

COMMITTEE OF THE WHOLE

NOVEMBER 3, 2025

6:00 P.M.

THERE WILL BE NO COMMITTEE OF THE WHOLE

REGULAR MEETING STARTS AT 7 PM

NOTICE FOR, AND AGENDA FOR, A MEETING OF THE CITY COMMISSION, CITY OF LEWISTOWN, NOVEMBER 3, 2025 AT 7:00 P.M. AT THE CENTRAL MONTANA COMMUNITY CENTER LOCATED AT 307 W WATSON

To participate virtually the options are as follows:

To join by zoom: <https://zoom.us/j/8486275925?pwd=dTVGbndDK253ZUJLMjRuZXU5QVpMdz09>

Meeting ID: 848 627 5925 Passcode: 59457

To participate by phone: dial (253) 215-8782 Meeting ID: 848 627 5925 Passcode: 59457

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES – October 20, 2025

COURTESIES

PROCLAMATIONS

BOARD AND COMMISSION REPORTS

CITY MANAGER REPORT

PUBLIC COMMENT – non agenda items

CONSENT AGENDA

Acknowledgement of the claims that have been paid from October 16, 2025 to October 31, 2025 in the amount of \$140,797.29

***REGULAR AGENDA – Resolutions, Ordinances & Other Action Items:**

1. Discussion and action on approving an amendment to agreement with Jill Flament regarding the Remainder Tract 1 of Leininger No. 3 Minor Subdivision (**Action: approve, disapprove or amend amendment to agreement**) City Manager Holly Phelps
2. Discussion and action on approving Resolution No. 4211, a resolution approving an application from Lewistown Downtown Association for TIF funds made to the Lewistown Tax Increment Financing District Board (**Action: approve, disapprove or amend Resolution No. 4211**) City Manager Holly Phelps
3. Discussion and action on approving Resolution No. 4212, a resolution approving an application from Broadway Building, LLC for TIF funds made to the Lewistown Tax Increment Financing District Board (**Action: approve, disapprove or amend Resolution No. 4212**) City Manager Holly Phelps
4. Discussion and action on second reading Ordinance No. 1774, an ordinance amending Ordinance No 1733, codified as Lewistown City Code section 7-2-1, adopting the 2021 International Fire Code, and authorizing the City Attorney to codify the same (**Action: approve, disapprove or amend second reading of Ordinance No. 1774**) City Manager Holly Phelps
5. Discussion on establishing a procedure for Civil Infraction and discussion on which ordinances it should apply to – City Manager Holly Phelps

CITIZENS REQUESTS

COMMISSIONER'S MINUTE

ADJOURNMENT

* All citizens are invited to make comment on any agenda item prior to action being taken by the Commission

BIRDWELL & AAMOLD, P.C.

Attorneys at Law
224 W. Main Street, Suite 511
Lewistown, Montana 59457
Telephone: (406) 538-2623
Fax: (406) 538-4716

KRIS A. BIRDWELL
kris@lewistownlaw.com

SARAH M. AAMOLD
sarah@lewistownlaw.com

October 24, 2025

City of Lewistown
ATTN: Holly Phelps / Doug Osterman
305 W. Watson Street
Lewistown, MT 59457

Subject: Jill Flament / Remainder Tract 1 of Leininger No. 3 Minor Subdivision

Dear Holly and Doug:

I am writing on behalf of Jill Flament. As you are both aware, Jill is attempting to sell her property near Castle Butte Road.

The 2015 Agreement between Flaments and the City (copy enclosed) has turned into a bit of an albatross. Buyers have no interest in a 56-acre parcel that will potentially be annexed into the City. Annexation of a 56-acre parcel creates a long list of concerns for a buyer. I will not detail those concerns in this letter. When the City and Flaments struck a deal in 2015, I do not think that they anticipated Doug Flament's early passing, nor the true impact this would have on a 56-acre parcel.

I have reviewed Doug Osterman's letter of October 20, 2025, together with the 2024 Lewistown Plan and the related provisions of the Montana Land Use Planning Act. Doug Osterman's comments and incite are very helpful. However, real estate buyers simply will not overlook the 2015 Agreement between Flaments and the City. That Agreement clearly anticipates that the Flament property will be annexed. Buyers with a history in Lewistown will likely recall the 2015 Agreement stemmed from a lawsuit between the City and Flaments. The subject of the lawsuit was annexation of the Flament property.

