

CITY OF FERNAN LAKE VILLAGE
DEVELOPMENT CODE NO 137

THE DEVELOPMENT CODE ESTABLISHING STANDARDS AS A BASE FOR THE REGULATION, USE, BULK, AND CONSTRUCTION OF BUILDINGS AND STRUCTURES; USE OF LAND FOR RESIDENTIAL, RETAIL, COMMERCIAL, INDUSTRIAL, AND OTHER URBAN USES; THE EXTENT OF LAND USAGE BY CERTAIN BUILDINGS, AND WHICH ESTABLISHES STANDARDS FOR THE REGULATION OF OTHER SECONDARY USES, ACCESSORY BUILDINGS AND STRUCTURES; REQUIRING BUILDING PERMITS FOR THE CONSTRUCTION, ALTERATION AND REMODELING OF BUILDINGS; PROVIDING PROCEDURES FOR GRANTING LAND DIVISIONS, SPECIAL USE PERMITS, VARIANCES, AMENDMENTS, DEVELOPMENT AGREEMENTS; PROVIDING FOR THE ESTABLISHMENT AND DUTIES OF THE PLANNING AND ZONING COMMISSION; ESTABLISHING A NAVIGABLE WATERS DISTRICT; ADDING THE SUBDIVISION ORDINANCE; PROVIDING FOR A METHOD OF ADMINISTRATION AND ENFORCEMENT; PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS; PROVIDING FOR A PROCESS OF APPEAL; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

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

ARTICLE 1
TITLE

This Ordinance shall hereafter be known as the Development Code for the City of Fernan Lake Village.

ARTICLE 2
PURPOSE

The purpose of this Development Code shall be to promote the public health, safety, morals, and general welfare of the people of the City of Fernan Lake Village and the surrounding Area of City Impact by fulfilling the purposes and requirements of the Local Land Use Planning Act of 1975 and subsequent amendments, implementing the City's Comprehensive Plan, and to prescribe the standards, requirements and procedures for land divisions describing the following:

- A. A plat or parcel of land that is divided into two (2) or more lots or parcels for the purpose of transfer of ownership or for building development.
- B. Design and construction of infrastructure and other amenities. (Adopted February 1, 1998 Ordinance Number 132)

ARTICLE 3

AUTHORITY AND ADOPTION OF THIS DEVELOPMENT CODE

This Code is adopted pursuant to the authority granted by the Local Land Use Planning Act of 1975, as subsequently amended. It includes the Zoning Ordinance required by Idaho Code §67-6511 and the Subdivision Ordinance as required by Idaho Code §67-6513. It also fulfills other requirements of the Local Land Use Planning Act, including, but not limited to, the provision for variances required by Idaho Code §67-6516, conditional use permits required by Idaho Code

hearing procedure required by Idaho Code §67-6534. This Code is also adopted pursuant to Title 50, Chapter 13 of Idaho Code, Title 67, Chapter 65 of Idaho Code, and Article 12, Section 2 of the Idaho Constitution, as amended or subsequently codified.

After the adoption of this Development Code, no use, lot, building, or structure shall be established, created, altered or renovated until a permit has been secured in compliance with each and all appropriate provisions herein contained.

Exemptions- the provisions of this Development Code shall not apply to the following:

- A. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements, and does not increase the original number of lots in any block of the recorded plat. Provided lot line adjustment shall be subject to the provisions of Article 3 of this Code.
- B. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code.
- C. The acquisition of street rights-of-way by a public agency.

ARTICLE 4 AUTHORITY OF ADMINISTRATION

The City is vested with the duty of administering the provisions of this Development Code. The City Clerk or appointed Planning Director or Administrator shall perform the administration of this Development Code and, if applicable, the City Engineer, or a licensed engineer retained by the City. It shall be their responsibility to initially review and process all applications for building permits, variances, special use permits, development agreements, code amendments, appeals and land divisions. Development permit applications shall be presented to the Planning and Zoning Commission for review and recommendations prior to being presented to the City Council for approval. The City Council shall make the decision to approve or disapprove all development permit applications.

ARTICLE 5 DEFINITIONS

SECTION 5.01 GENERAL

- A. Words used in the present tense include the future.
- B. Words used in singular number include the plural and vice-versa.
- C. The word "shall" is mandatory, and the word "may" indicates the use of discretion.

SECTION 5.02 DEFINITIONS

Unless the subject clearly requires otherwise, the following words or phrases shall have the following meanings:

ACCESSORY USE OR BUILDING - A subordinate use or building customarily incident to and located upon the same lot occupied by the main use or building.

ANIMAL - A mammal other than a human being, a reptile, an amphibian, or a bird (Amended by Ordinance Number 108 7/1/99)

APPLICANT - A private individual or entity proposing uses of land as regulated by this code.

ARTERIAL - Streets that have considerable continuity which are used for large amounts of traffic.

BLOCK - A group of lots within defined boundaries that are described by a recorded plat.

BUILDING SETBACK LINE - A line established at the minimum distance a building may be located from any property line as determined by this Title or the City's Development Code.

BREEZEWAY - A roofed passage, often open, connecting two buildings.

CHILD'S PLAYHOUSE: A single story structure built or placed at ground level, containing forty-eight (48) square feet or less of interior floor space, designed for the use of children twelve (12) years or less in age. Such structure shall be of a temporary nature, contemplating a useful life of ten (10) years or less, built without footings or foundation, and not served with any utilities. Such structure shall be of a construction, design, and appearance consistent with the residential home on the premises. Such structure shall not be used for storage or any use other than for a child's amusement or recreation. (Amended August 5, 1991 Ordinance Number 110)

COUNCIL - The City Council of Fernan Lake Village.

COMPREHENSIVE PLAN - (Chapter 67, Idaho Code, Local Land Use Planning Act of 1975). The Comprehensive Plan adopted by the City and currently in effect, which plan may have recommendations for streets, parks, schools, public buildings, utilities, and other public improvements.

CURB LINE - That part of a curb that is farthest from the street and nearest to the front property line of a lot. If the street has no curb, then the curb line shall be at a point that is eleven and one-half inches (11 ½") from the closest paved area of the street toward the front lot line of the lot in question. (Amended July 19, 1993 Ordinance Number 116)

DEVELOPMENT CODE - The Implementing Document comprised of regulations from the zoning Ordinance and the Subdivision Ordinance and any previous amendments.

DEVELOPMENT PERMIT - Land use permits that include, but are not limited to special use permits, conditional use permits, variances, subdivisions, zone changes. Building permits are not considered Development permits.

EASEMENT - A grant by the property owner to specific persons or the public for specific purposes.

DRIVEWAY - A vehicular access to a single lot, parcel or tract.

FAMILY: A number of individuals living together as a single housekeeping unit, and doing their cooking on the premises exclusively as one household.

FIRE DISTRICT - The district having jurisdiction for fire control in the incorporated areas in the City of Fernan Lake Village.

FLOOD HAZARD AREA - An area subject to flooding as defined in the Kootenai County Flood Damage Prevention Ordinance.

