

**ORDINANCE NO. 4774**

**AN ORDINANCE OF THE CITY OF LEWISTON AMENDING AND ENACTING VARIOUS SECTIONS OF CHAPTER 12 OF THE LEWISTON CITY CODE RELATED TO DISASTERS AND CIVIL DEFENSE; APPOINTING AND AUTHORIZING THE DIRECTOR OF CIVIL DEFENSE TO ACCEPT SUPPLIES, MATERIALS, AND MONEY OFFERED BY THE FEDERAL GOVERNMENT; MANDATING THIS ORDINANCE BE POSTED ON THE CITY'S WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION; VOIDING ALL CITY REGULATIONS THAT ARE IN CONFLICT WITH THIS ORDINANCE; MANDATING THAT A SUMMARY OF THIS ORDINANCE BE PUBLISHED IN THE NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on March 11, 2020, the World Health Organization declared the outbreak of the 2019 novel coronavirus (COVID-19) to be a pandemic;

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the United States;

**WHEREAS**, on March 13, 2020, Idaho Governor Brad Little issued a proclamation declaring a state of emergency exists in the State of Idaho due to the occurrence and imminent threat to public health and safety arising from the effects of COVID-19;

**WHEREAS**, on March 17, 2020, Mayor Michael Collins, with the approval of the City Council, through Resolution 2020-14, declared a local disaster emergency exists in the City of Lewiston and appointed the Lewiston City Manager as the Director of Civil Defense pursuant to Lewiston City Code § 12-6;

**WHEREAS**, pursuant to Idaho Code § 50-304, the City of Lewiston may pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious disease into the City; and make quarantine laws for that purpose and enforce the same within five (5) miles of the City;

**WHEREAS**, pursuant to Idaho Code § 50-811(1), the City Manager of the City of Lewiston possesses such powers as are vested in a mayor, as provided in Idaho Code § 50-606;

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**WHEREAS**, pursuant to Idaho Code § 50-606, a mayor has jurisdiction as may be vested in him by ordinance for the enforcement of any health or quarantine ordinance and regulation thereof; and

**WHEREAS**, due to the urgent need to control the spread of COVID-19, it is imperative that the rules and regulations set forth in this Ordinance No. 4774 become effective as soon as possible.

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

SECTION 1: Lewiston City Code § 12-1 is hereby amended as follows:

**Sec. 12-1. Definitions.**

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

*Administrator* means the mayor who shall be the administrator of civil defense for the city.

*Civil defense* means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters.

*Deputy director* means the deputy director of civil defense of the city.

*Director* means the city manager, who shall be the director of civil defense of the city.

*Disaster* means actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, riot, earthquake or other similar public calamity, but not any condition relating to a labor controversy.

*Isolation* means the separation of infected persons, or of persons suspected to be infected, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent.

*Public health emergency* means the foreseeable, imminent, or present threat of any pathogen, agent, vector, or environmental condition, including hazardous materials, that does or may cause illness or injury to humans.

*Public health emergency order* means an advisory, social distancing, isolation, or quarantine order issued by the director.

Quarantine means the restriction placed on the entrance to and exit from the place of premises where an infectious agent or hazardous material exists.

Social distancing means actions taken to maintain distance from other people, including avoiding or canceling congregate settings and mass gatherings.

SECTION 2: Lewiston City Code § 12-4 is hereby repealed in its entirety and reserved:

**Sec. 12-4. Organizational plan. Reserved.**

~~The organizational plan prepared by the director of civil defense, a copy of which is on file in the office of the city clerk, is adopted as the official organization plan for civil defense of the city.~~

SECTION 3: Lewiston City Code § 12-8(1) is hereby amended as follows:

**Sec. 12-8. Same – In event of proclamation of disaster.**

In the event of the proclamation of a disaster as provided in the preceding section or the proclamation of a state of extreme emergency by the governor or the state director of civil defense, the director is hereby empowered:

(1) ~~To make and issue orders, rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the city council;~~

SECTION 4: Lewiston City Code § 12-11 is hereby repealed in its entirety and reserved:

**Sec. 12-11. Loyalty oath. Reserved.**

~~All persons employed or associated in any capacity with the civil defense organization of the city shall take the oath prescribed by the Idaho Disaster Relief and Civil Defense Act of 1955.~~

SECTION 5: Lewiston City Code §§ 12-25 through 12-28 are hereby enacted as follows:

**Sec. 12-25. Public Health Emergency Orders.**

(a) Authority to Issue Orders. The director, being duly authorized by Idaho Code §§ 50-304 and 50-606, may issue the following orders, as deemed appropriate by the director following consultation with or review of information issued by local, regional, statewide, or nationwide public health authorities.

