.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-203. - Exceptions to permit requirement.

This article shall not apply to the following:

- (1) Funeral processions; or
- (2) Spontaneous events, subject to section 35-215 of this Code. A person conducting a spontaneous event is encouraged to notify the public works director about such event as soon as possible.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-204. - Application for permit.

An applicant shall obtain an application form from the city and file a completed application with the public works department. An application for a permit that does not require a new or modified traffic control plan shall be filed at least five (5) business days, but not more than one (1) year, in advance of the date of the proposed parade. An application for a permit that requires a new or modified traffic control plan shall be filed at least ten (10) business days, but not more than one (1) year, in advance of the date of the proposed parade. Late applications shall not be accepted.

The public works department shall forward a completed and timely filed application to the appropriate city departments for comments, including, but not limited to, the police department, fire department, and community development department. City departments may request information from the applicant that is necessary to demonstrate compliance with applicable provisions of law. Information may be requested on the permit application form or through written or oral inquiries.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-205. - Application fee.

The application fee for a parade shall be set by resolution of the city council. The application fee shall be paid at the time an application is filed. The fee is nonrefundable unless the application is withdrawn on the same date it is submitted.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-206. - Contents of application—Hold harmless agreement—Insurance requirements—Exceptions to insurance requirements.

(a) *Contents of application.* Each permit application shall contain, at a minimum, the following information:

- (1) The full name, street address, telephone number, email address, and facsimile number, if any, of the applicant;
- (2) The full name, street address, telephone number, email address, and facsimile number, if any, of the person in charge of the parade, if different from the applicant;
- (3) The date when the parade is to be conducted;
- (4) The name of the parade, if any;
- (5) The time the parade will begin to form and the time the parade will begin movement;
- (6) The place the parade will form;
- (7) The route of the parade;
- (8) The place and time the parade will disband;

- (9) The approximate number of participants, not including spectators, who will participate in the parade and the maximum number who will be allowed to participate;
 - (10) The approximate number of marchers, animals, floats, automobiles, or other vehicles in the parade;
 - (11) The applicant's prior parade history within the City of Lewiston; if the applicant has not previously applied for or conducted a parade within the City of Lewiston, then the applicant's prior parade history within the State of Idaho; in either case, the applicant shall indicate the number of parade or similar permits for which the applicant has previously applied;
 - (12) A certification that the applicant will comply with the city's noise control regulations, as set forth in chapter 24, article II (noise control and regulation) of this Code;
 - (13) A thorough plan for controlling disorderly or violent conduct if such might reasonably be expected;
 - (14) A traffic control plan drawn up by an engineering firm or by a traffic control supervisor certified through the American Traffic Safety Services Association (ATSSA) or the Evergreen Safety Council;
 - (15) A plan for sanitary and medical facilities;
 - (16) A plan for cleanup;
 - (17) The certificate(s) of insurance and additional insured, primary and noncontributory, and waiver of subrogation endorsements required by subsection (c) of this section, unless an exception to the insurance requirements applies, as set forth in subsection (d) of this section;
 - (18) A statement that the parade shall continue to move in a reasonable manner and that any willful and excessive delay of said parade, except when reasonably required for safety, shall constitute a violation of the permit;
 - (19) A certification that the applicant agrees to adhere to and be bound by all commitments and requirements set forth in the application;
 - (20) Requests for exceptions from one (1) or more requirements established by this article due to unique circumstances associated with the parade; and
 - (21) Such other information as the public works director, chief of police, fire chief, or community development director may deem reasonably necessary.
- (b) *Hold harmless agreement.* At the time of application, the applicant shall be required to sign a hold harmless agreement provided by the public works department wherein the applicant agrees to defend, indemnify, and hold the City of Lewiston, its officers, agents, and employees harmless for injuries to persons or property resulting from the negligent or otherwise wrongful acts or omissions of the applicant, its officers, agents, or employees related in any way to the parade.
- (c) *Insurance requirements.* The applicant shall comply with the following insurance requirements:

