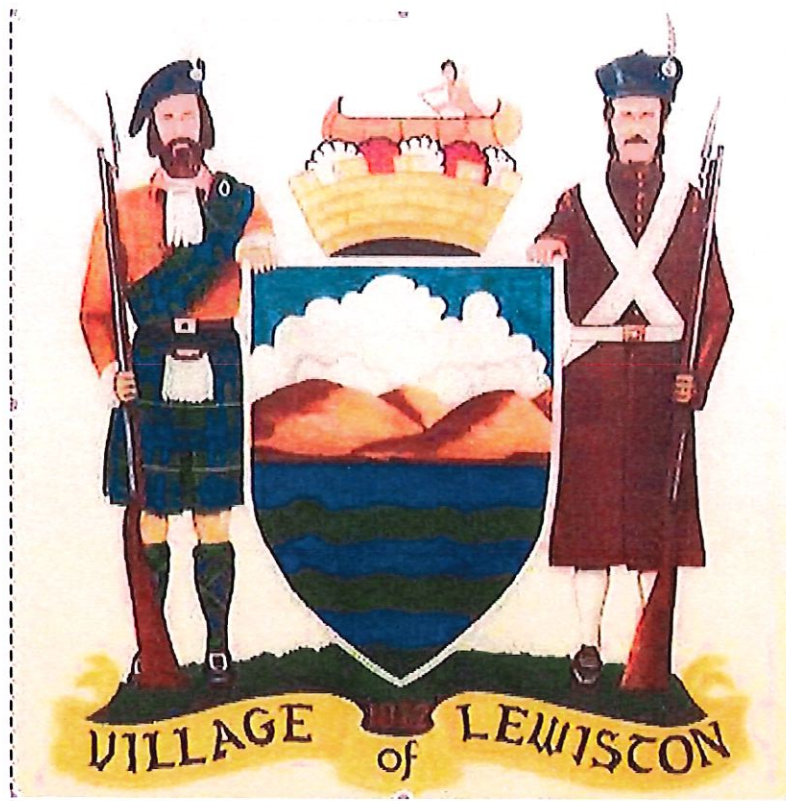


Village of Lewiston

145 N 4th Street PO Box 325

Lewiston, NY 14092

Facilities Use Agreement



Village of Lewiston Clerk's Office (716)754-8271

Mayor of Lewiston - Anne Welch (716)998-0464

Department of Public Works Superintendent – Anthony Mang (716)534-4462

Lewiston Chief of Police - Frank Previte (716)754-8477

Lewiston Fire #1 Fire Chief – Spencer Lilly (716)243-1282

VILLAGE OF LEWISTON FACILITIES USE AGREEMENT

This Agreement is made as of this _____ day of _____, _____ (the "effective date") by and between the Village of Lewiston Municipality, Lewiston NY 14092.

WHEREAS, User desires to use village Property for the permitted use on the approved date(s).

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Village of Lewiston and the user agree as follows:

1. BASIC TERMS, the following terms shall have the following meaning throughout this agreement:

- a. **Property:** As used in this agreement, "property" means that certain real property and improvements thereto commonly known as Village of Lewiston Inc.
- b. **Permitted use:** is to be determined and approved by the Village Board of Trustees.
- c. **Term:** As used in this agreement, term means the approved date or dates.
- d. **Scheduled Use:** the user shall be permitted to use the Village Premises only during the times and dates mutually agreed upon.
- e. **Fees:** A deposit may be required for your event.

2. OBLIGATION OF USER,

- a. User and not the Village of Lewiston shall be responsible for providing the programming and staffing needs associated with its permitted use. User shall use the permitted premises only to conduct its activities in accordance with its permitted use, utilizing only staff and materials supplied by the User, unless agreed upon otherwise by the Village Board of Trustees. The User shall not use or permit the use of the premises for any other purpose other than the purpose agreed upon by the Village Board of Trustees.
- b. The User shall be responsible to ensure that their employees, agents and contractors, licenses, guests and invitees abide by all rules, village laws, and NYS safety standards.
- c. **Conditions of licensed premises and surrounding area:** User shall continually keep the licensed premises and any equipment, tables or other items which the user may have on the licensed premises, in a neat, clean and attractive manner. User shall continually keep the area around the licenses premises free of any refuse of other items originating from the licensed premise or arising out of user's activities thereat. Without limitation, the User shall not allow any substance on the floor area at or around the licensed premises which may cause the floor to be slippery or otherwise hazardous to persons walking on the property.
- d. **No damage:** User and its employees, agents, contractors, licensees, guests and invitees shall not injure, damage, mar or deface the property or the particular licensed premises within the facility, its appurtenances and any other equipment contained therein. Neither shall user cause or permit anything to be done whereby said premises, appurtenances and equipment shall in any way be injured, damaged, marred or defaced. User shall promptly repair any damage to the licensed premises or the surrounding area caused by User or arising out of User's activities and/or reimburse the Village of Lewiston for the costs incurred in connection with any damage or loss to the village property.
- e. The village property and its facilities are designated as non-smoking at all times. User shall be responsible for reimbursement to the Village of Lewiston for any damage caused by smoking.