Please review the enclosed Amendment to the 2015 Agreement. The Amendment anticipates that Lots 1, 2, 3, 4 and 5 of the Flament Subdivision will all be annexed. The Amendment extends the restriction on annexation on the 56-acre tract for a 20-year period. I believe that this extension is consistent with the 2024 Lewistown Plan. Likewise, the 20-year extension will give buyers some assurance for at least two decades.

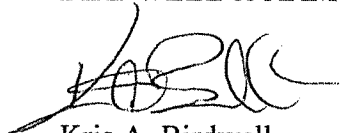
October 24, 2025

Page Two

I respectfully request that the City approve and sign the enclosed Amendment. Please contact me with any questions or concerns. Thank you for your time and consideration.

Sincerely,

BIRDWELL & AAMOLD, P.C.

A handwritten signature in black ink, appearing to read 'KAB', with a stylized flourish extending from the end.

Kris A. Birdwell

KAB/tgp
encls.

cc: Jill Flament
RJ Patterson
Carrie Kingsley

RETURN TO: BIRDWELL & AAMOLD, P.C.
224 W. Main Street, Suite 511
Lewistown, Montana 59457
(406) 538-2623

AMENDMENT TO AGREEMENT

This Amendment ("Amendment") is effective as of October ____, 2025 (the "Effective Date"), by and between Jill A. Flament ("Flament") and the City of Lewistown (the "City").

WHEREAS, Flament and the City are parties to that certain Agreement dated May 29, 2015, recorded as Document No. 119575, records of Fergus County, Montana (the "Agreement").

WHEREAS, the Agreement relates to and restricts the following real property located in Fergus County, Montana:

Remainder Tract 1, of the Leininger No. 3 Minor Subdivision and Lots 1, 2, 3, 4 and 5 of the Flament Subdivision, according to the official plats thereof on file with the Fergus County Clerk and Recorder.

WHEREAS, Douglas P. Flament, an original signatory to the Agreement, unexpectedly passed away subsequent to the date of the Agreement. Jill A. Flament and Douglas P. Flament owned the real property described herein as joint tenants with right of survivorship. Accordingly, Jill A. Flament is now the sole owner of the real property described herein.

WHEREAS, Flament may no longer resides on the property described herein, for the full term originally contemplated by the Agreement.

WHEREAS, Flament and the City now desire to amend the Agreement as set forth herein.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and the faithful performance thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the City and Flament hereby agree as follows:

1. Amendment to Agreement. The Agreement is hereby amended as follows:

Section I.a of the Agreement is hereby deleted in its entirety and replaced with the following:

- a. Except as provided in paragraph II.a, the City agrees that it will not annex Remainder Tract 1, Leininger No. 3 Minor Subdivision, Fergus County ("Remainder Tract 1"), for a period extending through December 31, 2045, provided:

- i. That the use of the property continues to be as a private residence, horse pasture, or general agricultural use.
- ii. The property is not subdivided.
- iii. The use of city utility services is not expanded except for possible additional water usage for the current barn or any replacement barn.

2. Continuing Effect. Except as expressly modified herein, the Agreement remains in full force and effect in accordance with its terms, to include the waiver of the right to protest annexation by Flament or her successors in interest, as more particularly set forth in the Agreement.

3. Counterparts. This Amendment may be executed in separate counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement.

4. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Montana, without giving effect to its conflicts of laws rules.

[SIGNATURE PAGES FOLLOW]

CITY OF LEWISTOWN

By: _____

Name: _____

Title: _____

STATE OF MONTANA)
 : ss.
COUNTY OF FERGUS)

On this _____ day of _____, 2025, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.

(NOTARIAL SEAL)

Notary Public for the State of Montana

JILL A. FLAMENT

STATE OF _____)
: ss.
COUNTY OF _____)

On this _____ day of _____, 2025, before me, the undersigned, a Notary Public for the State of _____, personally appeared JILL A. FLAMENT, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.