(1) Advisory Order. Where a public health emergency is foreseeable or imminent, the director may, after providing written notice to the city council, enact an advisory order, which order may provide information and recommended guidelines for preventing, detecting, and/or mitigating the onset or spread of a public health emergency.

(2) Social Distancing Order. Where a public health emergency is imminent, the director may, after providing written notice to the city council, enact a social distancing order, which order may establish any or all of the following:

- a. Appropriate restrictions regarding the operation or occurrence of planned or foreseeable commercial, recreational, or expressive gatherings or events.
- b. Restrictions on travel through or visitation within the community.
- c. Postponement or cancelation of public meetings and hearings.
- d. A limit on the number of persons who may gather in one location and may apply to indoor or outdoor venues.
- e. Measures to be taken in order to prevent, avoid, detect, address, or mitigate a foreseeable, imminent, or present public health emergency.

A social distancing order shall include an effective date and an expiration date, which may be extended in the same manner as the imposition of the initial order. A social distancing order shall apply to the area described in the order, in accordance with State law.

(3) Isolation Order. Where a public health emergency is present, and poses a clear threat of harm to the public health, the director may enact an isolation order, which order may establish any or all of the following:

- a. A directive that infected and/or exposed individuals isolate themselves from other persons.
- b. Geographical areas of restricted or prohibited access.
- c. Other measures necessary to avoid, address, or mitigate an imminent public health emergency.
- d. The scope and manner of delivery of services, materials, or supplies to be provided by the City, if any.
- e. Measures to be taken in order to prevent, avoid, detect, address, or mitigate a foreseeable, imminent, or present public health emergency.
- f. Conditions of the isolation order.

An isolation order shall include an effective date and an expiration date and may be extended in the same manner as the imposition of the initial order. An isolation order shall be effective only when and for so long as the public health emergency is present and when no less restrictive alternative exists.

(4) Quarantine Order. Where a public health emergency is present and poses a clear threat of harm to the public health, the director may enact a quarantine order, which order may establish any or all of the following:

- a. A directive that infected and/or exposed individuals isolate themselves from other persons.
- b. Geographical or other areas of restricted or prohibited access.
- c. Other measures necessary to avoid, address, or mitigate an imminent public health emergency.
- d. The scope and manner of delivery of services, materials, or supplies to be provided by the City, if any.
- e. Measures to be taken in order to prevent, avoid, detect, address, or mitigate a foreseeable, imminent, or present public health emergency.
- f. Conditions of the quarantine.

A quarantine order shall include an effective date and an expiration date and may be extended in the same manner as the imposition of the initial order. A quarantine order shall be effective only when and for so long as the public health emergency is present and when no less restrictive alternative exists.

(b) Service and Publication of Order. An order issued by the director pursuant to this section shall be served or published as follows:

(1) Orders Pertaining to Individuals. An order that pertains to a specific individual shall be deemed served immediately if hand-delivered or forty-eight (48) hours after depositing the same in the U.S. mail, certified or registered, addressed to the last known address of the individual subject to the order. A copy of such order shall be provided to the city attorney, the fire chief, the chief of police, the Nez Perce County sheriff, the Nez Perce County prosecutor, and the director of the Idaho Public Health North Central District. If the place of isolation or quarantine is other than the individual's place of residence, a copy of the order shall also be provided to the person in charge of that place.

(2) Orders Pertaining to Groups, Geographical Areas, or Premises. An order that pertains to a group, geographical area, or premise shall, as soon as practicable, be published as follows:

- a. Posting the order on or near the front door of Lewiston City Hall;
- b. Posting the order on the city's website;
- c. Posting the order to city social media accounts;
- d. Posting the order on the premise to which the order pertains, if applicable; and
- e. E-mailing the order to all persons subscribed to city e-mail notification services.

A copy of such order shall be provided to the city council, the city attorney, the fire chief, the chief of police, the Nez Perce County Board of County Commissioners, the Nez Perce County sheriff, the Nez Perce County prosecutor, the director of the Idaho Public Health North Central District, and all news media that have requested notification of such orders. Except as may be specifically stated in the Public Health Emergency Order, such order shall be effective upon posting on or near the front door of Lewiston City Hall.