FRONT YARD - The required open space between the front property line and the nearest part of any building on the lot, provided that for the lots bordering Lakeview Drive the front yard shall be the required open space between the curb line and the nearest part of any building on the lot, save as elsewhere in this Article excepted. (Amended July 19, 1993 Ordinance Number 116)

FRONT PROPERTY LINE - The front lot line as shown on the official recorded plat of the property, and as modified by any subsequent vacation, condemnation, or conveyance for public purposes. In the case of un-platted property, or in case the front property line of platted property cannot be determined from the recorded plat, the Clerk shall determine the front property line. In making such determination, the Clerk shall take into consideration the character and location of all neighboring improvements and the character of the buildings proposed to be built on the said lot, and shall designate the front property line which most nearly conforms to the existing conditions of platting and/or improvements and the purpose of the Zoning Act as applied in the surrounding district. Any property owner who is dissatisfied with the determination of the Clerk may appeal to the Planning Commission.

GROUP HOMES - Any home in which eight or fewer unrelated mentally and/or physically handicapped or elderly persons reside; and which is supervised. Resident staff, if employed, need not be related to each other or to any of the mentally and/or physically handicapped or elderly persons residing in the home. No more than two of such staff shall reside in the dwelling at any one time.

HARBORING OF ANIMALS - The keeping of any animal on the premises to which it customarily returns daily for food and care. (Amended by Ordinance Number 108 7/1/99)

HEALTH DISTRICT - Panhandle Health District.

HEIGHT - The vertical distance measured from the average finished grade of the building site, as determined from the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof.

LIVESTOCK - means cattle, horses, goats, sheep, hogs, chickens, ducks, geese, and turkeys. (Adopted by Ordinance Number 108 7/1/99)

LOCAL HIGHWAY JURISDICTION - The City has jurisdiction for primary and secondary roads in the incorporated areas of the City of Fernan Lake Village. The City of Coeur d'Alene has jurisdiction of certain streets that abut portions of the City of Fernan Lake Village.

LOT - A fractional part of a subdivided land having boundaries that are described by a recorded plat. (Ordinance Number 132). Any parcel of land created and described by a record of survey or plat.

PLANNING COMMISSION - A volunteer group of individuals appointed by the governing body to make recommendations on land divisions, land use and zoning issues and appeals of administrative determinations made by the City Clerk.

PLANNING DIRECTOR - An officer and sometimes referred to as "Administrator". The Planning Director shall also mean the Director's designee. If the City Council has not appointed a Planning Director, the City Clerk shall be the Planning Director.

PLAT - A map of representation of a subdivision or division of land into lots, blocks, roads, to be filed as a public document.

PREMISES - real property and also means the inside of a closed motor vehicle (Adopted by Ordinance Number 108 7/1/99)

PRIVATE DRIVEWAY - A privately owned and maintained path with a minimum travel width of twenty (20) feet that provides vehicular and pedestrian access to one (1) subdivided parcel.

PUBLIC ROAD OR STREET - Public access, which provides vehicular travel.

REAR PROPERTY LINE - The property line of a lot most nearly parallel to the front property line of the same lot, except that for triangular shaped lots, the rear property line shall be represented by the point of intersection of the two property lines, which are not the front property line as defined in this Development Code.

REAR YARD - The required open space on a lot extending along the rear property line throughout the whole width of the lot. For triangular lots, the rear yard shall be the area of the lot lying within a circle having a radius equal to the depth of the required rear yard and its center at the point herein defined as the rear property line for such lots.

SETBACK - See front, rear and side yards.

SIDE YARDS - The required open space on a lot between the side wall line of a building and the side line of the lot and extending from the front yard to the rear yard.

SINGLE FAMILY DWELLING - A building arranged or designed to be occupied by not more than one family. Single-family dwellings include group homes as defined by Idaho Code 67-6531.

ARTICLE 6 ESTABLISHMENT OF THE PLANNING AND ZONING COMMISSION

SECTION 6.01 CREATION OF PLANNING AND ZONING COMMISSION

There is hereby created and established a Planning and Zoning Commission of the City of Fernan Lake Village.

SECTION 6.02 MEMBERSHIP, TERM AND COMPENSATION

There shall be appointed by the Mayor, subject to the confirmation of the Council, five (5) members of such Commission, The term of office of ex-officio members shall correspond to their term of office. The terms of appointed members shall be two (2) for two (2) years, two (2) for four (4) years and one (1) for six (6) years to be determined by lot, hereafter the term of all appointive officers shall be determined by lot at least three (3) years, and no more than six years. Vacancies occurring shall be filled by the Mayor and confirmed by the Council. Members may be removed by majority vote of the Council. Members shall serve without compensation.

SECTION 6.03 ORGANIZATION, RULES, MEETINGS

The Commission shall select its own chairman and create and fill such other offices as it may determine necessary and shall conduct such meetings as required and in the manner prescribed by Idaho Code.

SECTION 6.04 DUTIES

It shall be the duty of the Commission to recommend and make suggestions to the City Council for the following duties

- a. Conduct a Comprehensive Planning process, which includes the preparation, implementation, review and update of the plan.
- b. Review and amend as to the boundaries of the various zoning districts and the regulations to be enforced therein;
- c. To make recommendations concerning the lining out, extending, widening and location of streets, roads and highways;
- d. To make suggestions concerning the density of population and development of land within the respective boundaries of the City;
- e. To make suggestions concerning the future growth and development of the City in order to promote the public health, morals, safety and welfare of the individuals thereof;
- f. To give suggestions and advice to individuals concerning landscaping and location of buildings, structures or works to be erected, constructed or altered by or for such individuals;
- g. To consider and make recommendations to the Council for changes and amendments to existing regulations and restrictions upon the use of land within the boundaries of the districts established by the Development Code of the City;
- h. To review the decisions of the City Clerk upon the issuance of building permits, and to consider the requirements or special property uses. (Amended May 3, 1971 Ordinance Number 40)
- i. To review and make recommendations on appeals of administrative determinations made by the City Clerk.

**ARTICLE 7
GENERAL PROVISIONS**

SECTION 7.01 FRONT YARD

Where any front yard is required, no building shall be hereafter erected nor shall any addition be made to any existing building so that any portion of such new building or addition to an existing building shall be nearer to the front property line than the distance indicated by the depth of the required front yard, subject to the following exceptions:

- A. Exceptions: Eaves, cornices, belt courses and similar ornamentation may project over a front yard not more than two (2) feet. Open porches, platform or terraces, the floors of which are not higher than the first floor of the building, may extend into the front yard not more than six (6)

feet; steps may connect such porches, platforms, or terraces to the surface of the front yard. Fences not over forty-two inches (42") in height may be erected within a front yard.

