

ORDINANCE NO. 190

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF FERNAN LAKE VILLAGE, KOOTENAI COUNTY, IDAHO, ADDING SHORT-TERM RENTALS TO THE CITY OF FERNAN LAKE VILLAGE MUNICIPAL CODE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is deemed by the Mayor and City Council to be in the best interests of the City of Fernan Lake Village that said Ordinance 190, Short-Term Rentals, of the Fernan Lake Village Municipal Code be adopted;

NOW, THEREFORE,

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

SECTION 1. *That a new Ordinance 190, Short-Term Rentals, be added to the City of Fernan Lake Village Municipal Code as follows:*

SPECIAL/HAZARD AREA REGULATIONS

SHORT-TERM RENTALS

1010: PURPOSE:

1020: DEFINITIONS:

1030: PERMIT REQUIRED:

1040: STANDARDS:

1050: VIOLATIONS; PENALTIES:

1010: PURPOSE:

- A. The purpose of this Article is to establish regulations for the use of Residential Dwellings as Short-Term Rentals to safeguard the public health, safety and general welfare, to protect the integrity of the City's neighborhoods, to establish a system to track the Short-Term Rental inventory in the City, to ensure compliance with local performance standards, to provide a means of contact for the Responsible Party of a Short-Term Rental, to establish a Good Neighbor Policy for Occupants of Short-Term Rentals and their guests, and to allow private property owners the right to fully and efficiently utilize their property without undue regulation or interference.
- B. Nothing in this Article shall be construed so as to nullify or override any lease agreements, or covenants, conditions, and restrictions applicable to the property that may prohibit or restrict its use for Short-Term Rental purposes.

1020: DEFINITIONS:

- A. “Good Neighbor Policy: shall mean the list of general rules of conduct, best practices, and standards of respect prepared by the Planning Department and required to be provided to Occupants and their guests utilizing Short-Term Rentals within the City.
- B. “Occupant” shall mean the person or persons who contract with the Responsible Party for use of Short-Term Rental.
- C. “Residential Dwelling” shall mean a single unit providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Tents, recreational vehicles, campers, and similar units not designed for permanent residential use are excluded from this definition.
- D. “Responsible Party” shall mean the owner of a Residential Dwelling being used as a Short-Term Rental, as well as any person designated by the owner who is responsible for compliance with this Article by an Occupant and any guests utilizing the Short-Term Rental. The Responsible Party shall provide for the maintenance of the property and ensure compliance by the Occupant and any guests with the provisions of this Article, or any other applicable law, rule, or regulation pertaining to the use and occupancy of a Short-Term Rental. The owner of the property shall not be relieved of responsibility or liability for noncompliance with the provisions of this Article, or any other applicable law, rule, or regulation pertaining to the use and occupancy of a Short-Term Rental because of the designation of another Responsible Party. All Responsible Parties shall be at least twenty-one (21) years old.
- E. “Self-Inspection Checklist” shall mean the current form approved by the City for use with a Short-Term Rental application.
- F. “Short-Term Rental” shall mean a Residential Dwelling which is rented for thirty (30) days or fewer, and which is sometimes referred to as a “vacation rental.” This term does not include a Bed-and-Breakfast facility, an RV Park or campground, or a hotel or motel.
- G. “Family” unless otherwise specified by ordinance means any of the following:
 - 1. One or more persons who are related by blood, marriage, or adoption; or
 - 2. No more than four (4) persons who are unrelated by blood, marriage or adoption living together as a single housekeeping unit; or
 - 3. No more than a total combination of five (5) persons related and unrelated living together as a single housekeeping unit; or
 - 4. A group:

- a. Placed in a foster home or childcare facility by an authorized agency;
- b. Eight (8) persons or less devoting full time to a religious or ethical discipline, unrelated by blood, marriage, or adoption, any of which are living together as an independent housekeeping unit together with incidental domestic servants and temporary nonpaying guests; or
- c. Eight (8) persons or less who are unrelated by blood, marriage, or adoption who are mentally or physically handicapped, or elderly with no more than two (2) residential staff members.

1030: PERMIT REQUIRED:

- A. An applicant for a Short-Term Rental permit must be the owner of the Residential Dwelling to be offered for rent. No person with less than a fee ownership interest may apply for a Short-Term Rental permit.
 1. A Short-Term Rental permit is valid only for the Residential Dwelling identified in the application. An applicant shall file a separate application and obtain a separate permit for each Residential Dwelling to be used as a Short-Term Rental.
 2. A Short-Term Rental permit is non-transferable.
- B. Prior to offering a Short-Term Rental to the public, the owner of the Residential Dwelling shall complete an application on a form provided by the City and file it with the City Clerk or his/her designee. The application shall include:
 1. The owner's legal name, date of birth, contact number, both physical and mailing addresses, and email address;
 2. If the Short-Term Rental is to be operated or managed by someone other than the owner, the name, date of birth, contact number, both physical and mailing addresses, and email address for a Responsible Party with day-to-day authority and/or control over the Short-Term Rental;
 3. The address of the Short-Term Rental; and
 4. The signatures of the owner and other Responsible Party, if any, agreeing and acknowledging that they are jointly responsible for the compliance by the Occupant and any guests with all applicable laws, rules, and regulations pertaining to the use and occupancy of the Short-Term Rental, and for any unreasonable noise, disturbances or disorderly conduct by the Occupant and/or guests while on the property of the Short-Term Rental.
 5. The fee established by Resolution of the City Council.