(NOTARIAL SEAL)

Notary Public for the State of _____

KATIE SPIKA
LORRAINE DAY
Ward One Commissioners

RONALD HRUBES
DIANA HEWITT
Ward Two Commissioners

TIM ROBERTSON
DANI BUEHLER
Ward Three Commissioners

KELLYANNE TERRY
At-Large Commissioner

HOLLY PHELPS
City Manager

NIKKI BRUMMOND
Finance Director/City Clerk



305 W. Watson, Lewistown, Montana 59457
(406) 535-1760 Fax (406) 535-3323

KELLY HENDERSON
Parks and Recreation Director

TYLER WEST
City Attorney

JUSTIN JENNESS
Police Chief

JAMES JENSEN
Fire Chief

VACANT
Public Works Director

AUSSA WOLENETZ
Library Director

DOUG OSTERMAN
Planning Director

October 22, 2025

Eric and Anne Phillips
2086 N Ponce De Leon Avenue N
Atlanta, GA 30307

Dear Mr. And Mrs. Phillips:

I understand that you are interested in purchasing property in the Casino Creek area of south Lewistown that spans unincorporated Fergus County and the City, and would like to have, in writing, a statement of how the 2024 Lewistown Plan (2024 Lewistown Plan, City of Lewistown, MT, October 7, 2024) (Plan) affects future growth and development of the property, including annexation.

The Plan was created under the guidance of the Montana Land Use Planning Act as a Land Use Plan (Title 76, Chapter 25, Montana Code Annotated). As stated in the Plan, "the Plan is a planning tool used to communicate the future vision for the community with the goal of improving the lives of all people who live, work, play, learn, grow, and move within the Lewistown community". It is the position of both the City and Fergus County governments that the Plan will play a significant role in land use decision making.

A key component to achieve future growth in a logical and sustainable way is the Future Land Use Plan and Map, Chapter three of the Plan. The purpose of the Future Land Use Plan and Map is to establish a framework that illustrates the desired locations and patterns for growth. This roadmap guides updates to the Zoning Regulations and nudges new development in a direction consistent with the community's vision for orderly, efficient, and sustainable growth in appropriate location of the City and its Planning Area. While established in 1965, the Planning area, the area of unincorporated Fergus County surrounding the existing City limits, has been without intentional coordination of land use and subdivision regulation and annexation between Fergus County and the City. Until now. It is the intention of both the City and County to significantly increase coordination as development patterns and land uses in the Planning Area influence both the City and

County.

In the case of the Flament property, the preponderance of it, four parcels totaling 67.707 acres, is designated as *Tier 5* Unincorporated Fergus County, Agricultural Land, Rangeland, and Forestland. Moreover, these four parcels are outside the designated City Service Area. Property outside the Service Area is not envisioned to be provided with the full range of urban services such as water, wastewater collection and treatment, and many other City services. Rather, Fergus County is intended to remain the service provider. The four parcels have the least development potential, including annexation, over the next 20 years.

Two Flament parcels totaling 6.293 acres are located in the City and in the designated City Service Area. These two parcels are within *Tier 2*, Planned Urbanizing Tier, Suburban Residential, which is to provide, sometime over the next 20 years, single-family homes at low densities and incorporating conservation subdivision design to protect low-density, suburban neighborhoods. Even so, annexation of the two parcels would be predicated on a development proposal by either the owner of the parcels or their development agent.

I hope this explanation of the 2024 Lewistown Plan and its Future Land Use Plan/Future Land Use Map, helps clarify how implementation of the Plan over the next 20 years could affect land use of the Flament property. Should you have questions, please contact me at the information in the title block below.

Sincerely,

Doug Osterman
Planning Director
406-535-1775
planning@ci.lewistown.mt.us

Return to:
City of Lewistown
305 W. Watson, Ste. 1
Lewistown, MT 59457

119575 Fee: \$ 45.00
FERGUS COUNTY, MT Recorded 6/16/2015 at 10:41 AM
Rana J. Wichman, Clk & Rcdr By *[Signature]*
Return to: CITY OF LEWISTOWN 305 W WATSON, STE 1
LEWISTOWN MT 59457

AGREEMENT

This agreement is entered into between Douglas P. Flament and Jill A. Flament, 297 Paper Trail, Lewistown, MT (Hereafter, "Flament") and the City of Lewistown, 305 W. Watson, Lewistown, MT (Hereafter, the "City").