- f. At no time shall the User allow occupancy of the licensed premises to exceed maximum permitted occupancy.
- g. **Vacating Premises:** At the end of the permitted use, and each scheduled use, or upon the earliest termination of this agreement, user shall quietly and peacefully vacate the licensed premises, and shall leave the licensed premise in a clean condition and in a condition not worse than when user first began use of the licensed premise and removal of its employees, agents, contractors, licensees, guests and invitees and their property from the licensed premises so that the licensed premises are in the same condition (ordinary wear and tear expected) as in the permitted use or the scheduled use. User shall reimburse the Village of Lewiston for any expense incurred to repair damage caused by such removal. Any property or items of the User or its employees, agents, contractors, licenses, guests or invitees remaining in the licensed premises after the expiration or sooner termination of this agreement shall be deemed abandoned and may be disposed of by the Village of Lewiston as it sees fit in its sole discretion, at the User's expense. User agrees that the Village of Lewiston shall have no liability for any disposal of property that is deemed abandoned.
- h. **Compliance with the Law:** User and its employees, agents, contractors, licensees, guests and invites shall comply with all pertinent federal, state. Local and municipal laws, codes, ordinances, rules and regulations, including but not limited to fire, building safety and health codes applicable to the use of village properties and facilities. User and its employees, agents and contractors shall obtain and maintain in full force and effect, all permits, licenses and authorizations required by governmental and quasi-governmental agencies. User shall advise the Village of Lewiston of all permits and licenses required to be obtained for its activities while using village property, and shall cooperate with the Village of Lewiston in obtaining same and shall pay any fees and expenses that may be required relative thereto.
- i. **Public Health Emergency:** In the event of a public health emergency and/or pandemic, the user agrees to adhere to and set in place all Federal and State mandated safety guidelines; including but not limited to, proper sanitization, social distancing and the use of personal protective equipment.
- j. **Strictly Prohibited in Village Parks:** -charcoal grills, glass bottles, driving vehicles in Marilyn Toohey Park
- k. **Indemnification:** User agrees to defend, indemnify, and hold harmless the Village of Lewiston. its successors and assigns, and their respective directors, officers, employees and agents, (collectively, the "Indemnitees") to the fullest extent permitted by law from and against any and all claims or demands whatsoever, including associated costs, expenses, and reasonable attorneys' fees incurred on account thereof, that may be asserted by User's employees, agents, subcontractors, guests or invitees, employees of User's subcontractors or agents, or any other persons for loss, damage, death, or injury to persons or property arising in any manner out of incident to User's utilization of village property or facilities and/or User's performance or nonperformance of this agreement. To the extent not prohibited by law, User waives all claims against the Village of Lewiston and the other Indemnitees for injury to persons, or damage to property or to any other interests of User sustained by User or any person claiming through User resulting from any occurrence in or upon the Licenses Premises or the Facility property, or relating in any way to this Agreement except in each case for such injuries and damages to the extent resulting from the gross negligence or willful misconduct of the Village of Lewiston.

Without limitation, all of User's personal property which may at any time be at the Licensed Premises shall be at the User's sole risk. User's indemnification obligations hereunder shall survive the expiration or earlier termination of this Agreement.