- C. If any information required by subsections B(1) through (4) hereof changes, a Responsible Party shall promptly advise the City.
- D. At the time an application is filed with the City, a Responsible Party shall complete and file with the City the Self-Inspection Checklist. A new Self-Inspection Checklist shall be completed and filed with the City each year thereafter during which the Short-Term Rental will be offered to the public.
- E. Short-Term Rentals are not a grandfathered use. All Short-Term Rentals in the City must have a permit to operate.
- F. A Short-Term Rental permit expires on March 31st of each year; PROVIDED, if the Residential Dwelling identified in the application is sold or title is otherwise transferred, the permit shall automatically expire upon the transfer of title.
 - 1. To renew a Short-Term Rental permit, the holder shall submit an application for renewal on a form provided by the City to the City Clerk or his/her designee, together with the renewal fee.
 - 2. The renewal application must be submitted by March 1st of each year. A permit for which a renewal application is not submitted by March 1st shall expire on March 31st.
 - 3. If a permit has expired, a new application shall be required.
- G. Subject to § 17.08.1010(B), any Residential Dwelling in the City may be rented without a permit for no more than fourteen (14) days per calendar year, where those fourteen (14) days are divided into no more than two (2) stays.

1040: STANDARDS:

- A. Accessory Dwelling Units and Properties with Multiple Dwelling Units.
 - 1. An Accessory Dwelling Unit (ADU), as defined by § 17.02.030(E) of this Code, which existed on the effective date of this Article may be rented as a Short-Term Rental, provided that either the principal dwelling or ADU on the property must be occupied by a majority owner of the property or an immediate family member of the property owner more than six (6) months out of any given year.
 - 2. After the effective date of this Article, an ADU may only be used as a Short-Term Rental if the required impact fee is paid for the ADU. Once the impact fee is paid, either the principal dwelling or ADU on the property must be occupied by a majority owner of the property or

an immediate family member of the property owner more than six (6) months out of any given year.

3. A principal dwelling and its associated ADU may not both be rented out concurrently as Short-Term Rentals.
4. For properties with more than one dwelling unit, including multiple lots developed as a single parcel, only one dwelling unit per property may be used as a Short-Term Rental at any one time.

B. Duplex and Multi-Family Housing.

1. If multiple units in a Duplex or Multiple-Family housing (including condominiums and apartments) are owned by the same person or persons, only one unit may be used as a Short-Term Rental.
2. The owner(s) or multiple units in a Duplex or Multiple-family housing must designate which dwelling unit will be rented as a Short-Term Rental and advise the City of said designation in the application for a permit.

C. Duties of Responsible Party.

1. A Responsible Party must be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of responding within sixty (60) minutes to complaints regarding the condition of the Short-Term Rental or the conduct of the Occupant of the Short-Term Rental and/or their guests.
2. A Responsible Party shall obtain the name, address, and contact number or each Occupant of a Short-Term Rental.
3. A Responsible Party shall provide the information required in section 1040(B)(2) to the City at the City's request, if available.
4. A Responsible Party, upon notification that any Occupant or guest has created any unreasonable noise or disturbance, engaged in disorderly conduct, or committed a violation of any applicable law, rule or regulation pertaining to the use and occupancy of a Short-Term Rental, shall promptly respond in an appropriate manner within sixty (60) minutes and require an immediate halt to the conduct. Failure of the Responsible Party to respond to calls or complaints regarding the condition, operation, or conduct of an Occupant or guest in a Short-Term Rental in an appropriate manner within sixty (60) minutes shall constitute a violation of this Article.
5. A Responsible Party shall prepare a written notice, and shall mail or deliver the noticed to all residents and owners of property abutting or

across the street from the Short-Term Rental, which notice shall state the intent to operate a Short-Term Rental and the number of bedrooms that will be rented to overnight guests, and include information on how to contact the Responsible Party by phone.

6. A Responsible Party shall post on or near the front door of the Short-Term Rental a notice which includes the address of the Rental, emergency contact numbers, and a diagram showing emergency exit route(s) approved by the Fire Department.

D. Information Provided to Occupants.

1. At the time of each occupancy of the unit, the Responsible Party shall provide to the Occupant of a Short-Term Rental the following:
 - a. a current copy of the Short-Term Rental permit;
 - b. the name and contact number of all Responsible Parties;
 - c. a copy of the Good Neighbor Policy as approved by the City Planning Department;
 - d. a notice of the trash pick-up day, and applicable rules and regulations pertaining to leaving or storing trash on the exterior of the dwelling; and
 - e. parking locations and requirements.