Whereas, Flament is the sole owner of the Remainder Tract 1, Leininger No 3 Minor Subdivision and Lots 1, 2, 3, 4 and 5 of Flament Subdivision.

Whereas, the City provides water service to a portion of Flament's property, described as Remainder Tract 1, Leininger No 3 Minor Subdivision, which property is not within the boundaries of the City of Lewistown.

Whereas, City regulations require that persons residing outside the City Limits file a waiver of protest to annexation as a condition of receiving water service from the City and that Flament has not filed such a waiver with the City and disputes the requirement to do so.

Whereas, Flament desires to continue to receive city water service to their principle residence and commercial dog kennel, but does not want to have that property annexed as such may impair their ability to maintain the current use of the property as a commercial dog kennel and pasture land, but are willing to waive protest to annexation of Lots 2 and 3 of Flament Subdivision in lieu of annexation of their principal residence/commercial dog kennel;

Whereas, Flament recognizes the city's interests in insuring that it can continue to grow to meet the needs of current and future residents.

Whereas, the City desires to address Flament's concerns regarding the current and future use of their property as a commercial kennel and agricultural pasture land.

Whereas, the City believes that its waterline runs within the county right-of-way adjacent to Flament's property and desires Flament's assurance that it will not contest its location in the future.

Whereas, the parties desire to resolve all issues pertaining to water service to the Flament property, annexation, and easement for the city water line.

THEREFORE, in consideration of the mutual promises made herein and the acts to be performed by the parties to accomplish these purposes, it is agreed as follows:

I. Remainder Tract 1, Leininger No 3 Minor Subdivision

- a. Except as provided in paragraph II.a, the City agrees that it will not annex the Flament's primary residence, described as Remainder Tract 1, Leininger No 3 Minor Subdivision, Fergus County, for the lifetime of Doug Flament and Jill Flament, or the survivor, provided:
 - i. That both parties, and the survivor thereof, continue to solely own and reside on the property.
 - ii. That the use of the property continues to be as a private residence and commercial dog kennel, horse pasture or general agricultural use.
 - iii. The property is not subdivided.
 - iv. The use of city utility services is not expanded except for possible additional water usage for the existing commercial dog kennel, the current barn or any replacement barn.
- b. Should any of the above conditions cease to be met, this agreement shall operate as a waiver of protest to annexation by Flament and the city may annex Remainder Tract 1, Leininger No 3 Minor Subdivision under any appropriate annexation method.

II. Flament Subdivision.

- a. Flament agrees to not protest annexation of Lots 2 and 3 and the county (public) road right-of-way adjacent to Lot 1 of Flament Subdivision and the county (public) road right-of-way adjacent to Remainder Tract 1, Leininger No 3 Minor Subdivision, at such time as the City initiates annexation procedures. This agreement shall act as a waiver of protest of annexation for this purpose.
- b. The City agrees to not pursue annexation of Lots 4 and 5 and the remaining portion of Lot 1 of Flament Subdivision until such Lot is sold, transferred or developed in any manner. The term "developed" includes extension of utilities to and/or construction of any improvements on the property. In the event a Lot is sold, transferred or developed in any manner, this agreement shall act as a waiver of protest of annexation for that Lot.
- c. In accordance with city ordinances, if any parcel described herein is annexed, any lawful existing use of the land, including agricultural and commercial use, that is made no longer permissible, may nevertheless continue as a nonconforming use, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time of annexation.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the time of annexation.
3. If any such nonconforming use of land ceases for a period of eighteen (18) months, any subsequent nonconforming use of such land shall be reviewed by the board of adjustment as to whether said land should conform to the regulations specified in city code for the district in which such land is located.