SECTION 7.02 SIDE YARD

Where any side yard is required, no building shall be hereafter erected nor shall addition be made to any existing building so that any portion of such new building or addition to an existing building shall be nearer to the side lot line than the distance indicated by the width of the required side yard, subject to the following exceptions:

A. Exceptions: Eaves, cornices, and similar ornamentation may extend over a side yard for a distance of not more than two (2) feet. Platforms, terraces and steps, not over forty-two inches (42") in height may be extended into a side yard, provided, however, a fence in a side yard of up to seventy-two inches (72") in height may be erected upon application by the owner of the lot if:

1. Written notice to the adjoining property owners is given not less than fifteen (15) days prior to the City Council acting on such application at a duly called special or regular meeting of the Council at which meeting persons in favor of, or opposed to, the application may be heard; and
2. The City Council finds that a fence higher than forty-two inches (42") is necessary to preserve, enhance, or protect the life, property, peace, safety, or harmony of the applicant; and
3. The Council finds that a fence over forty-two inches (42") would not adversely affect the health, peace, or safety of the adjoining property owners or the general public; and
4. The Applicant agrees to the conditions the Council may place on granting the application, which may include duration, location, type of fence, method of construction, or other conditions relating to the erection and maintenance of the fence. (Amended February, 1999, Ordinance Number 13)

SECTION 7.03 REAR YARD

When any rear yard is required, no building shall be hereafter erected nor shall any addition be made to any existing building so that any portion of such new building or addition to an existing building shall be nearer to the rear property line than the distance indicated by the depth of the required rear yard, subject to the following exceptions:

A. Exceptions: The usual accessory buildings commonly appurtenant to the principal structure erected on the lot, such as private storage garages, or private non-commercial greenhouses, may be erected within a rear yard. A dog house, swing, slide, child's gym set, or child's playhouse may be constructed or placed in a rear yard and need not be attached to the main structure of the lot. (Amended August 5, 1991 Ordinance Number 110) Eaves, cornices, steps, platforms, terraces and open porches may extend into a rear yard. Fences not over seventy-two inches (72") in height may be erected within a rear yard. In the Residential District R-I, not more than twenty percent (20%) of the rear yard area may be occupied by buildings.

ARTICLE 8
NON-CONFORMING USES

The lawful use of the land or premises existing at the time of adoption of this Development Code, although such use does not conform to the provisions of this Development Code, may be continued, but not expanded.

Nothing herein shall be deemed to prohibit the restoration of a building within a period of six (6) months from the date of its partial destruction to the extent of not more than fifty percent (50%) of its replacement value, by fire, explosion, act of God or act of the public enemy, or prevent the continuance of the use of such building or part thereof.

ARTICLE 9
ADMINISTRATIVE APPLICATIONS FOR DEVELOPMENT PERMITS AND LAND DIVISIONS,
AMENDMENTS AND APPEALS

SECTION 9.01 APPLICATION PROCEDURES

There are a number of procedural steps prescribed in this Development Code. Prior to submitting ANY application form, the Applicant is required to make a pre-application appointment with the City Clerk or his designee. The Applicant shall bring at least two copies of all proposals to the initial meeting.

- A. Development Permits: Applications for a special use permit, variance, amendment to the Development Code, or development agreement will be initiated as follows:
 - 1. One (1) or more affected persons may file a written, verified application with the City Clerk, together with:
 - a. A fee per adopted Fee Schedule Resolution; and
 - b. The estimated cost of giving notice including, if required, publication costs; and,
 - c. A report from a Title Insurance Company showing ownership of the property involved; and
 - d. The Applicant shall provide a current surrounding property owners list-within three hundred (300) feet of the external boundaries of the land being considered.
 - 2. The Planning and Zoning Commission or the City Council may initiate the application for development permits as described herein.

- B. Land Divisions: Application for land divisions shall be initiated as follows:
 - 1. The Applicant shall bring two (2) prints of the proposed division to the initial pre-application meeting. The discussion will center on the standards and development criteria applicable to the subdivision process.

- a. When the Applicant submits the plat to begin the review process, he/she shall submit five (5) prints together with the application form and fee payment. The fee schedule is established by Resolution.
- b. The Applicant requesting subdivision approval shall submit two (2) sets of completed applications and associated materials containing at least the following:
 1. Legal owner's signature. For purposes of this Development Code, legal owners are defined as the property owner delineated in the Tax Assessor Roles Data Base. If the Applicant is not the legal owner, then the Applicant shall have a letter from the holder of legal title authorizing the Applicant to file the subdivision application; and
 2. Application form and applicable fees for notice, advertising, and surrounding property owner mailing as established by Resolution of the City Council; and
 3. Legal description of the parcel being divided; and
 4. Two (2) copies of the subdivision plat; and
 5. One (1) copy of the subdivision plat reduced to 8 1/2 x 11-inch paper size; and
 6. Four (4) or more 35 mm pictures of the site, each 4-inch by 6-inch in size or larger, preferable panoramic view, taken at various angles depicting the general character of the site, accompanied by a map showing the location and orientation of such photographs.
 7. Letters of approval from the following agencies:
 - a. Fire District - Determination that the driveway access and location for each lot is adequate for fire protection and emergency service, that the fire flow supply is adequate, and that there is sufficient defensible space to buffer surrounding property owners and public lands.
 - b. Health District, City of Fernan Lake Village and the City of Coeur d'Alene - That each lot either has, or can acquire, a sewer hook-up for service by the City's sewer system.
 - c. Local Highway Jurisdiction (City of Fernan Lake Village and/or City of Coeur d'Alene) - Determination of the sufficiency of the existing adjacent public road system, and adequacy of any and all approaches onto the public roads.
 8. The subdivision drawing shall be drawn in ink on a reproducible material 18" X 27" in size, shall be prepared by a licensed surveyor

in the State of Idaho, shall comply with all rules and standards in this Development Code, and will show the following:

- a. The name of the short plat and the location including section and quarter section, meridian, township, range, county, and state; and
 - b. North arrow, scale, and date; and
 - c. The rights-of-way of existing roads and alleys, private or public, with widths and courses clearly shown; monuments shall be shown at all changes in course along the centerline of any right-of-way, excluding alleys; and
 - d. Number of each lot, all lots numbered consecutively; and
 - e. The boundaries of the lots and the exterior boundary of the plat shown by distance and bearing; and
 - f. Utilities - Location of all existing sanitary sewer, storm water, wells, drain field sites; and
 - g. Description and location of survey monuments, initial point and tie to at least two (2) public land survey corners, or in lieu of public land survey corners, two (2) monuments recognized by the County Surveyor. If the proposed subdivision is located within one (1) mile of two established Global Positioning System (GPS) control stations, the public land corners and initial point shall be given coordinates based on the Idaho Coordinate System West Zone. All horizontal coordinate values shall be grid coordinates based upon the North American Datum of 1983 (NAD 83) as determined from control points established by a GPS geodetic control survey for Kootenai County, as published and on file in the official records of the County, or other control points or public land survey corners having coordinate values determined from a traverse or triangulation performed so as to produce accuracy in meeting the specification of the Third Order, Class II Traverses or Triangulation, as published by the National Oceanic and Atmospheric Administration (NOAA), in the Classification Standards Accuracy and General Specification of Geodetic Control Surveys . Any coordinate value must be accepted or published by the County; and
 - h. Location, dimensions, and purpose of existing easements; and
 - i. Basis of bearings; and
 - j. Special setback or building restriction lines.
1. The following unsigned certificates on the signature page of the plat:

- a. A notarized Certificate of Title on the face of the plat showing ownership, property description and dedications; and
- b. Certification by an Idaho Licensed Surveyor that the plat survey is accurate and conforms to the provisions of these regulations and Idaho Code; and
- c. Certification by the Health District that the plat meets the requirements of Sections 50-1326 through 50-1329 of Idaho Code, Sanitary Restriction laws; and
- d. Certification of acceptance of any easement or property dedicated to a public agency, utility provider, or other entity; and
- e. Certification by the County Surveyor that the plat conforms to State and County requirements for platting; and
- f. Certification by the City Council, City Clerk, and/or City Engineer in accordance with Idaho Code; and
- g. Certification by the County Treasurer that the taxes on the described property are current; and
- h. Certification by the City Clerk that no LID (Local Improvement District) or City conditions are described on the property prior to subdivision. This is a requirement on all splits; and
- i. Certification by the Council that the plat meets all City requirements; and
- j. Certification by the County Recorder's Office that the plat has been accepted for record.

2. The face of the plat shall delineate applicable conditions of subdivision approval intended to run with the land in perpetuity.

ARTICLE 10

ADMINISTRATIVE PROCEDURES FOR LAND DIVISIONS, SPECIAL USE PERMITS, VARIANCES, AMENDMENTS, DEVELOPMENT AGREEMENTS AND APPEALS

SECTION 10.01 GENERAL

- A. Prior to submitting an application, the Applicant shall complete a pre-application conference with the Planning Director to discuss the project. The discussion will center on the standards and development criteria applicable to the development permit or subdivision process.

- B. Letters from recommending/approving agencies are required in a complete application. The Planning Director will direct the Applicant to meet with applicable approving agencies and submit the Development Code requirements with the application packet.
- C. The Applicant shall file an application with the Planning Director.
 - 1. The Director shall have five (5) working days to determine applicability and completeness of the application. If the application is incomplete, the Planning Director shall inform the Applicant of additional items necessary to complete the application.
- D. The Applicant shall adequately post the property at least fourteen (14) days prior to the Planning and Zoning Commission's review.
- E. Any person may comment on the proposed application and submit written comments through mail or in person to the City Clerk. Those comments shall be kept in the file.
- F. If there are no comments received that oppose the criteria requirements or applicable codes in regards to in the application, then the Planning and Zoning Commission shall review the application, consider the criteria presented, any comments received and the facts on the record. The Planning and Zoning Commission may recommend to approve, deny, or forward the application to the City Council for consideration under the City of Fernan Lake Village Development Code requirements.
- G. The City Council may hold a public hearing on the application, or in the case of a proposed amendment to the Development Code; the City Council shall hold a public hearing.
- H. The City Council shall render its decision in writing within thirty (30) days of the close of the public hearing. The City Council shall outline the Development Code and standards used, the facts of the application and such conclusions as to support its decision. If the City Council denies the proposal, it shall specify in its decision the actions, if any, which the Applicant could take to obtain approval. The City Council shall also provide the Applicant the applicable appeal procedures.
- I. In the case of a subdivision, and if the plat is approved:
 - 1. The Applicant shall have thirty (30) days to circulate the original Mylar or silver emulsion for all signatures, except the City Council. All signatures and stamps on the original must be in reproducible quick-drying permanent, indelible black ink. The final Mylar shall have all applicable certification signatures from the agencies as outlined in Section 9.01.B.9. The Applicant shall submit the Mylar and the applicable recording fees to the Planning Director.
 - 2. The Planning Director shall place the signing of the Mylar on the next available Council meeting deliberations calendar for final signature, and then it shall be transmitted to the County Recorder for recording.
 - 3. The plat shall be recorded within thirty (30) days of approval. If the plat is not recorded within thirty (30) days of approval, the approval shall become null and void and the Applicant shall be required to submit a new application.

SECTION 10.02 PLAT APPROVALS PRIOR TO RECORDING

No deed, map, plat, replat or plan of a subdivision subject to the provisions of this Ordinance shall be submitted to any public office for recording until the Certificate of Final Approval for that deed, map, plat, replat or plan has been signed by both the City Engineer and the City Clerk as required by Section 1308, Title 50, Idaho Code. No person shall record a deed that would have the effect of subdividing property within the City without first complying with this Development Code.

SECTION 10.03 MODIFICATION OF APPROVED PLAT

- A. Any modification to a map, plat, replat, or plan of a subdivision shall be made in accordance with the procedures of Chapter 13, Title 50, Idaho Code. Modifications shall include replatting, lot line adjustments, vacations and all other amendments covered by Idaho Code.
- B. Any property owner desiring to revise an existing plat, or property line or to vacate any portion of a public easement, right-of-way or other public land shall file a written petition with the City Clerk. The petition shall include a statement describing the circumstances and the reason for the request. Accompanying the petition shall be a copy of the plat map, record of survey or other accurately drawn plan illustrating the present property lines, easement or right-of-way lines and the proposed version to said lines. Shown on the map or plan, or attached thereto, shall be the name, address and affected owners of record. The Applicant shall pay any fees required by the City. The City Clerk shall examine the petition and accompanying information for completeness before placing the petition on the agenda of the next available City Council meeting.
- C. Council Action - The City Council shall review the petition and make a number of determinations as are set forth in the Regular Plat Procedures of this Development Code and may recommend approval, or conditional approval if the petition is incomplete. If the Council recommends approval, it may determine that a public hearing is necessary and shall set a date. If a public hearing date is set, the petitioner and the City shall follow the requirements for public hearing and the applicable procedures for final plat approval as set forth in this Development Code. In making its final decision, the City Council shall consider the interest of the public and may grant approval with such restrictions as deemed necessary. Any public land that is vacated shall be accomplished in accordance with the Idaho Code and the City Council shall quit claim the vacated land to the rightful property owner.
- D. Recordation - The petitioner shall be responsible for obtaining the necessary signatures on the original plat or record of survey and shall file such a document with the County Recorder. The petitioner shall then return a copy of the original bearing the Recorder's stamp to the City.