- (1) The applicant, at its sole expense, shall procure and maintain in full force and effect insurance written by an insurance company or companies with AM Best's rating(s) of A VIII or better. All insurance companies must be authorized to do business in the State of Idaho. By requiring insurance herein, the City of Lewiston does not represent that coverage and limits are necessarily adequate to protect the applicant, and such coverage and limits shall not be deemed as a limitation on the applicant's liability under the indemnities granted to the City of Lewiston in the hold harmless agreement referenced in subsection (b) of this section.
- (2) All certificates of insurance must be signed by an authorized representative of the applicant's insurance carrier. Certificates must evidence the following minimum coverages:
 - a. Workers' compensation insurance meeting the statutory requirements of the State of Idaho, if applicable.
 - b. Commercial general liability insurance, if applicable, providing limits of liability in the following amounts:
 1. General aggregate: Two million dollars (\$2,000,000.00);
 2. Product/completed operations aggregate: Two million dollars (\$2,000,000.00);
 3. Personal and advertising injury liability: One million dollars (\$1,000,000.00);
 4. Per occurrence: One million dollars (\$1,000,000.00);
 5. Damage to rented premises: Fifty thousand dollars (\$50,000.00);

The commercial general liability ("CGL") insurance policy shall be written on an "occurrence" form and shall cover liability arising from premises, operations, independent contractors, products, completed operations, personal injury, advertising injury, and liability assumed under an insured contract (including tort liability of another assumed in a contract).
 - c. Comprehensive automobile liability insurance including, as applicable, owned, non-owned, and rented autos, in an amount of not less than five hundred thousand dollars (\$500,000.00) per occurrence, combined single limit, written on an occurrence form.
- (3) The applicant shall name the City of Lewiston, its officers, officials, employees, and volunteers ("additional insureds") as additional insureds on the applicant's commercial general liability policy and comprehensive automobile liability policy. To the maximum extent permitted by law, the coverage provided to the additional insureds under the commercial general liability policy shall be provided by a policy provision or an endorsement that is at least as broad as CG 20 10 07 04 (ongoing operations) in combination with CG 20 37 07 04 (completed operations). Notwithstanding the foregoing, the applicant shall provide ISO Form B - CG 20 10 11 85 or equivalent coverage where available from its carrier. The additional insured endorsement must be provided with the certificate(s) of insurance. Such policy provision(s) or

endorsement(s) shall further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

- (4) The workers' compensation, commercial general liability, and comprehensive automobile liability insurance policies carried by the applicant shall include an endorsement expressly waiving any right of subrogation on the part of the insurer against the City of Lewiston and its elected officials, agents, employees, successors and assigns. The applicant shall pay any additional costs or charges for obtaining such waiver. A copy of the waiver of subrogation endorsement shall accompany the certificate(s) of insurance.
- (5) The applicant waives all rights against the City of Lewiston, its officers, officials, employees, and volunteers for recovery of damages to the extent these damages are covered by commercial general liability, comprehensive automobile liability, or workers' compensation insurance policies maintained pursuant to the requirements herein or any other insurance policies obtained by the applicant.
- (6) Any acceptance of policies, certificates of insurance, or endorsements by the City of Lewiston, or failure of the applicant to provide policies, certificates of insurance, or endorsements, shall in no way limit or relieve the applicant of its duties and responsibilities set forth herein.
- (7) The applicant shall keep the workers' compensation, commercial general liability, and comprehensive automobile liability insurance policies required herein in effect for the duration of the parade.
- (d) *Exceptions to insurance requirements.* The applicant shall not be required to obtain the insurance required by subsection (c) of this section if:
 - (1) Insurance is not available for the parade, and the applicant provides proof of such with the permit application; or
 - (2) Insurance is available for the parade, but the applicant is unable to afford such insurance, in which case the applicant shall be required to complete and sign an affidavit of indigence provided by the public works department.
- (e) *[Application is a permit.]* An approved application shall serve as a parade permit.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-207. - Issuance or denial of permit.

- (a) *Standards for issuance.* Only one (1) parade permit may be issued for the same time and location. The public works director shall issue parade permits on a first come, first served basis. Subject to subsections (b) and (c) of this section, the public works director shall issue a parade permit upon receipt and review of an application.
- (b)

Conditional approval. Based on the factors listed in subsection (c) of this section and in accordance with the time, place, and manner restrictions set forth in section 35-208 of this Code, the public works director may authorize a permit for a parade on a date, at a time, for a duration, at a location, or in a manner different than that requested by the applicant. In such event, the public works director may propose a conditional parade permit setting forth the conditions that differ from those proposed by the applicant. If the applicant desires to accept such conditions, then the applicant shall consent to such conditions in writing within five (5) business days from the date of the public works director's notice of determination. Upon written consent by the applicant to the conditions, the public works director shall issue the permit.