III. City Water Main.

The City's water main runs within the county (public) road right-of-way adjacent to Remainder Tract 1, Leininger No 3 Minor Subdivision and Lots 1, 2, and 3 of Flament Subdivision. To the extent any portion of the City's water main lays partially or wholly outside the county (public) road right-of-way and on or in Remainder Tract 1, Leininger No 3 Minor Subdivision and Lots 1, 2, and 3 of Flament Subdivision, Flament grants a perpetual easement to the City for the placement, inspection, maintenance, repair, construction and reconstruction of that main. Such easement shall be ten feet in width on either side of the city's water main on Flament's property that is not within the county (public) road right-of-way.

IV. Utility Service Agreement.

- a. Flament shall sign a utility service agreement (USA) for water service to their residence/commercial dog kennel located in Remainder Tract 1, Leininger No 3 Minor Subdivision, and maintain a current USA with the City. The City agrees to modify that USA consistent with the annexation requirements set forth in this agreement.
- b. The City agrees to provide water service to Flament in accordance with city ordinances, this agreement and the USA.

V. Release of Claims.

Except as provided herein, the parties hereby settle, compromise, and forever release, discharge, waive and covenant not to sue upon any and all claims, rights, causes of action, and liabilities whether known or unknown, asserted or unasserted, foreseen or unforeseen, alleged or what could have been alleged during the

negotiations for this agreement. Except as provided herein, it is the intention of the parties to settle all claims which exist or may exist between them as of the date of this agreement. This release shall be construed to achieve that result.

VI. Binding Agreement

This agreement is binding on the heirs, assigns and legal representatives of the parties.

VII. Recording

This agreement shall be recorded with the Fergus County Clerk and Recorder's Office.

VIII. Prior Agreement

In October of 2014, the parties entered in to a Water Service Agreement. Upon the full execution of this agreement, that prior agreement will be cancelled and of no further force and effect.

Dated this 29th day of May, 2015.

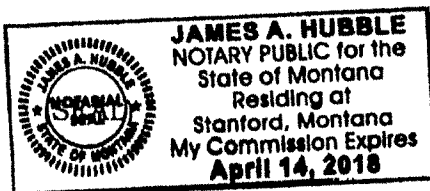

Douglas P. Flament

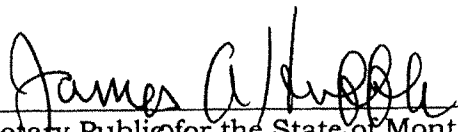

Jill A. Flament

STATE OF MONTANA)
) ss.
COUNTY OF FERGUS)

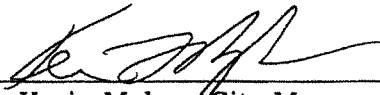
On this 29th day of May, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Douglas P. Flament and Jill A. Flament, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.




Notary Public for the State of Montana
Residing at Stanford
My Commission expires 04/14/2018

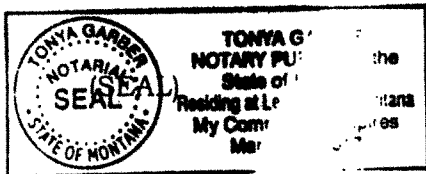
City of Lewistown

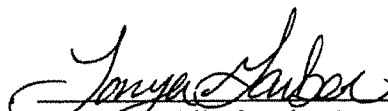

By: Kevin Myhre, City Manager

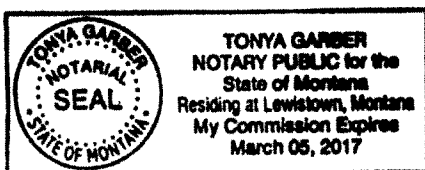
STATE OF MONTANA)
) ss.
COUNTY OF FERGUS)

On this 6th day of May, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Kevin Myhre, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.




Notary Public for the State of Montana
Residing at _____
My Commission expires _____



RESOLUTION NO. 4211

**A RESOLUTION APPROVING AN APPLICATION FROM
LEWISTOWN DOWNTOWN ASSOCIATION FOR TIF
FUNDS MADE TO THE LEWISTOWN TAX INCREMENT
FINANCING DISTRICT BOARD**

WHEREAS, the Lewistown City Commission has adopted Ordinance No. 1748 – An Ordinance establishing the Lewistown Urban Renewal Area, creating the Lewistown Urban Renewal District and adopting the Lewistown Urban Renewal District Plan; and