ARTICLE 11 NOTICE AND HEARING PROCEDURES LAND DIVISIONS, SPECIAL USE PERMITS, DEVELOPMENT AGREEMENTS, AMENDMENTS TO THE CODE

SECTION 11.01 NOTICES

Notice of hearing on a request for a land division, special use permit, development agreement, or amendment to the Development Code shall be given as set forth below, which notice shall be in addition to any other notice requirements:

- A. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the application to be discussed shall be published in the Coeur d'Alene Press. Notice shall also be made available to other newspapers, radio and television stations serving the City for use as a public service announcement.
- B. Notice of the application shall be sent to all political subdivisions providing services within the planning jurisdiction, including school districts, at least fifteen (15) days prior to the public hearing.
- C. Prior to granting a permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held before the Planning and Zoning Commission.
- D. In addition, notice shall be posted on the premises at least one (1) week prior to hearing. Notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the Commission. The Applicant shall be responsible for notifying the surrounding property owners of the project and upcoming hearing date. The list shall be obtained and verified from a Title Company and be mailed Certified for delivery no later than 15 days prior to the public hearing.
- E. Following a hearing before the Commission, if the Commission makes a material change in what it intends to recommend to the City Council, which material change is not revealed in the public notice, further notice and hearings shall be provided before the Commission forwards its recommendation to the City Council.
- F. All hearings conducted by the Planning and Zoning Commission and the City Council regarding requests for land divisions, special use permits, development agreements, or amendments to the Development Code shall be tape recorded so that a transcribable, verbatim record of the proceedings can be made. Following a hearing before it, the Planning and Zoning Commission shall make written findings and recommendations on the request. Prior to rendering its decision, the City Council shall make written findings upon which its decision is made. A record of the hearings, findings made, and actions taken shall be maintained. (Amended December 6, 1993, Ordinance Number 118)

ARTICLE 12
DECISION MAKING CRITERIA

In interpreting and applying the provisions of this Development Code, they shall be held to the minimum requirements for the promotion of the public health, safety, morals and general welfare. Therefore, where this Development Code imposes a greater restriction upon the use of buildings or premises, or requires larger open spaces than are imposed or required by other laws, rules or regulations, the provisions of this Development Code shall control.

- A. The Planning Commission shall rule on the proper application or interpret the meaning of the Development Code in case there is a dispute between the administrative officials of the municipality and any owner or owners of property.

- B. The Planning Commission shall interpret the provisions of this Development Code in such a way as to carry out the intent and purpose of the plan thereof, as shown on the Use District Map herein or hereafter adopted, should the street layout actually on the ground differ from that shown on the maps aforesaid.

SECTION 12.01 SPECIAL OR CONDITIONAL USE PERMITS

- A. A special use permit may be granted to an Applicant if the proposed use is otherwise prohibited by the terms of this Code, but may be allowed with conditions, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the Comprehensive Plan. Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one parcel of land to another.
- B. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:
1. Minimizing adverse impact on other development;
 2. Controlling the sequence and timing of development;
 3. Controlling the duration of development;
 4. Assuring that development is maintained properly;
 5. Designating the exact location and nature of development;
 6. Requiring the provision for on-site or off-site public facilities or services;
 7. Requiring more restrictive standards than those generally required in the Development Code;
 8. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the City.

SECTION 12.02 VARIANCE

- A. **Standard.** An affected person may apply to the City for a variance. A variance is a modification of the requirement of this Development Code as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, set backs, parking space, height of building, or other Development Code provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an Applicant only upon a showing of undue hardship because of the characteristics of the site and that the variance is not in conflict with the public interest.
- B. **Notice and Hearing Procedures**
1. Notice shall be posted on the premises at least one (1) week prior to hearing. Notice shall also be provided to property owners or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered. The Applicant shall be responsible for notifying the

surrounding property owners of the project and upcoming hearing date. The list shall be obtained and verified from a Title Company and be mailed Certified for delivery no later than 15 days prior to the public hearing.

2. All hearings conducted by the Planning and Zoning Commission and the City Council regarding requests for variances to the Development Code shall be tape recorded so that a transcribable, verbatim record of the proceedings can be made. Following a hearing before it, the Planning and Zoning Commission shall make written findings and recommendations on the request. Prior to rendering its decision, the City Council shall make written findings upon which its decision is made. A record of the hearings, findings made, and actions taken shall be maintained.

SECTION 12.03 LAND DIVISIONS

A. Proposals of land divisions shall meet the following criteria:

1. The development meets the requirements of this Development Code and
 2. The development shall not cause an adverse affect on the health, safety, and welfare of the citizens of the City; and
 3. The surrounding area' s history or previous divisions; and
1. The development does not cause a congestive impact upon existing and proposed community facilities and services.
 2. The development shall comply with the City's Comprehensive Plan Map and land use policies.

SECTION 12.04 AMENDMENTS TO THE DEVELOPMENT CODE

A. This Development Code may be amended as follows:

Requests for an amendment to the Development Code shall be submitted to the Planning and Zoning Commission, which shall evaluate the request to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the City.

1. If the request is in accordance with the Comprehensive Plan, the Planning and Zoning Commission may recommend and the City Council may adopt or reject the Development Code after it conducts a hearing under the notice and hearing procedures provided in Article 11 of this Development Code, provided that in the case of a zoning district boundary change, additional notice shall be provided by mail to property owners or purchasers of record within the land being considered, and within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission.
3. If the request is not in accordance with the Comprehensive Plan, or would result in demonstrable adverse impacts upon the delivery of service by any political subdivision providing public services, including school districts, within the City, the request shall be submitted to the Planning and Zoning Commission which shall recommend and the City Council may adopt or reject an amendment to the

comprehensive plan under the notice and hearing procedures provided herein. After the Comprehensive Plan has been amended, this Development Code may then be amended as provided in A.1. of this section.

1. If the City Council adopts a zoning classification pursuant to a request by a property owner, which classification is in conformity with the Comprehensive Plan and Development Code, the City Council shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the City Council adopted said individual property owner's request for a zoning classification change. If the City Council does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this paragraph.

SECTION 12.05 DEVELOPMENT AGREEMENTS

The City Council may, by Code adopted or amended in accordance with the notice and hearing provisions provided herein, require or permit as a condition of rezoning that an owner or developer make a written commitment concerning the use or development of the subject parcel. The hearing on a development agreement shall be conducted by the Planning and Zoning Commission, which shall forward its findings and recommendations to the City Council. The City Council shall adopt rules governing the creation, form, recording, modification, enforcement and termination of commitments. Commitments shall be recorded in the office of the County Recorder and shall take effect upon the adoption of the amendment to the Development Code. Unless modified or terminated by the City Council, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded, however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified only by the permission of the City Council after complying with the notice and hearing provisions herein. A commitment may be terminated, and the zoning designation upon which the use is based reversed, upon the failure of the requirements in the commitment after a reasonable time as determined by the City Council or upon the failure of the owner, each subsequent owner or each other person acquiring an interest in the parcel to comply with the conditions in the commitment and after complying with the notice and hearing provisions. By permitting or requiring commitments by Development Code the City Council does not obligate itself to recommend or adopt the proposed Development Code. A written commitment shall be deemed written consent to rezone, upon the failure of conditions imposed by the commitment in accordance with the provisions of this section.

ARTICLE 13 APPEALS

An Applicant may appeal a decision by the City Clerk by filing a written notice together with any fees with the City Clerk. Upon receiving notice of appeal the City Council shall set a date for a public hearing on the subject and shall notify all parties of the original petition of said public hearing. The City Council may admit additional testimony or evidence at the hearing, which shall be held at the next available Planning Commission meeting, which will allow for proper notice and review of relevant facts. An Applicant may subsequently seek judicial review in the District Court should the final decision of the City be unfavorable and if all remedies under local Ordinances have first been exhausted.