- (c) *Standards for denial.* The public works director may deny an application for a parade permit when the public works director finds that:
- (1) The applicant failed to file a complete application;
 - (2) The applicant failed to timely file an application;
 - (3) The applicant failed to pay the full application fee;
 - (4) The application contains false information;
 - (5) The applicant has, on prior occasions, made material misrepresentations regarding the nature or scope of a parade;
 - (6) The applicant has violated terms of prior parade permits issued to the applicant;
 - (7) The parade would interfere with another parade for which a permit has been issued;
 - (8) Sufficient emergency services, such as police, fire, and ambulance, are not available for the parade;
 - (9) The parade would prevent or unreasonably inhibit emergency services from being provided to the public;
 - (10) The parade would unreasonably impact private businesses;
 - (11) The parade presents an unreasonable risk to public safety;
 - (12) The parade would cause damage to public property;
 - (13) There is clear and convincing evidence that the applicant intends to engage in violence during the parade; or
 - (14) The applicant failed to demonstrate compliance with applicable laws and regulations, including, but not limited to, the requirements of this article, Idaho Code, or the Idaho Department of Transportation.
- (d) *Time for determination.* The public works director shall act on an application for a permit that does not require a new or modified traffic control plan within three (3) business days from the filing of a complete application. The public works director shall act on an application for a permit that requires a new or modified traffic control plan within five (5) business days from the filing of a complete application. However, if additional information is requested by other city departments

pursuant to section 35-204 of this Code, then the time for acting on an application shall be extended by the number of days that it takes the applicant to satisfactorily respond to such request for additional information, not to exceed two (2) additional business days for a permit that does not require a new or modified traffic control plan or five (5) additional business days for a permit that requires a new or modified traffic control plan.

- (e) *Notice of determination.* The public works director shall provide written notification to the applicant of the director's determination within the time frames set forth in subsection (d) of this section. If the public works director's determination is to deny the permit, then the written notice of determination shall set forth the reason(s) for denial, and the applicant shall have the right of appeal set forth in section 35-216 of this Code.
- (f) *Additional amenities.* Upon or after issuance of a parade permit, the public works director may require the applicant to provide certain amenities, such as portable toilets, garbage cans, security, and signage, based on the anticipated number of participants and the area in which a parade will be held. The city may, but shall be under no obligation to, provide additional services to the applicant.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-208. - Time, place, and manner restrictions.

- (a) The terms and conditions of a permit shall not infringe upon rights of petition, assembly, or free expression protected by the First Amendment of the United States Constitution and/or the Idaho Constitution. Provided, however, the City of Lewiston may impose reasonable time, place, and manner restrictions in accordance with applicable law.
- (b) The following restrictions shall apply to parades:
 - (1) It shall be unlawful for a permittee to knowingly fail to comply with any term or condition of a permit issued pursuant to this article.
 - (2) No permit shall be issued for a parade to commence before 7:00 a.m. All parades shall terminate prior to 11:00 p.m. No parade shall exceed three (3) hours in length. City street setup and dispersal, including barricade removal, shall not be included in such time limit.
 - (3) All parade participants shall assemble for the parade at the time and in the location designated in the parade permit and shall disperse from public property after the conclusion of the parade in order that regular traffic patterns can be restored.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-209. - Officials to be notified.

Upon the issuance of a permit for a parade, the public works director shall send a copy thereof to the chief of police, fire chief, community development director, mayor, and other persons or city staff, as appropriate.

(Ord. No. 4807, § 19, 3-22-21; Ord. No. 4842, § 6, 1-10-22)

Sec. 35-210. - Duties of permittee and participants.

- (a) A permittee shall comply with all permit terms and conditions.
- (b) Prior to commencement of a parade, a permittee shall inform all participants in the parade, either orally or in writing, of the terms and conditions of the approved parade permit.
- (c) Permittees and participants in parades shall comply with all applicable federal, state, and local laws and regulations.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-211. - Other permits may be required.