WHEREAS, by Resolution number 3903 the City created an Urban Renewal Agency per 7-15-4232 Montana Codes Annotated (MCA), which was designated as the “Lewistown Improvement District Board” to engage in activities authorized in 7-15-4234 MCA and provide administrative functions; and

WHEREAS, the Commission re-designated the “Lewistown Improvement District Board” as the “Lewistown Tax Increment Financing District Board” by Resolution 3923; and,

WHEREAS, the Commission appointed a Lewistown Tax Increment Financing District Board (hereafter, the “TIF Board”) in order to manage the Lewistown Urban Renewal District created by Ordinance 1748; and,

WHEREAS, the TIF Board oversees the operation of the Lewistown Urban Renewal District, including public purpose activities; promotional activities; façade building conservation and loan programs; and administrative functions; and,

WHEREAS, the TIF Board exercises those powers authorized by law as specified in Resolution 3923; and,

WHEREAS, the TIF Board has developed the Lewistown TIF District (LTD) Program whereby qualified applicants may apply for TIF District Program Funds for assistance in redevelopment or rehabilitation of properties within the Urban Renewal District; and,

WHEREAS, through its LTD Program the TIF Board has received numerous applications for TIF District Program Funds, has reviewed the same and, has recommended approval of several applicants for those funds; and,

WHEREAS, the City Commission has retained final budgetary authority for TIF program activities.

NOW, THEREFORE, BE IT RESOLVED, that the Lewistown City Commission hereby approves the following applications for TIF District Program Funds as recommended by the TIF Board:

1. Lewistown Downtown Association, by Abby Franks, Its President, to partially fund a Downtown Master Plan, up to a \$20,000 grant

BE IT FURTHER RESOLVED, that prior to disbursement of any TIF funds, all applicants shall enter into such Development Agreements as established and approved by the TIF Board.

PASSED AND APPROVED this _____ day of November 2025.

Loraine Day, Chairperson
Lewistown City Commission

Attest:

Nikki Brummond
City Financial Officer/Clerk

RESOLUTION NO. 4212

A RESOLUTION APPROVING AN APPLICATION FROM BROADWAY BUILDING, LLC, FOR TIF FUNDS MADE TO THE LEWISTOWN TAX INCREMENT FINANCING DISTRICT BOARD

WHEREAS, the Lewistown City Commission has adopted Ordinance No. 1748 – An Ordinance establishing the Lewistown Urban Renewal Area, creating the Lewistown Urban Renewal District and adopting the Lewistown Urban Renewal District Plan; and

WHEREAS, by Resolution number 3903 the City created an Urban Renewal Agency per 7-15-4232 Montana Codes Annotated (MCA), which was designated as the “Lewistown Improvement District Board” to engage in activities authorized in 7-15-4234 MCA and provide administrative functions; and

WHEREAS, the Commission re-designated the “Lewistown Improvement District Board” as the “Lewistown Tax Increment Financing District Board” by Resolution 3923; and,

WHEREAS, the Commission appointed a Lewistown Tax Increment Financing District Board (hereafter, the “TIF Board”) in order to manage the Lewistown Urban Renewal District created by Ordinance 1748; and,

WHEREAS, the TIF Board oversees the operation of the Lewistown Urban Renewal District, including public purpose activities; promotional activities; façade building conservation and loan programs; and administrative functions; and,

WHEREAS, the TIF Board exercises those powers authorized by law as specified in Resolution 3923; and,

WHEREAS, the TIF Board has developed the Lewistown TIF District (LTD) Program whereby qualified applicants may apply for TIF District Program Funds for assistance in redevelopment or rehabilitation of properties within the Urban Renewal District; and,

WHEREAS, through its LTD Program the TIF Board has received numerous applications for TIF District Program Funds, has reviewed the same and, has recommended approval of several applicants for those funds; and,

WHEREAS, the City Commission has retained final budgetary authority for TIF program activities.

NOW, THEREFORE, BE IT RESOLVED, that the Lewistown City Commission hereby approves the following applications for TIF District Program Funds as recommended by the TIF Board:

1. Broadway Building, LLC, d/b/a MOB Studios, for improvements to the façade of the building, up to \$20,000 grant

BE IT FURTHER RESOLVED, that prior to disbursement of any TIF funds, all applicants shall enter into such Development Agreements as established and approved by the TIF Board.