ARTICLE 14
ESTABLISHMENT OF DISTRICTS

All land within the boundaries of the municipality shall be classified according to the following Use Districts:

- A. Residential District – R-1
- B. Commercial District – C-1
- C. Navigable Water District (NW-1) for the purpose of regulating use of the waters of Fernan Lake within the extended boundaries for the protection of health, safety and welfare of the residents and citizens of the City of Fernan Lake Village. (Amended November 20, 1995 Ordinance Number 121)

SECTION 14.01 BOUNDARIES

The boundaries of said Use Districts shall be as follows:

- A. RESIDENTIAL DISTRICT R-1: All of the land within the City east of Interstate 90.
- B. COMMERCIAL DISTRICT C-1: All of the land within the City west of Interstate 90.
- C. NAVIGABLE WATER DISTRICT: NW- 1 The boundaries and City limits of the City of Fernan Lake Village shall be, and the same are hereby fixed, determined and extended over the surface waters of Fernan Lake for a distance of one-fourth (1/4) mile (1,320 feet) from the low-water mark of Fernan Lake in all directions extending from the existing City limits of the City of Fernan Lake Village as the same intersect with said natural ordinary low-water mark. (Amended November 20, 1995 Ordinance Number 121)

ARTICLE 15
STANDARDS

SECTION 15.01 STRUCTURES - RESIDENTIAL DISTRICT R-1

- A. Hereby establishes the R-1 One Family Building Zone and the standards and regulations by which certain land uses may be permitted therein. NOTE: there are additional regulations and standards delineated for structures within a flood zone or flood way. Please refer to Ordinance Number 97.
- B. ESSENTIAL USE DECLARATION: The essential function of the R-1 Zone is to provide for single-family dwellings and accompanying accessory buildings. A single-family dwelling may include a garage for not to exceed three (3) vehicles, a patio or storage building attached structurally or by a breezeway.



- C. PERMITTED USES:

1. Single-family dwellings and group homes: Provided that the occupants shall either (a) own an interest in the single-family dwelling or (b) be tenants, or otherwise occupy the single-family dwelling on a basis of not less than one (1) one-month duration. No single family dwelling in an R-1 Zone shall be used as a boarding house, motel, bed and breakfast, or other temporary lodging facility, nor shall a single-family dwelling be used for commercial purposes or rented for use as a place in which to conduct a special event including a wedding, funeral, party, reunion, camp, meeting, dance, or sporting event. (Adopted November 3, 1977 Ordinance Number 128) No signs excluding rental or standard real estate for sale/lease signs shall be allowed in the R-1 District.
2. Manufactured homes are allowed as single-family dwellings per Idaho Code 67-6509A/B. Specific standards for manufactured homes are allowed per the Idaho Code Section. The following standards shall apply:
 - a. The home shall be multi-sectional and enclose a space of not less than one thousand (1000) square feet.
 - b. The home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than 12 inches above grade.
 - c. The home shall have a minimum of a 4/12 pitched roof,
 - d. The home shall have exterior siding and roofing that is comparable to the predominant materials used on surrounding dwellings. The City Clerk will make the decision as to comparability.
 - e. The home shall have an attached garage constructed of materials meeting the standards outlined in subsection d.
 - f. The home shall meet the same lot size and siting requirements of a single-family dwelling.
3. Accessory uses: i.e., a private garage having space to accommodate not more than three (3) vehicles, carports, tool sheds, storage sheds, patios when attached to the main building structurally or by a breezeway. Detached accessory structures shall require a conditional use permit.
4. Home occupations.
 - a. Participants: No more than one person other than members of the family residing on the premises shall be engaged in such occupation. Exception: Employees not related to the home occupation such as household staff or caretakers
 - b. Subordinate Use: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than thirty five percent of floor area not to exceed 500 feet of the dwelling unit shall be used in the conduct of the home occupation.
 - c. No outside occupations
 - d. Visibility Regulated: There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
 - e. Traffic and Parking: No significant traffic shall be generated by such home occupation and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements of this Code and shall not be located in a required front yard.

- f. Impact Limited: No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
 - g. Conditions: Conditions may be imposed by the City Clerk to ensure compliance with the standards.
 - h. Non-Compliance: Any noncompliance with the criteria set forth in this section or any condition placed on the home occupation shall constitute a violation of the Zoning Ordinance.
5. Home gardens and the gardening of vacant land.
6. Private boathouses or docks for pleasure craft.
7. Public recreational parks, subject to the following standards:
- a. Park usage may be limited to specific hours, if found appropriate by the City Council.
 - b. Parking areas shall be provided for boat trailers and automobiles to allow free flow of traffic, prevent blockage of public rights-of-way, and with such signage as is necessary to direct traffic in an orderly manner to lessen congestion in the streets.
 - c. Internal roads and cul-de-sacs shall meet the requirements of all City Ordinances and the Uniform Fire Code.
 - d. Public restrooms shall be provided and must meet the requirements of all City Ordinances, Uniform Building Code, Idaho Code, and regulations of other agencies for provision of sewage facilities.
 - e. Solid waste containers shall be placed in strategic locations to facilitate disposal by park users. A plan shall be prepared for pickup and disposal of solid waste.
 - f. Screening, fencing, or buffering plans may be required to protect adjacent properties.
 - g. Lighting of park areas shall be directed internally and not be directed toward adjacent properties.
 - h. Storm water drainage and runoff shall be directed away from Fernan Lake in such a manner that natural filtration occurs.
 - i. Existing and proposed contours of the park development shall be prepared, including erosion and sedimentation control plans or narrative which shall indicate measures to be taken to prevent erosion and/or sedimentation during and after construction. Said plans or narrative shall also include temporary and permanent covers of vegetative materials, diversion of

runoff, retention areas or swales, and drainage details of structures or site improvements.

- j. Plans indicating the location of all site improvements shall be provided, including all items mentioned above as well as any special recreational facilities, such as play areas, picnic areas, pathways, boat launching areas, etc. Said plans shall be subject to review and approval by the City Council.
- k. No hearing or notification standards shall be required for City Council review; however, a request for plan review shall be in accordance with the policies and procedures of the City for placement on the regular agenda of the City Council. Further, the City Council may require such conditions for development of public parks and recreational areas as will ensure the health, safety, and welfare of the public.
- l. Prior to the commencement of any park development, the City Council shall approve a park plan in which specific standards and conditions may be set forth, including, but not limited to, those mentioned in the preceding paragraphs and those pertaining to:
 - 1. Minimizing adverse impact on adjacent landowners, the surrounding residential area, and the general public;
 - 2. Controlling the sequence and timing of development;
 - 3. Controlling the duration of development;
 - 4. Assuring that the park is maintained properly;
 - 5. Designating the exact location and nature of development;
 - 6. Requiring a provision for on-site or off-site public facilities or services.