(c) Withdrawal of Order Prior to Expiration. In the event that the director determines that there is no longer a significant threat to the public's health posed by an individual, group, geographical area, or premise under an order of isolation or quarantine, the director shall withdraw such order if the order has not yet expired. Withdrawal of an order shall be accomplished in the same manner as the order was served or published.

(d) Modification or Reconsideration of Order. Any person aggrieved by an order issued by the director pursuant to this section, except for an advisory order, shall request that the director modify or reconsider the order by submitting a written request for modification or reconsideration to the City Clerk at any time while the order is in effect. The request for modification or reconsideration shall specify the grounds for modification or reconsideration and be accompanied by relevant supporting documentation, if any. Requesting modification or reconsideration of an order issued by the director shall be required prior to appealing such order to the city council.

(e) Appeal of Order. An order issued by the director pursuant to this section, except for an advisory order, may be appealed as follows:

(1) Notice of Appeal. Subject to section 12-25(d) of this section, a person aggrieved by an order issued by the director pursuant to this section, except for an advisory order, may appeal such order to the city council at any time while the order is in effect. Written notice of the appeal shall be filed with the City Clerk. The notice of appeal shall specify the grounds for appeal and be accompanied by relevant supporting documentation, if any.

(2) Consideration of Appeal. The city council shall hold a hearing on the appeal as soon as possible, but no later than five (5) calendar days from the date the notice of appeal was filed with the City Clerk. If the order being appealed is an isolation order or a quarantine order pertaining to an individual, then the city council shall hold such hearing in executive session in accordance with Idaho Code §§ 74-104(1), 74-106, and 74-206(1)(d). The formal rules of evidence shall not apply. City council review of orders shall be de novo. The city council may affirm, reverse, or modify the order and shall affirm the order if it appears by a preponderance of the evidence that the order is reasonably necessary to protect the public from a substantial and immediate danger of the spread of an infectious or communicable disease or from contamination by a chemical or biological agent. The city council shall issue a decision as soon as possible, but no later than three (3) calendar days from the date of the hearing, and such decision shall be final.

(3) No Stay on Appeal. Enforcement of an order issued by the director pursuant to this section shall not be stayed pending an appeal hearing before city council.

(f) Penalty. It shall be unlawful to violate any provision or directive of a social distancing order, isolation order, or quarantine order duly issued by the director while such order is in effect. The violation of any provision or directive of a social distancing order, isolation order, or quarantine order shall be punishable by a civil monetary penalty not to exceed one thousand dollars (\$1,000). Each day the violation continues shall be considered a separate offense.

**Sec. 12-26. Exclusions.**

Unless otherwise specifically prohibited by a Public Health Emergency Order duly issued by the director, the following activities shall be exempt from the scope of such an order:

- (1) Any and all expressive and associative activity that is protected by the Constitution of the United States or the Constitution of the State of Idaho, including speech, press, assembly, and religious activity.
- (2) Activities conducted by public educational institutions.
- (3) Activities necessary to operate critical infrastructure and utilities.
- (4) Activities necessary to operate and use medical facilities and services.
- (5) Activities necessary to buy, sell, or otherwise deliver food, medicine, and other necessities.

**Sec. 12-27. Suspension of City Services, Ordinances, Resolutions, Policies, and Procedures.**

(a) Authority to Suspend. During a Public Health Emergency, the director may take the following actions as the director deems necessary and advisable given the specific public health emergency and in consideration of the health of employees and the general public:

- (1) Suspend non-essential city services and functions.
- (2) Suspend city ordinances and resolutions, or portions thereof.
- (3) Suspend meetings of city boards and commissions. In order to facilitate such suspension of meetings, the ordinances providing for such meetings shall simultaneously be deemed temporarily suspended.
- (4) Suspend or waive city policies and procedures, or portions thereof.

(b) Order of Suspension. Any action taken by the director pursuant to this section shall be in the form of a written order, which order shall include the action being taken, the effective date of such action, and the expiration date of such action. An order of suspension may be extended in the same manner as the imposition of the initial order.

(c) Notice of Suspension. An order of suspension issued by the director pursuant to this section shall be published as follows:

(1) Order Affecting the General Public. An order of suspension that affects the general public shall, as soon as practicable, be published as follows:

- a. Posting the order on or near the front door of Lewiston City Hall;
- b. Posting the order on the city's website;
- c. Posting the order to city social media accounts; and
- d. E-mailing the order to all persons subscribed to city e-mail notification services.