PASSED AND APPROVED this _____ day of November 2025.

Loraine Day, Chairperson
Lewistown City Commission

Attest:

Nikki Brummond
City Financial Officer/Clerk

ORDINANCE NO. 1774

AN ORDINANCE AMENDING ORDINANCE NO. 1733, CODIFIED AS LEWISTOWN CITY CODE SECTION 7-2-1, ADOPTING THE 2021 INTERNATIONAL FIRE CODE, AND AUTHORIZING THE CITY ATTORNEY TO CODIFY THE SAME.

WHEREAS, Rule 23.12.601, Administrative Rules of Montana (ARM), adopts and references the International Fire Code 2021 Edition (2021 IFC), with additions and amendments enumerated in Title 23, Chapter 12 of the Administrative Rules of Montana.

WHEREAS, the rules established minimum fire protection code to be used in conjunction with the building code. Nothing in the rule prohibits a local government from adopting portions IFC that were not adopted by the rule or to implement standards that are more restrictive than the 2021 IFC.

WHEREAS, the 2021 IFC shall apply to new construction as required in the building code and existing conditions. Existing buildings shall be maintained in accordance with the building code in effect at the time of construction. However, where existing conditions or buildings pose an imminent hazard or risk to public health and safety and are not, therefore, within the purview of the building code, the FPIS may take corrective action pursuant to the provisions of 50-61-101, et seq., MCA, and 50-62-101, et seq., MCA.

WHEREAS, Rule 23.12.601(5)(a)-(sss), ARM, sets forth the modified sections of the 2021 IFC and adoption of Appendices B, C, E, F, G, and I.

WHEREAS, to facilitate the adoption of the 2021 IFC, several sections of the code contain blanks for fill-in information that should be amended or not adopted as follows:

Section 101.1. Insert: City of Lewistown

Section 112.4 Section 112.4 is not adopted and penalties for a violation of the 2021 IFC are set forth in the Lewistown City Code 7-2-12

Section 5704.2.9.6.1: Insert: Locations where above ground tanks are prohibited. Storage of class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by the city of Lewistown fire regulations.

- Section 5706.2.4.4: Insert: Locations where above ground tanks are prohibited. Storage of class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by the city of Lewistown fire regulations.
- Section 5806.2: Insert: Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the district limits established by the city of Lewistown fire regulations.
- Section 6104.2. Insert: Locations where the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas. Storage of liquefied petroleum gas in above-ground tanks outside of buildings is restricted within the limits established by the city fire regulations.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LEWISTOWN, MONTANA, TITLE 7, CHAPTER 2, SECTION 1, IS AMENDED AS FOLLOWS:

7-2-1: Adoption of Fire Code

- (A) The international fire code, ~~2009~~ 2021 edition, including appendices B, ~~and C, E, F, and I,~~ as published by the International Code Council, is adopted by reference as the fire code of the city of Lewistown. It regulates and governs the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; provides for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of the fire code on file in the office of the Lewistown city clerk are hereby referred to, adopted, and made a part hereof, as if fully set out, with the additions, insertions, deletions and changes, if any, set by ordinance and 23.12.601, ARM. A copy of the 2021 International Fire Code is filed in the office of the clerk for reference purposes.
- (B) ~~The following sections of the fire code are revised as set out below:~~
~~Section 101.1. Insert: {City of Lewistown, Montana}~~
~~Section 108. Board Of Appeals. Delete entire section including 108.1,~~
~~108.2, 108.3.~~

~~Section 109.3. Insert: [Misdemeanor, \$500.00, 6 months] so that such section shall read as follows:~~

~~"Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or by imprisonment not exceeding 6 months, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense."~~

~~Section 111.4. Insert: [not less than \$100 or more than \$500.00]~~

~~Section 903.3.5. Water Supplies. Insert: [A minimum safety factor of 10% but not less than 5 psi shall be provided in any automatic sprinkler system hydraulic calculation.] so that such section shall read as follows:~~

