

**CITY OF FERNAN LAKE VILLAGE**

**ORDINANCE NO. 179**

ORDINANCE ESTABLISHING OBLIGATIONS OF PROPERTY OWNERS TO PAY FOR SEWER SERVICES, REPAIRS, AND MAINTENANCE, AND CREATING A LEIN AGAINST REAL PROPERTY TO SECURE AND ENFORCE THOSE OBLIGATIONS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FERNAN LAKE VILLAGE, KOOTENAI COUNTY, STATE OF IDAHO:

**SECTION 1:** The council finds that:

a. The regular monthly service fee for sewer service, as set from time to time by City Council resolution, is paid by the owners of both commercially zoned and residential properties. Those payments are made by the owners to the City of Coeur d'Alene, but are then paid to the City of Fernan Lake Village. Failure of a property owner to pay the monthly fee is detrimental to the City's finances and to the wellbeing of all residents of the City.

b. The owners of the four (4) commercial properties within the City are obligated, based on Ordinance No. 69 enacted in August 1978, and on Resolution 103-1 adopted in October 2006, to repay the City for expenditures by the City to maintain and repair the sewer pump and lift stations that service each of those commercial properties. There has not been universal compliance by the commercial property owners of this obligation, and the lack of such compliance has resulted in significant losses of money to the City.

c. On past occasions, the City's sewer pumps and lift stations for residentially zoned properties have been damaged by the introduction of inappropriate materials such as non-dissolvable objects or material. The cost to repair this damage has been borne by the City rather

than the person who put the inappropriate material into the system. Requiring the responsible person rather than the City to pay for such repairs will be fair and will encourage responsible behavior.

**SECTION 2:** (Enactment) Each owner of a commercially zoned property within the City is obligated to the City for:

a. The regular monthly sewer service fee, as set from time to time by City Council resolution, which the owner of each commercial property pays to the City of Coeur d'Alene, but which is then paid to the City of Fernan Lake Village.

b. All payments made by the City for repairing or maintaining the sewer pump and lift station servicing the owner's commercial property; and

c. Any late fee, as set by city council resolution, due to owner's delinquent payment.

**SECTION 3:** (Enactment) Each owner of a residentially zoned property within the City is obligated to the City for:

a. The regular monthly sewer fee, as set from time to time by City Council resolution, which the owner of each residential property pays to the City of Coeur d'Alene and which is then paid to the City of Fernan Lake Village; and

b. All costs incurred by the City to remedy any dysfunction or to repair any damage to the City's sewer system, including the pump and lift station that services the owner's property, that is caused, intentionally or negligently, by the property owner or by a resident or guest of the owner's property.

**SECTION 4:** (Enactment) All amounts owed to the City pursuant to this ordinance shall accrue interest at the annual rate of eight percent (8%) commencing when the amount is due and

continuing until paid, and the property owners owing the principal amount is obligated to pay the City that accrued interest.

**SECTION 5:** (Enactment) The City has a lien against the real property of the owner obligated pursuant to this ordinance for all amounts owed. That lien shall be in place and effective:

a. In those cases where the City has made repairs or maintenance to a sewer pump or lift station servicing commercially zoned property and those cases where the City has remedied a dysfunction or repaired damage caused by an owner, resident or guest of residentially zoned property, at the time the City pays for the repair, maintenance or remedy;

b. In those cases where a property owner has failed to pay the regular monthly sewer fee at the time the fee is past due by thirty (30) days;

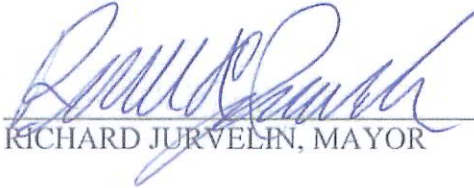
c. For late fees and interest at the time the owner becomes obligated to pay such late fee or interest.

**SECTION 6:** (Enactment) The enforcement of the lien herein provided will be commenced by the recording of a notice of claim of lien with the Kootenai County Recorder, and the mailing by regular U.S. mail, to the owner or reputed owner at the address of the property within the City. Thereafter, enforcement of the lien will be done by judicial foreclosure proceedings as authorized by law.


**SECTION 7:** (Enactment) In the event the City seeks judicial foreclosure of its lien, it shall be entitled to recover the cost incurred in that judicial action including reasonable attorney fees.

**SECTION 8:** (Enactment) The lien enforcement allowed by this ordinance does not limit or restrict the City's use of other means to recover money owed it for the operation, maintenance, and repair of the sewer system.

Passed under suspension of the rule at which a roll call vote was taken at a regular meeting of the City Council of the City of Fernan Lake Village, Kootenai County, Idaho this 1st day of December 2014.

  
RICHARD JURVELIN, MAYOR

ATTEST:

  
CINDY ESPE, CITY CLERK