- l. **Music Licensing:** Event organizer agrees to, as of the date of the event, they will secure any music licenses from performers' rights organizations, including, but not limited to ASCAP, BMI, and SESAC, that are necessary for legal operation and that the event organizer will maintain their respective licenses in good standing. ***In addition, please see attached addendum**
- m. **Violation:** If in the Village of Lewiston's reasonable opinion, at any time the User's employees, agents, contractors, licensees, guests or invitees violate an applicable Facility Rule (including, but not limited to restrictions against the use of drugs and alcohol), or the ordinance or law of the local city, town, village, or county, the State of New York or the United States of America, User shall direct the offender to cease and desist from continuing such illegal or improper use. Notwithstanding anything to the contrary contained in this Agreement, the Village of Lewiston expressly reserves its right at any time upon prior notice to User (except in emergencies), to cause the removal of any of the User's employees, agents, contractors, licensees, guests or invitees, who in the reasonable discretion of the Village of Lewiston has engaged or is engaging in undesirable, disruptive or hazardous behavior.
- n. **Non-assignment:** This Agreement is personal to the User. User shall not assign, sublicense or in any manner transfer this Facilities Use agreement or allow any other entity to use any portion of the Facility or the Licensed Premises hereunder without the prior written consent of the Village of Lewiston, which consent may be withheld in the Village of Lewiston's sole and absolute discretion.
- o. **Inadequate Festival/Event Cleanup:** The user(s) of Village facilities are responsible for the cleanup and removal of all garbage accumulated during the rental period. If deemed by the Village of Lewiston Public Works Superintendent and/or Deputy Superintendent the licensed premise at close of event is left in a condition worse than when user first began, the user will be notified immediately. A 24-hour grace period will be given to allow for proper cleanup. Additional fees may apply for the Village of Lewiston Department of Public Works assistance at a rate of \$250/hour.
- p. **Notices:** All notices by the parties to each other hereunder shall be in writing, addressed as follows:

Village Board of Trustees
P. O. Box 325
Lewiston, NY 14092

FOR LARGE FESTIVALS/EVENTS

- q. **Facilities Use/Festival Fees:** A non-refundable fee shall be charged for use of Village of Lewiston licensed premises. Facilities fees include use of the requested facility at the scheduled rate per day. Festival/Event fees consist of use of the requested facility and up to and including the following services by the Department of Public Works: Set up and removal of barricades, cones, signage and concrete barriers for required street closing procedures.
- r. **Fire/Police Safety Requirements:** User agrees to meet with the Lewiston Chief of Police and Lewiston #1 Fire Chief to determine an approved emergency plan for festival/event requests and submit official letters within 30 days of approval from the Village Board.

- s. **Insurance:** In addition to Workers Compensation and other statutorily required coverage, User agrees to obtain and maintain for three (3) years after the termination of this Agreement, at its own cost and expense, broad form General Liability Insurance with a limit of not less than One Million dollars (\$1,000, 000) per occurrence and Two Million dollars (\$2,000,000) in the aggregate covering personal injury, death, sexual abuse/molestation and property damage, covering all activities of User and its employees, agents, contractors, licensees, guests and invitees at the Village of Lewiston premises, including the Facility and the Licensed premises and excess liability coverage of One Million Dollars (\$1,000,000). Such policies of insurance shall be maintained with insurance companies authorized to do business in the State of New York and provide that they may not be canceled except upon thirty (30) days' prior written notice to the Village of Lewiston. User shall at the time of the execution of this agreement, furnish the Village of Lewiston with a certificate of insurance evidencing such coverage, and naming the Village of Lewiston as an additionally insured with respect to its liability coverage. The insurance required hereby shall not be deemed to limit User's obligations to indemnify the Village of Lewiston under this Agreement. User's insurance obligations hereunder shall survive the expiration or earlier termination of Agreement.
- t. **Alcohol Beverages:**
- i. The applicant hereby waives any and all claims for compensation for any and all loss or damage sustained by reason of any interference by any public agency or official in the operation of this permit; any such interference shall not relieve the applicant from any obligations hereunder.
 - ii. The Village of Lewiston reserves the right to revoke this permit at any time and for any reason and to monitor compliance. Noncompliance may result in immediate revocation and eviction from facility.
 - iii. The applicant must be 21 years or older at the time of application. Possession or consumption of alcohol by anyone under the age of 21 is illegal and can be cause for the revocation of this permit. The Village of Lewiston reserves the right to require proof of age from the applicant or any other persons in the company of the applicant.

If alcohol beverages will be consumed/sold at Village facilities sign below:

Name of Applicant (Please Print)

Date

Signature of Applicant

Date

The Village of Lewiston is committed to a sustainable future as well as the social, economic and environmental well-being of our community. We kindly ask our partnering businesses to recycle and consider choosing an alternative material to Styrofoam containers during festivals and events.