~~"903.3.5 Water Supplies. Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in section 903.3.1. A minimum safety factor of 10% but not less than 5 psi shall be provided in any automatic sprinkler system hydraulic calculation. The potable water supply shall be protected against backflow in accordance with the requirements of this section and Montana state adopted plumbing code."~~

~~Section 906.1. Delete exception to section 906.1, #1.~~

~~"906.1 Where Required. Portable fire extinguishers shall be installed in the following locations:~~

~~1. In new and existing group A, B, E, F, H, I, M, R 1, R 2, R 4 and S occupancies.~~

~~Exception: In new and existing Group A, B and E occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.~~

~~2. Within 30 feet (9144 mm) of commercial cooking equipment.~~

~~3. In areas where flammable or combustible liquids are stored, used or dispensed.~~

~~4. On each floor of structures under construction, except group R 3 occupancies, in accordance with section 1415.1.~~

~~5. Where required by the sections indicated in table 906.1."~~

~~Section 907.7.5. Insert: [When required by the fire code official, non-required fire alarm systems shall be monitored by an approved supervising station in accordance with NFPA 72.] so that such section shall read as follows:~~

~~"907.7.5 Monitoring. Fire alarm systems required by this chapter or by the international building code shall be monitored by an approved supervising station in accordance with NFPA 72. When required by the fire code official, non-required fire alarm systems shall be monitored by an approved supervising station in accordance with NFPA 72.~~

~~Exception: Monitoring by a supervising station is not required for:~~

~~1. Single and multiple station smoke alarms required by section 907.2.11.~~

~~2. Smoke detectors in group I-3 occupancies.~~

~~3. Automatic sprinkler systems in one and two family dwellings."~~

~~Section 1030.3. Obstructions. Insert [Exit doors shall not be locked, chained, bolted, barred, or otherwise rendered unusable. All locking devices shall be of an approved type.] so that such section shall read as follows:~~

~~"1030.3 Obstructions. A means of egress shall be free from obstructions that would prevent its use, including the accumulation of snow and ice. Exit doors shall not be locked, chained, bolted, barred, or otherwise rendered unusable. All locking devices shall be of an approved type."~~

~~(C) That the geographic limits referred to in certain sections of the 2009 international fire code are hereby established as follows:~~

~~Section 3404.2.9.6.1. Locations where above ground tanks are prohibited. Storage of class I and II liquids in above ground tanks outside of buildings is prohibited within the limits established by the city of Lewistown fire regulations.~~

~~Section 3406.2.4.4. Locations where above ground tanks are prohibited. The storage of class I and II liquids in above ground tanks outside of buildings is prohibited within the limits established by the city fire regulations.~~

~~Section 3506.2. Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the district limits established by the city of Lewistown fire regulations.~~

~~Section 3804.2. Locations where the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas. Storage of liquefied petroleum gas in above ground tanks outside of buildings is restricted within the limits established by the city fire regulations.~~

The following sections of the fire code are revised as set out below:

Section 101.1. Insert: City of Lewistown

Section 112.4 Section 112.4 is not adopted and penalties for a violation of the 2021 IFC are set forth in the Lewistown City Code 7-2-12

Section 5704.2.9.6.1: Insert: Locations where above ground tanks are prohibited. Storage of class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by the city of Lewistown fire regulations.

Section 5706.2.4.4: Insert: Locations where above ground tanks are prohibited. Storage of class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by the city of Lewistown fire regulations.

Section 5806.2: Insert: Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the district limits established by the city of Lewistown fire regulations.

Section 6104.2. Insert: Locations where the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas. Storage of liquefied petroleum gas in above-ground tanks outside of buildings is restricted within the limits established by the city fire regulations.

(C) If there is any conflict between any paragraph, section, sentence, or word of the fire code as adopted and amended by the city, and any paragraph, section, sentence, or word of the fire code as adopted and amended by the state, the more stringent paragraph, section, sentence, or word of either code controls.

PASSED, ADOPTED and APPROVED by the City Commission on first reading this ____ day of _____ 2025.

PASSED, ADOPTED and APPROVED on second reading this ____ day of _____ 2025 and effective upon approval.

By _____
Loraine Day, Chairman
Lewistown City Commission

ATTEST:

By _____
City Clerk