

Accessory Structures Ordinance  
Ordinance No. 155

An ordinance of the City of Fernan Lake Village that amends Article 5 and Article 15 of the Fernan Development Code by providing definitions and standards for attached and detached accessory structures, gazebos, pergolas and pavilions and providing for a new penalty section under Article 16, providing severability and an effective date.

Now Therefore, be it ordained by the Mayor and City Council of the City of Fernan Lake Village that the Accessory Structures and Gazebo Ordinance read as follows:

**SECTION 1: FINDINGS AND PURPOSE:**

The City Council of the City of Fernan Lake Village does hereby find that it is necessary to provide for the standards and regulations of detached accessory structures and gazebos to protect the property values and community appearance, and comfortable enjoyment of adjacent property or premises, or prevent any hazard or injury to the health, safety or welfare of the general public in such ways to constitute a public nuisance; and, to provide standards to safeguard life, health and public welfare in keeping with the character of the City by allowing for the maintenance of property or premises. The purpose of the penalty section of this Ordinance is to amend, clarify and establish penalties that conform to Idaho Code.

**SECTION 2: STANDARDS:**

The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this chapter conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive or that imposing the highest standard shall govern.

**SECTION 3: AMENDMENTS**

ARTICLE 5 DEFINITIONS (AMENDED)

SECTION 5.02 DEFINITIONS:

ACCESSORY USE OR STRUCTURES –

An “Accessory Use” is defined by this development code as “a use that (1) is subordinate to and services a principal building or a principal use legally existing on the same zoning lot; (2) is subordinate in area, extent and purpose to the principal building or principal use; (3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served and (4) is located on the same zoning lot as the principal structure or principal use served.”

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An "Accessory Structure" is defined as "a structure that: (1) is subordinate to and services a principal building or a principal use legally existing on the same zoning lot; (2) is subordinate in area, extent and purpose to the principal building or principal use; (3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served and (4) is located on the same zoning lot as the principal structure or principal use served."

Detached Accessory Structure – An accessory structure that is detached from the primary structure and that is intended solely for the storage of household goods, lawn and garden equipment, materials typically found in sufficient quantity for residential purposes and other related goods and machinery intended solely for the use of the residents of the single family property upon which it is located.

Gazebo – A pavilion like structure that is freestanding, roofed and open on all sides. Gazebos provide shade, basic shelter, and may be considered ornamental features in a landscape. Gazebos aesthetic and maintenance standards apply in Section 5.

Pavilion - may refer to a free-standing structure sited a short distance from a main residence, whose architecture makes it an object of pleasure. Large or small, there is usually a connection with relaxation and pleasure in its intended use. A pavilion built to take advantage of a view is referred to as a gazebo. Pavilions may be small garden outbuildings

Pergola - A garden feature forming a shaded walk or passageway of pillars that support cross beams and a sturdy open lattice, upon which woody vines are trained. It may also be part of a building, as protection for an open terrace Pergolas may link pavilions may extend from a building's door to an open garden feature such as an isolated terrace or pool, or may be entirely free-standing structures shading a length of walkway.

Structure - That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed or parts joined together in some definite manner.

Vinyl – Vinyl is a synthetic type of siding used for its economic value and durability. Vinyl shall not include plastic tarps or metal.

## ARTICLE 15 STANDARDS (AMENDED)

### SECTION 15.01 C.3:

#### 3. Accessory uses and structures:

- A. Attached Accessory Structures are allowed when attached to the main building structurally or by a breezeway. Garages are limited to not more than four (4) vehicles.

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- B. Detached Accessory Structures (including pavilion, pergola, gazebo) –One detached accessory structure and one pavilion, pergola, and gazebo are allowed on a lot. The lot must have a primary use (residence).
- C. Size
  - a. Floor Area Ratio – The maximum size of the structure shall not exceed 10x10 or 100 square feet.
  - b. Height – the maximum height of the structure shall not exceed 8 feet including roof line.
- D. Location – All detached accessory structures shall be located in the rear or side yard. No detached accessory structures allowed in the front yard. All detached accessory structures shall meet the following setbacks from property lines:
  - Rear yard – 0 feet
  - Side Yard – 0 feet
  - Distance from side of primary structure – must be a minimum of 5 feet per International Life Safety Code (International Fire Code)
  - Distance from back of primary structure-0 feet
- E. No accessory structure shall be constructed prior to a principal use being established and shall be located on the same lot as the principal use.
- F. Appearance – New Detached accessory Structures including Gazebos and pergolas shall be constructed of wood or vinyl. Wood shall be treated for pests or rot and painted or stained. Vinyl shall be maintenance free and weather resistant. All structures (existing and new) shall be maintained in a sound condition. For example, structures shall show no evidence of rust, rot or peeling paint. All detached accessory structures shall remain structurally sound.