A copy of such order of suspension shall be provided to the city council, the city attorney, the fire chief, the chief of police, the Nez Perce County Board of County Commissioners, the Nez Perce County sheriff, the Nez Perce County prosecutor, and all news media that have requested notification of such orders. Except as may be specifically stated in the order of suspension, such order shall be effective upon posting on or near the front door of Lewiston City Hall.



(2) Order Affecting City Employees. An order of suspension that affects city employees, but not the general public, shall published as follows:

- a. E-mailing a copy of the order to all city employees with city e-mail addresses; and
- b. Posting a copy of the order in a prominent place in each city department.

A copy of such order of suspension shall be provided to the city council. Except as may be specifically stated in the order of suspension, such order shall be effective upon posting in a prominent place in each city department.

(d) Withdrawal of Order Prior to Expiration. In the event that the director determines that an order of suspension is no longer necessary and advisable, the director shall withdraw such order if the order has not yet expired. Withdrawal of an order of suspension shall be accomplished in the same manner as the order was published.

(e) Council Veto. A majority of the city council may veto any action taken by the director pursuant to this section.

**Sec. 12-28. Force Majeure.**

In the context of this chapter, a public health emergency is a force majeure. No person shall be entitled to recover from the City of Lewiston any costs incurred or profits lost as may be alleged to be attributed to the enactment of a Public Health Emergency Order or the suspension of city services, ordinances, resolutions, policies, or procedures.

SECTION 6: Pursuant to Lewiston City Code § 12-12(a), the Director of Civil Defense is hereby appointed and authorized to accept, on behalf of the City of Lewiston, supplies and materials and money offered by the federal government to enable the City to carry out any program, act, or activity necessary to the proper functioning of defense activities in the City of Lewiston.

SECTION 7: In accordance with Lewiston City Code § 12-14, this ordinance shall be posted on the City of Lewiston's website and made available for public inspection.

SECTION 8: All city ordinances, resolutions, orders, or parts thereof that are in conflict with this ordinance are hereby voided.

SECTION 9: A summary of this ordinance shall be published in the Lewiston Tribune.

SECTION 10: This ordinance shall take effect and be in full force from and after its passage and posting in at least five (5) public places in the City of Lewiston, pursuant to Idaho Code § 50-901.

PASSED this 23<sup>rd</sup> day of March 2020.



CITY OF LEWISTON

By: \_\_\_\_\_

Michael G. Collins, Mayor

ATTEST:

Kari J. Ravencroft  
Kari J. Ravencroft, City Clerk

CITY OF LEWISTON  
SUMMARY OF ORDINANCE NO. 4774

**ORDINANCE NO. 4774: AN ORDINANCE OF THE CITY OF LEWISTON AMENDING AND ENACTING VARIOUS SECTIONS OF CHAPTER 12 OF THE LEWISTON CITY CODE RELATED TO DISASTERS AND CIVIL DEFENSE; APPOINTING AND AUTHORIZING THE DIRECTOR OF CIVIL DEFENSE TO ACCEPT SUPPLIES, MATERIALS, AND MONEY OFFERED BY THE FEDERAL GOVERNMENT; MANDATING THIS ORDINANCE BE POSTED ON THE CITY'S WEBSITE AND MADE AVAILABLE FOR PUBLIC INSPECTION; VOIDING ALL CITY REGULATIONS THAT ARE IN CONFLICT WITH THIS ORDINANCE; MANDATING THAT A SUMMARY OF THIS ORDINANCE BE PUBLISHED IN THE NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

Ordinance No. 4774 is effective upon passage and publication.

CITY OF LEWISTON

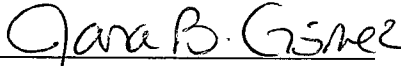
By: Michael G. Collins  
Mayor

Attest: Kari Ravencroft  
City Clerk

The full text of this ordinance is available at the City Clerk's office, Lewiston City Hall, 1134 F Street, Lewiston, during regular business hours.

I, JANA B. GÓMEZ, City Attorney, reviewed the foregoing Summary of Ordinance No. 4774. The summary is true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A.

Dated this 24<sup>th</sup> day of March 2020.

  
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Jana B. Gómez  
City Attorney