- (a) If a permittee wishes to serve and/or sell beer, wine, or liquor by the drink, as such terms are defined in chapter 6 of this Code, at a parade, then the permittee shall comply with the requirements of chapter 6 (alcohol beverages) of this Code, in addition to the requirements set forth in this article.
- (b) If a permittee wishes to sell goods or services at a parade, then the permittee shall comply with the requirements of chapter 21 (licenses) of this Code, in addition to the requirements set forth in this article.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-212. - Revocation of permit.

- (a) *Violation.* Any permit for a parade issued pursuant to this article may be revoked by the public works director for a violation of the terms or conditions of the permit. Written notice of such action revoking a permit shall be delivered to the permittee by personal service or by certified mail.
- (b) *Emergency.* A permit for a parade issued pursuant to this article may be revoked by the chief of police if the chief of police determines that the conduct of the parade would incite violence that would, with reasonable certainty, endanger the public or public safety personnel or result in damage to public or private property. Notice of such action revoking a permit shall be

communicated to the permittee as soon as possible after such determination has been made. Additionally, written notice of such action revoking a permit shall be delivered to the permittee by personal service or by certified mail.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-213. - Halting of parade.

The Lewiston Police Department may halt and/or disband a parade at any time if participants fail to conform to the terms and conditions of a permit; violate any applicable federal, state, or local law or regulation; or if an imminent risk of violence arises.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-214. - Interference with parade.

It shall be unlawful for any person to knowingly participate in a permitted parade without the consent and over the objection of the permittee, or in any manner interfere with the progress or orderly conduct of a parade.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-215. - Spontaneous events—Blocking or interfering with vehicular or pedestrian traffic prohibited.

Participants in spontaneous events shall not block or interfere with the normal flow of vehicular traffic on any public street or alley or block pedestrian access on any sidewalk, unless prior written permission from the public works director has been obtained.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-216. - Appeals.

- (a) An applicant for a parade permit shall have the right to appeal the public works director's conditional approval or denial of a permit to the mayor within forty-eight (48) hours after receipt of the notice of denial or conditional approval. An applicant must file a written notice of appeal with the city clerk setting forth the specific bases of appeal. The mayor may hold a hearing on the appeal or issue a decision without holding a hearing based on the application materials submitted; comments from city staff including, but not limited to, the chief of police, fire chief, and community development director; the written decision of the public works director; and the notice of appeal. The mayor shall issue a decision prior to the planned date and time of the parade and, in any event, within seven (7) business days from the date the notice of appeal is filed with the city clerk. The mayor's decision shall be final and binding.

- (b) A permittee who has been issued a parade permit, which permit has been revoked pursuant to section 35-212 of this Code, shall have the right to appeal such revocation to the mayor within forty-eight (48) hours after receipt of written notice of revocation. An applicant must file a written notice of appeal with the city clerk setting forth the specific bases of appeal. The mayor may hold a hearing on the appeal or issue a decision without holding a hearing based on the application materials submitted; comments from city staff including, but not limited to, the chief of police, fire chief, and community development director; the written decision of the public works director to issue the permit; the written notice of revocation; the evidence relied upon in deciding to revoke the permit; and the notice of appeal. The mayor shall issue a decision prior to the planned date and time of the parade and, in any event, within seven (7) business days from the date the notice of appeal is filed with the city clerk. The mayor's decision shall be final and binding.

(Ord. No. 4807, § 19, 3-22-21; Ord. No. 4842, § 6, 1-10-22)

Sec. 35-217. - Violation—Penalty.

- (a) It shall be unlawful for any person to knowingly conduct or participate in a permitted parade in violation of any of the terms or conditions of said permit.
- (b) Any person who violates or fails to comply with the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished as set forth in section 1-7 of this Code.

(Ord. No. 4807, § 19, 3-22-21)

Sec. 35-218. - Controlling municipal law.

This article is subject to amendment at any time. An application for a parade permit shall be issued pursuant to the standards set forth in this article at the time the application is filed. Conduct during the parade shall be governed by standards set forth in this article at the time the parade occurs.

(Ord. No. 4807, § 19, 3-22-21)