Failure to substantially comply with the standards and conditions specified in this Development Code or the park plan is grounds for revoking the park plan. If revoked, no further development shall take place, provided, however, the developer or owner may seek the Council's approval of a new or revised park plan. (Amended June 4, 1990, Ordinance Number 105)

- D. **SPECIAL USE PERMITS:** There is hereby established and listed certain special uses which may be conditionally permitted in the R-1 Zone.
1. Public utility structures such as substations, pumping plants.
 2. Detached Accessory Structures of any size including but not limited to: garages, barns, sheds.
- E. **BUILDING SITE DIMENSIONS:** In the Residential District R-1, no dwelling shall be hereafter erected upon any lot or plot having an area of less than ten thousand (10,000) square feet, nor an average width of less than one hundred (100) feet. Every dwelling shall front upon a public street without any other buildings intervening between it and the street upon which it fronts.
- F. **BUILDING DIMENSIONS:** No building shall thereafter be erected for human occupancy containing less than twelve hundred (1,200) square feet of enclosed area exclusive of garages and accessory buildings.
- G. **FRONT, SIDE AND REAR YARDS:** For each dwelling on Lakeview Drive, there shall be a front yard of not less than fifty (50) feet in depth, and on all other streets, a front yard of not less than twenty-five (25) feet in depth, a rear yard of not less than twenty-five (25) feet in depth, and a side yard on each side of the dwelling of not less than five (5) feet in width, except that a side yard of a corner lot shall be not less than twenty (20) feet in width along a flanking or side street.
- H. **CONSTRUCTION TYPE:** All buildings constructed within an R-1 District shall meet the Uniform Building Code and all subsequent amendments.
- I. **BUILDING DESIGN:** Only one-story buildings shall be constructed, or a story and a half of a split-level design.
- J. **COMPLETION TIME:** The exterior of all structures commenced in an R-1 District shall be completed according to its plans and specifications within six (6) months of the date of commencement.
- K. **NUISANCES: ANIMALS, ABANDONED, DISMANTLED OR INOPERABLE VEHICLES:**
Note: see ordinance numbers 108,109
- L. **BUILDING HEIGHT:** All buildings constructed within an R-1 District shall be no more than one story and ½ with a maximum height of 24'(feet) in height including roof, gables and spires.

SECTION 15.02 STRUCTURES - COMMERCIAL DISTRICT C-1

- A. All C-1 uses shall use parking and landscaping standards as outlined in this Development Code.
- B. In the Commercial District C-1, no building or premises shall be used nor shall any building or structure be hereafter erected or altered except for one or more of the following uses:
 - 1. Neighborhood retail stores or shops, such as food stores, drug stores, confectioneries, hair salons and barbershops.
 - 2. Laundries – Self-service, drop off or dry-cleaning.
 - 3. R-1 uses
 - 4. Multi-family dwellings such as apartment houses, tri-plexes.
 - 5. Hotels and Motels.
 - 6. Lodge or community halls.
 - 7. Hospitals, nursing care facilities, adult family homes, and temporary and permanent foster care facilities. None of these uses may be established or used for the purpose of correction, alcohol or drug treatment, or treatment of the mentally ill)
 - 8. Recreational vehicle parks.
 - 9. Service stations - Gas and oil.
 - 10. Personal service shops.
 - 11. Retail sales. No outside display or sales of merchandise.
- C. BUILDING SITE DIMENSIONS: The building site regulations for all dwellings shall be the same as required for Residential District R-1. No area or lot width regulations apply to commercial buildings erected within the Commercial District C-1.
- D. YARDS: None required, except for dwellings.
- E. ANIMALS: It is unlawful for any person to keep or maintain, or cause or permit to be kept or maintained, upon any premises in the City or upon any public street, highway, sidewalk, alley, park, playground, or other public place in the City, any animal (1) which by any barking, howling, whining, crowing, crying or other noise, or (2) which by any odor, smell, or stench, disturbs the peace and comfort of any reasonable person or interferes with the reasonable and comfortable enjoyment of life or property. (refer to Ordinance Number 108 7/1/99)
- F. CONDITIONAL USES:
 - 1. Wireless communication facilities.

SECTION 15.03 STRUCTURES – NAVIGABLE WATERS DISTRICT (NW-1)

- A. The Navigable Water District is intended to provide for the appropriate usage and for adequate protection of the surface water resource that is within the City limits.
- B. Subject to the restriction and limitations set forth herein, the use of navigable waters in addition to recreation and other public uses should allow the normal auxiliary uses required by the upland property owners adjacent to the lake and river as well as long established activities.

C. Compliance with all applicable City, County, State and Federal laws is required.

D. Project review is required for all proposed future uses.

E. Restrictions and Limitations:

1. The Idaho Lake Water Quality Assessment Report, (Water Quality Status Report No. 105) prepared by the North Idaho Regional Office of the Division of Environmental Quality, Idaho Department of Health and Welfare in March of 1993, found that Fernan Lake is mesotrophic to late mesotrophic with tests of water chemistry data indicating that the lake was experiencing eutrophication.
2. The Idaho Lake Management Guide (Water Quality Bureau Report) prepared by the Division of Environmental Quality, Idaho Department of Health and Welfare in July of 1987, concluded that lakes were most sensitive to phosphorous enrichment which could lead to dramatically adverse effects. The Guide states that the most effective point to control excessive nutrient and sediment inputs and their adverse effects is before they reach the lake ecosystem.
3. Any human activity or development on or adjacent to Fernan Lake within the Navigable Water District which would contribute or tend to contribute excessive nutrient or sediment inputs into Fernan Lake shall be prohibited.

Fernan permit

4.

Any person proposing any development upon any land within the watershed of Fernan Lake whether within or without the territorial city limits, shall submit to the Mayor and City Council a generalized narrative describing the concept of development, status of ownership, site location, acreage, proposed uses and activities, proposed densities, and physical land alteration required by the development. The submission shall include a full report by a qualified engineer as to how the proposed development will comply with any applicable Storm water Management Ordinances. The submission shall further include a full description of the area of or impervious surface to be created by the development and an analysis prepared by a qualified environmentalist or engineer of the annual increase in quantity of phosphorous to be generated in the development.

F. The City Council shall within sixty (60) days after submission approve the proposed development and issue a permit or shall reject the proposed development. No development may proceed without a permit.

G.

Any person who proceeds with any development without a permit or conducts any activity that may significantly degrade the water quality of Fernan Lake shall be deemed to be in violation of the Ordinances of this City. The City shall be authorized to enforce these restrictions and limitations by civil action with remedies including, but not limited to, injunctive relief, damages, restrictions, rehabilitation and attorney's fees.

SECTION 15.04 LAKE PROTECTION ACTS

A. The Lake Protection Act, Idaho Code §58-1301 et. seq., regulates encroachments upon in or above the beds or waters of navigable lakes to protect property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality. In the application of the Lake Protection Act, the Idaho Board of Land Commissioners is required to recognize the authority granted to cities situated on navigable lakes to exercise policy power within one-quarter (1/4) mile under the provisions of Idaho Code §50-221.

B. The outlet bay and the south shore of Fernan Lake within the City limits, as extended, require special protection and are hereby designated as qualified for denial of any encroachments as being in the most unusual of circumstances within the meaning of Idaho Code §58-1305(a).