E. Occupancy.

1. The maximum number of overnight guests occupying a Short-Term Rental shall not exceed the definition of “family” as provided in 1020(G).
2. Guests of an Occupant may use a Short-Term Rental only when an Occupant is present and may not stay overnight.
3. A Responsible Party may rent either the entire Residential Dwelling or one (1) room of the Residential Dwelling to an Occupant. Under no circumstances shall a Responsible Party rent individual rooms in a Short-Term Rental to different Occupants for the same night or nights.
4. No recreational vehicle, travel trailer, tent, or other temporary shelter shall be used as a Short-Term Rental or in conjunction therewith to provide additional sleeping areas or otherwise.

F. Outdoor Storage.

1. Storage of equipment, inventory, or work-related items other than vehicles, shall be within the residence or a permitted accessory building. Outdoor storage and storage containers are prohibited. For purposes of this Chapter, the term “storage container” refers to industrial and commercial

shipping containers and buildings, including PODS and like containers, which are designed to be portable and/or temporary and which do not meet the design criteria for accessory buildings intended for incidental residential use and which are compatible with residential use.

G. Parking.

1. All Occupants and guests shall, to the greatest extent possible, utilize any off-street parking of the Residential Dwelling which constitutes the Short-Term Rental. On-street parking by Occupants and guests shall be governed by the applicable provisions of this Ordinance 190.
2. An ADU, built after the effective date of this Article and used as Short-Term Rental, requires one off-street parking space in addition to parking spaces required for the principal dwelling.

H. Signs and Advertising.

1. No sign indicating that the residence is a Short-Term Rental or that it is for rent or lease shall be displayed such that it is visible from any other public or private property.
2. The street number of a Short-Term Rental shall be posted in accordance with Fire Departments IFC requirements.
3. All Advertising for the Short-Term Rental shall include the City permit number and the maximum number of vehicles accommodated by off-street parking spaces.

I. Trash.

1. Trash and refuse shall not be left stored within public view except in proper containers for the purpose of collection by the authorized waste hauler on scheduled trash collection days.
2. The Short-Term Rental property shall, at all times, be kept in a neat and sanitary condition, in compliance with the requirements of this Ordinance 190.

J. Sewer Service Requirements.

1. The short term rental property shall be required to have a single residential sewer service (not a shared service) including service line, wet well, pump(s), controls and discharge pipe to be connected to the City of Fernan

pressure sewer system that complies with the International Plumbing Code as adopted by the State of Idaho and City of Fernan standards.

J. Zoning.

1. Subject to the standards and restrictions applicable in each zone, the standards and restrictions contained in this Article, and any permit requirements, the use of a Residential Dwelling as a Short-Term Rental is permitted as of right in all residential and commercial zones, MH-8 provided that the Residential Dwelling is installed as required by State law, and DC.

17.08.1050: VIOLATIONS; PENALTIES:

A. Violations.

1. It is unlawful for any Responsible Party to offer for rent a Short-Term Rental or to operate a Short-Term Rental without a City permit.
2. It is a violation of this Article if a Responsible Party, or an Occupant or guest knowingly and willfully violates any provision of this Article.

B. Penalties.

1. For a first offense, the violator shall be subject to a civil penalty in an amount established by Resolution of the City Council.
2. For any subsequent offense, the violator shall be subject to a misdemeanor, pursuant to section 1.28.010 of this Code.
3. In addition to any other remedy or procedure authorized by law, for three (3) or more violations of or failure to comply with any of the standards in this Article in a calendar year, the City Clerk or his/her designee may revoke any or all of the owner's permits and, in addition, may order that no new permit shall be issued for up to three (3) years pursuant to the following procedures.
 - a. Prior to the revocation of any permit or the denial of a permit for repeated violation of the provisions of this Article, written notice of the reasons for such action shall be served on the Owner and/or Responsible Party in person or by certified mail at the address on the permit application. Revocation shall become final within ten (10) days of service unless the Owner and/or Responsible Party appeals the action. The Owner and/or Responsible Party shall provide the appeal in writing to the City Clerk or his/her designee within ten (10) days of receipt of the

notice. The written notice of appeal must state the reasons for the appeal and the relief requested.

- b. Should the Owner and/or Responsible Party request an appeal within the ten (10) day period, the City Clerk or his/her designee shall notify the Owner and/or Responsible Party in writing of the time and place of the hearing.
- c. Appeals shall be heard by a neutral hearing officer designated by the City.
- d. For good cause shown, the hearing officer may affirm or reverse the decision to revoke a permit. The hearing officer may affirm, reverse, or modify a decision to deny a new permit for upon a showing of good cause.

SECTION 2. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, work or part thereof is held legal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, work, or part had not been included therein.

SECTION 4. After its passage and adoption, a summary of this Ordinance, under the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Fernan Lake Village, and upon such publication shall be in full force and effect.

APPROVED, ADOPTED and SIGNED this 1 day of December, 2020.



Mayor

ATTEST:



City Clerk

12-1-2020