**SECTION 4 VESTED RIGHTS**

All accessory structures shall be subject to a building permit. All structures that require construction shall comply with the International Building Code. All structures are required to be completed with final inspections within 180 days from the approved building permit application. All accessory structures on properties within the City of Fernan Lake Village that are erected prior to the effective date of this Ordinance shall be vested with rights to continue the use of the structure. Vested structures shall meet the minimum standards of sound condition, which shall include no evidence or rust, rot, peeling paint and be structurally sound. All vested structures that do not meet the minimum maintenance and sound condition standards of this Ordinance shall be in violation of Section 16.05 of the Fernan Lake Village Development Code and be subject to penalties.

## **SECTION 5 VIOLATIONS AND PENALTIES**

### **SECTION 16.05 ENFORCEMENT**

The City or any public official or any private citizen may take such lawful action as is necessary to prevent or restrain any violation of this Development Code or of the Idaho Code. The City may proceed against a violator in civil court for both prohibitive and mandatory injunctions requiring the violator to conform to this Development code. The City may concurrently pursue both criminal and civil enforcement actions. If the City prevails, the violator shall be held responsible for the costs of platting and litigation and shall pay a reasonable sum for attorney fees.

Should the owner of the property upon be in violation of this Development Code fail to correct or abate the violation within 15 days, the City shall issue a notice upon said property owner for a violation of this Development Code.

### **SECTION 16.06 PENALTIES (Completely replaces 16.06)**

1. **GENERAL PENALTY:** Any person convicted of a violation of any section or provision of this Development Code, where no other penalty is set forth, shall be punished as follows: Violations of the Development Code may be considered a criminal misdemeanor. Each violation and each day each violation exists shall be considered a separate offense. A person found to be guilty of violating the terms of this Development code may be fined \$1,000 or be incarcerated for six month or both, for each offense. For specific uses, an infraction is allowed and is punishable with fines or imprisonment. The City may also take civil action to compel compliance or performance.

**PUNISHMENT FOR MISDEMEANOR.** Every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or by both. The City may also take civil action to compel compliance of requirements or performance and completion of, or maintenance of, improvements installed pursuant to this Ordinance.

**PUNISHMENT FOR INFRACTION.** Every offense declared to be an infraction is punishable only by a penalty not exceeding one hundred dollars (\$100) and no imprisonment. The City may also take civil action to compel compliance of requirements or performance and completion of, or maintenance of, improvements installed pursuant to this Ordinance.

2. **ABATEMENT-** If the City or his duly appointed designee, determines, upon inspection, that any violation is not corrected or the non-conforming structure or fence is not being maintained in accordance with the provisions of this Chapter, he may notify the owner of the property, in writing, that there is a violation on the property and order compliance with the applicable regulations of the City. It the

violation is not corrected, the City may take steps to correct the violation up to and including removal at the expense of the property owner.

### 3. NOTICE TO TITLE

- a. Whenever any violation of the Development Code occurs, or other related laws, the City may issue a notice of Violation and order any work stopped by written notice. Such Notice of Violation or Stop Work Notice shall be served on any persons engaged in doing or causing such work to be done, and persons shall forthwith stop such work until authorized by the Director to proceed.
- b. In the event that a Notice of Violation is issued, the Administrator shall additionally prepare and mail, via certified mail, a Notice of Violation.
  - i. The notification shall include
    1. The property owner and the legal description of the parcel.
    2. The nature of the violation.
    3. The remedial action that must be undertaken to resolve the violation.
    4. The length of time allotted to resolve the violation.
- c. The property owner shall have 45 days from the date the Notice of Violation was mailed to resolve the violation. If resolution does not occur within those 45 days, the Notice of Violation shall be filed in the County Recorder's Office and a copy mailed to the Owner, via certified mail. The Notice of Violation shall also advise the owner of the Notice of Violation appeal process. The Administrator may consider a written appeal, submitted by the property owner, and received no later than 30 days after the Notice of Violation was mailed. The appeal shall be heard by the City Council on a day specified by the Council. If the appeal is denied, the Council shall specify an exact number of days to gain compliance with this Title before the Notice of Violation is recorded. If the appeal is approved, the Council will specify actions to be taken by the Administrator to release the violation.
- d. The Council may elect to add or remove conditions of remedial action. At such time the Violation is resolved, the owner shall pay the fee specified in the current adopted fee schedule and the Administrator shall file in the Office of the County Recorder a Release of Notice of Violation. The Release shall contain all of the information contained in Notice of Violation, as well as the corrective action taken to resolve the violation. A copy of the Release shall be mailed to the owner, via certified mail.


## **SECTION 6: SEVERABILITY and CONFLICTING ORDINANCE PROVISIONS**

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance. If any conflict occurs between this Ordinance and provisions of the other City Ordinances, the more restrictive Ordinance shall take precedence.

**SECTION 7: EFFECTIVE DATE**

This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 2 day of June, 2008

  
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Jim Elder, Mayor

ATTEST:  
  
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Cheri Howell, Clerk