- C. Every owner of riparian land situated upon Fernan Lake is declared to be an adjacent owner entitled to notice of any application for a noncommercial or commercial navigational encroachment by any person within or without the city limits. The Department of Lands shall provide for notice to all such declared adjacent owners and to the City Clerk of the City of Fernan under the provisions of Idaho Code §58-1305 and Idaho Code §58-1306, and the applicable rules for the regulation of beds, water and airspace over navigable lakes in Idaho.
- D. The installation and use of any more than a single dock at any property is declared to create a danger to public health, safety and welfare, in general, and to water quality, fish and wildlife habitat, aesthetics and recreation in particular and to be contrary to the public policy established by the City of Fernan Lake Village.
- E. The City shall have the authority granted under Idaho Code §67-7026 to mark by buoys or other distinguishing devices any portion of the lake within its boundaries as extended as a bathing, swimming or other restricted area where the use of power boats would be prohibited. (Amended November 20, 1995 Ordinance Number 122)

ARTICLE 16
FEES, UNLAWFUL ACTS, PERMITS, BUILDING PERMITS, ENFORCEMENT, PENALTIES,
ACTIONS BY AFFECTED PERSONS

SECTION 16.01 FEES

The City Council shall adopt by Resolution a fee schedule. The schedule of fees shall be consistent with the provisions of this Code. Additional fees not specifically provided for in this Code may be included in the schedule as deemed necessary by the City Council.

SECTION 16.02 UNLAWFUL ACTS

- A. It shall be unlawful to record any plat that does not bear the appropriate signatures and certificates of approval.
- B. It shall be unlawful to initiate the construction or installation of improvements prior to receiving all of the following:
 1. Preliminary plat approval; and
 2. Approved construction plans; and
 3. Financial Guarantee Agreement; and/or
 4. Agreement for Construction Supervision.
- C. It shall be unlawful to transfer, sell or otherwise convey any lot or parcel within a land division without full compliance with the provisions and requirements of this Development Code and unless the plat, re-plat or map which includes said lot or parcel has been filed with the County Recorder.
- D. It shall be unlawful to represent on a plat that any improvement within a public right-of-way has been constructed according to the approved plans, or that the City Engineer inspected the work, when such improvement has not been so constructed or inspected.
- E. It shall be unlawful to violate any provisions of this Development Code. Failure to comply with any of its requirements shall constitute a violation.

SECTION 16.03 PERMITS

The City shall not issue any building permits or other development permits for any property, which was divided in violation of or is not in compliance with this Code.

SECTION 16.04 BUILDING PERMITS

It shall be the duty of the Planning Administrator to see that this Development Code is enforced through the proper legal channels. The Administrator shall issue no permit for the construction or alteration of any building or part thereof unless the plans, specifications and intended use of such building conform in all respects with the provisions herein stated. The City also requires permit review that may be exempt by the Uniform Building Code, which will also require review by the Administrator and fees collected for the following: all fences exceeding 42 "(inches) and accessory structures of any size.

- A. All applications for building permits shall be submitted to the Administrator and accompanied by the following:
 - a. A site plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, use and location of all existing buildings, and the building or buildings to be erected under authority of the permit applied for.
 - b. Such other information as may be necessary to show compliance with the provisions of this Development Code.
 - c. One copy of applicable construction drawings
 - d. Applicable fees
 - e. If applicable, proof of conditions met with any approved development permits
- B. A record of all such applications and site plans shall be forwarded by the Planning Administrator and kept in the office of the Planning Administrator.
- C. The Administrator shall review the site plan and the application for completeness and compliance with the Development Code and any applicable conditions of approval.
- D. If approved, the Administrator shall collect the fees and forward the application, site plan and accompanying documents to the contract Building Inspector.
- E. If the application or accompanying documents are found to be incomplete, the Administrator shall return the application to the Applicant for correction.
- F. No building or structure shall hereafter be erected, constructed, enlarged, altered, or moved within this municipality without the person or persons responsible first obtaining a building permit from the Planning Administrator.
- G. In case any building is, or is proposed to be, constructed, erected, reconstructed, located, enlarged, changed, or maintained or used, or any land is proposed to be used in violation of this Code or any amendment thereto, the City Council or any adjacent property owner who could be specially damaged by any such violation, in addition to any other remedy provided by law or in this Code, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

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.

SECTION 16.06 PENALTIES

Any failure to comply with the provisions of this Development Code shall constitute a 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 three hundred dollars (\$300.00) or be incarcerated for thirty (30) days, or both, for each offense.

SECTION 16.07 ACTIONS BY AFFECTED PERSONS

- A. As used herein, an affected person shall mean one having an interest in real property, which may be adversely affected by the issuance or denial of a permit authorizing the development.
- B. Any affected person may at any time prior to final action on a permit required or authorized under this Development Code, if no hearing has been held on the application, petition the Commission or City Council in writing to hold a hearing pursuant to this Development Code.
- C. After a hearing, the Commission or governing board may grant or deny a permit, or delay such a decision for a definite period of time for further study or hearing. The Commission shall make a recommendation within thirty (30) days of the submission of any request or petition to it, and forward the same to the Council who shall make a decision within thirty (30) days.

ARTICLE 17 CERTIFICATE OF OCCUPANCY

No vacant land shall be occupied or used and no building hereafter erected shall be occupied or used, nor shall the use of a building be changed from a use limited to one District until a Certificate of Occupancy shall have been issued by the Planning Administrator.

ARTICLE 18 SEVERABILITY

If any section, clause, or provision of this Development Code is declared by the Court to be invalid, the Court's decision shall not invalidate the Development Code as a whole or any other part thereof. All remaining sections, clauses and provisions shall be in full force and effect.

ARTICLE 19 REPEALER

All Ordinances and parts of Ordinances in conflict with this Code are repealed.

ARTICLE 20 VALIDITY

Each section, subsection, provision, requirement, regulation or restriction established by this Development Code or any amendments thereto, is hereby declared to be independent, and the holding of any part to be unconstitutional, invalid or ineffective for any cause, shall not affect or render invalid the Development Code or amendments thereto as a whole; or any part thereof other than the part so declared to be invalid.

ARTICLE 21
FULL FORCE AND EFFECT

This Development Code shall take effect and be in full force and effect upon its passage and approval and one publication in the Coeur d'Alene Press, a newspaper of general circulation within the City of Fernan Lake Village.

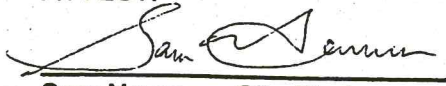
ARTICLE 22
SUSPENSION OF RULES

PASSED under suspension of the rules upon which a roll call vote was taken and duly enacted an Ordinance of the City of Fernan Lake Village, Idaho, at a regular meeting of the Mayor and City Council held on the 11th day of March, 2002.



Mayor, City of Fernan Lake Village

ATTEST:



Sam Newman, City Clerk

City of Fernan Lake **Development Code**