

CITY OF FERNAN LAKE VILLAGE

ORDINANCE NO. 174

AN ORDINANCE OF THE CITY OF FERNAN LAKE VILLAGE REQUIRING INSTALLATION AND MAINTENANCE OF CHECK VALVES IN THE SEWER LINE OF EVERY RESIDENCE CONNECTED TO THE CITY'S SYSTEM AND RESTRICTING CLAIMS AGAINST THE CITY.

BE IT ORDAINED by the Mayor and the City Council of the City of Fernan Lake Village that:

SECTION ONE: FINDINGS. The City Council hereby finds that the operation of the City's sewer system, despite the exercise of due Care, involves risks of property damage and personal injury, that these risks are greatly lessened by having functioning check valves on the sewer service connecting each residence to the City's sewer system, and that by lessening these risks, the health, safety, and welfare of the general public are promoted and the City's monetary well being is protected.

SECTION TWO: DEFINITIONS:

- (a) "City" means the City of Fernan Lake Village.
- (b) "City's sewer system" means the several vaults with lift pumps and the main sewer pipes that connect those vaults to the main sewer line of the City of Coeur d'Alene.
- (c) "Check Valve" means a valve installed on a sewer service line that is designed and made to prevent the back-flow of sewage effluent.
- (d) "Occupant" means a person who resides at the residence or a family member of that person or a tenant or a guest of that person or a guest of the tenant or a visitor at the residence.
- (e) "Owner" means person or other legal entity having any legal or equitable interest in a residence or a portion of a residence.

- (f) "Person" means an individual or other legal entity including, but not limited to, a corporation, partnership, limited liability company, and trust.
- (g) "Residence" means a structure used as a dwelling for human habitation including the land surrounding the structures and outbuildings associated with that structure within the limits of the City.
- (h) "Sewer service line" means the pipe connected to the City's sewer system and used to transport the human waste and other sewage from the residence.
- (i) Words used in singular number include the plural, and words used in the present tense include the future.

SECTION THREE: PROHIBITION. It is unlawful for any person to own or to occupy a residence that does not have a properly functioning check valve on the sewer service line of that residence.

SECTION FOUR: PRECONDITION FOR LIABILITY. A precondition for any liability of the City for injury or damage to person or property, which is based on sewer effluent emanating from the City's sewer system into or upon a residence, is the existence on the residence's sewer service line of a properly functioning check valve.

SECTION FIVE: SUPERSEDING CAUSE and ASSUMPTION OF RISK. Failure of the owner of a residence within the City to have a properly functioning check valve on the residence's sewer service line is an extraordinary omission of a duty of care and constitutes a superseding and intervening cause for any injury or damage to person or property resulting from sewer effluent emanating from the City's sewer system regardless of whether the presence of that effluent was caused by the negligence of the City. Further, by failing to have a properly functioning check valve on a residence's sewer service line the owner and the occupant assume the risk of any injury or damage resulting from sewer effluent that emanates from the City's sewer system into or upon the residence.

SECTION SIX: SEVERABILITY. The sections of this Ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

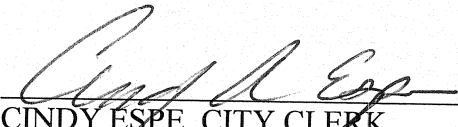
SECTION SEVEN: EFFECTIVE DATE. This ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press newspaper.

ADOPTED this 9 day of OCTOBER 2012.



RICHARD JURVELIN
MAYOR

ATTEST:



CINDY ESPE, CITY CLERK