VILLAGE OF LEWISTON APPLICATION FOR USE OF FACILITIES

Applicant/Organization: _____

Name of Person in Charge: _____ Date of Application: _____

Mailing Address: _____

Phone Number: _____ Email: _____

Facility Requested: _____

Date(s) Requested: _____ Hours from: _____ to: _____

Type of Event: _____ Expected attendance: _____

Street Closing Request* (If applicable): _____

*PERM 33-b form required to be completed

VILLAGE PARK	Family Functions		Non-Profit/Charity		Business/Corporation	
	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident
ACADEMY PARK						
Pavilion	\$200	\$250	No Fee	\$50	\$250	\$300
Band Shell & Park	N/A	N/A	No Fee	\$50	\$250	\$300
Park Only	N/A	N/A	No Fee	\$50	\$100	\$150
MARLYN TOOHEY PARK						
Pavilion	\$150	\$200	No Fee	\$25	\$200	\$250
LEWISTON LANDING						
Lower Pavilion*	\$100	\$125	No Fee	\$25	\$150	\$175
HENNEPIN PARK						
w/ Gazebo	\$100	\$125	No Fee	\$25	\$150	\$175
RICHARD F. SOLURI PARK						
	\$100	\$125	No Fee	\$25	\$150	\$175

FESTIVAL/EVENT FEES (Includes Facility Use Fee) - \$500

Special arrangements required for the following: *attach documentation for additional requests

Cleanup, setup, removal of litter, garbage collection _____

Sanitary facilities/location to be placed _____

I AGREE TO ADHERE TO THE TERMS OUTLINED IN THE VILLAGE OF LEWISTON FACILITIES USE AGREEMENT.

SIGNATURE: _____ **DATE:** _____

FOR VILLAGE USE ONLY:

Application Accepted by: _____ Date: _____

Approved: _____ Date: _____

Fee: _____ Lewiston PD Letter Submitted: _____ Lewiston Fire Co #1 Letter Submitted: _____

ADDENDUM TO VILLAGE OF LEWISTON FACILITIES USE AGREEMENT – MUSIC LICENSING

THIS ADDENDUM is made as of the _____ day of _____, 20____ (“The effective date”) by and between the Village of Lewiston municipality, Lewiston, New York 14092, and _____ (hereinafter referred to as the "User")

WHEREAS, the User desires to use Village property for the permitted use on the approved date(s),

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in the Village of Lewiston Facilities Use Agreement of even date herewith, and this Addendum thereto, the Village of Lewiston and the User further agree as follows:

1. In addition to the Indemnification specifically set forth in paragraph k. of the Village of Lewiston Facilities Use Agreement, and not in replacement thereof, the User further agrees to indemnify and hold harmless the Village of Lewiston to the same extent as set forth in the said paragraph k. of the said Village of Lewiston Facilities Use Agreement for:
 - A. Any and all participants, performers, members, musicians, entertainers, equipment handlers, and any and all similar and other personnel present or participating in any way in the use of any of the Village of Lewiston property or facilities, and for the performance of any activities associated therewith; and
 - B. Any and all music performed or utilized in any way in the performance of any activities associated with the use of the band shell and related facilities from any claims, suits, judgments, or litigation of any sort or kind associated with any license performing rights organization, including but not necessarily limited to these following organizations:
 - i. American Society of Composers, Authors, and Publishers (ASCAP);
 - ii. Broadcast Music Incorporated (BM);
 - iii. Society of European Stage Authors and Composers (SESAC);
 - iv. The Association of Composers and Publishes of Latin American Music (ASEMLA);
 - v. The PRS for Music, Photographic Performance Limited;
 - vi. Soundstripe;
 - vii. And any other person, entity, agency, or organization claiming or holding under contract or license granted by the copyright holder and/or agent for the broadcast, recreation, or performance of a copyrighted work.
2. Said User shall provide written verification of the license and permit which it holds with the specific organization above referenced, and further agrees to perform only songs, lyrics, and materials for which they expressing have such license and/or permit, or to which such license or permit is required. The parties acknowledge that the Village of Lewiston, New York does not engage or hire any musicians, performers, or any other personnel of any kind or nature. The User agrees to indemnify and hold harmless the Village of Lewiston from any and all matters as described in paragraph 1(B) above, and to be responsible for defending any such claims, including the payment of any attorneys fees and costs which may be associated with such defense.

Dated: _____, 20____

Sign above, print below