

ORDINANCE NUMBER 168  
NUISANCE ORDINANCE  
FERNAN LAKE VILLAGE

AN ORDINANCE OF THE CITY OF FERNAN LAKE VILLAGE, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING ARTICLE 5, ADDING DEFINITIONS, AMENDING ARTICLE 15, DEFINING TYPES OF NUISANCES AND PROVIDING FOR UNLAWFUL ACTS PERTAINING TO NUISANCES, AMENDING ARTICLE 16, PROVIDING FOR UNLAWFUL ACTS PERTAINING TO NUISANCES, AND PROVIDING FOR PENALTIES, REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

BE ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FERNAN LAKE VILLAGE, IDAHO:

**SECTION 1 PURPOSE:**

The purpose of this Ordinance is to protect the general health, safety and public welfare of city residents and visitors by defining and regulating nuisance in the residential zoning districts of the city. These nuisances include storage of materials, junk and litter, outdoor lighting, noise and the regulation of yard waste. The Ordinance also provides for repeal of inconsistent ordinances, establishing violation and penalties and establishing an effective date.

**SECTION 2: AMENDMENTS TO ARTICLE 5**

**AMENDMENTS TO DEFINITIONS ARTICLE 5.02**

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

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

An “Accessory Structure” is defined as “a structure that: (1) is subordinate to and services a principal building or a principal use legally existing on the same zoning lot; (2) is subordinate in area, extent and purpose to the principal building or principal use; (3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served and (4) is located on the same zoning lot as the principal structure or principal use served.” (Adopted June 2008 Ordinance Number 154)

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.

AUDIBLE SOUND: Any sound for which the information content of that sound is transferred to the listener, such as, but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

Belt Course - a horizontal band or molding set in the face of a building as a design element.

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 years or less in age. Such structure shall be of a temporary nature, contemplating a useful life of ten 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)

CITY OR CITY PLANNER: An official having knowledge in the principles and practices of zoning who is appointed to administer this chapter.

Commercial Condominium – A structure of two or more units, the interior space of which are individually owned; the balance of the property is owned in common by the owners of the individual units. Commercial condominiums required platting. See Idaho Code Title 55-Chapter 15 for platting requirements. All residential uses are prohibited.

Convenience Sales – Activities that include the retail sale from the premises of frequently needed small personal conveniences items such as toiletries, tobacco and magazines include small grocery stores.

Corner Lot – A lot or parcel abutting two or more streets at their intersection or on two or more parts of the same. For purposes of this definition, the front is where the front door of the house is facing and then the lot line that is directly opposite the front would be considered the rear yard.

Cornice - decorative projection or crown along the top of a wall or roof.

Council – the City Council of Fernan Lake Village

Comprehensive Plan – Chapter 67 Idaho Code, Local Land Use Planning Act of 1975, as amended. 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)

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

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.

Driveway – A vehicular access to a single lot, parcel or tract.

Easement – A grant by the property owner to specific persons or the public for specific purposes.

Eaves - the projecting overhang at the lower edge of a roof.

Expanded Metal Tubing – a type of material that may be used in fencing. Expanded metal fence may be produced from metals such as stainless steel alloys, aluminum, steel, titanium and many other ferrous or non-ferrous metals.

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

Fast Food Restaurant – A business involving the preparation and serving of meals for consumption on the premises or off the premises normally requiring short amounts of time between the period of ordering and serving of the food, which is served in edible or disposable containers.

Fence - Fence shall mean any structure, partition, or wall erected for the purpose of enclosing a piece of land, dividing a piece of land into distinct portions, and/or separating two (2) contiguous estates, and made of material limited to decorative blocks, bricks, stones, wood, wrought iron, vinyl, chain link, glass and expanded metal tubing. Vegetative barriers are not included in this definition. Welded wire fencing is allowed on a temporary basis.

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.

Food and Beverage Sales for off-site consumption – Activities that include the retail sales from the premises of food and beverages for off-premises consumption; such activities are typical of groceries, markets, liquor stores, and retail bakeries. On-site consumption seating areas of up to fifteen percent (15%) of the gross floor area may be provided.

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. If the front lot line cannot be determined on the official recorded plat of the property, the front lot line shall be determined based upon the official physical address of the property as determined by the County GIS and emergency service providers.

Front Yard – The required open space between the front property line and the nearest part of any building on the lot. For the lots bordering Lakeview Drive the front yard shall be the required open space between the curb line and the residential structure.

FULLY CUT OFF SHIELDED FIXTURES LUMINAIRE: A luminaire emitting no light above the horizontal plane.

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

GLARE - Glare. Stray, unshielded light striking the eye that may result in (a) nuisance or annoyance glare such as light shining into a window; (b) discomfort glare such as bright light causing squinting of the eyes; (c) disabling glare such as bright light reducing the ability of the eyes to see into shadows or (d) reduction of visual performance. Glare is also defined as light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers

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 106 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.

Hotels – A hotel is an establishment that provides lodging on a short-term basis. Hotels often provide a number of additional guest services such as a restaurant, a swimming pool or child care. Some hotels have conference services and encourage groups to hold conventions and meetings at their locations.

JUNK OR LITTER: Includes but is not limited to: scrap metal of all types, batteries, tires, old appliances or parts thereof, parts of motor vehicles, glass, rags, cans, paper, rubber, debris, trash, cardboard, old wood or lumber, old furniture and mattresses, or dismantled, inoperable or unregistered vehicles. This definition includes any rubbish, refuse, waste materials, weeds, paper, glass, cans, bottles, organic or inorganic trash, debris, dead animals, or any foreign substance of any kind or description, including junked or abandoned vehicles, regardless of their value.

Laundries – A commercial establishment for laundering clothes or linens. For purposes of this ordinance, laundries include dry cleaning and supervised drop off laundries.

Laundromat or Self Service laundry – A self-service laundry where coin-operated washing machines are available to individual customers. Laundromat or self service laundries must provide staff to supervise laundry facilities on-site during all hours of operation.

LIGHT TRESPASS - Light falling on private property of another or the public right-of-way when it is not required to do so.

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

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

Lot Line – A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

LUMINAIRE (LIGHT FIXTURE): A complete lighting unit.

Local Highway District 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.

Motels – A type of hotel in which parking is provided at or near the room and the room door enters out onto the parking lot.

Northwest Lodge Theme – A rustic look. The theme includes structures that are constructed of natural materials typical of the northwestern part of the United States. The theme envisions timbers, steeply pitched roofs and dormers. Natural colors consisting of earthen, browns, dark or forest greens.

NOISE – The intensity, duration and character of sounds, from any and all sources.

NOXIOUS WEEDS – See Idaho Code Title 22 Chapter 24

NUISANCE: anything that disturbs the reasonable use of private property or endangers life and health or is offensive and any use of land which interferes with the use and enjoyment of neighboring lands. The accumulation and/or storage of abandoned and/or inoperable vehicles or parts thereof, junk, litter, yard waste, obtrusive lighting or noise on private or public property creates a condition tending to reduce the value of surrounding private property in the vicinity, and/or promotes blight and/or deterioration, and/or creates fire hazards and/or constitutes an attractive nuisance creating a hazard to the health and/or

safety of minors, or is a harborage for rodents and/or insects injurious to the health, safety and/or general welfare of the public and is, therefore, a public nuisance within the meaning of Idaho Code section 50-334

Ornamental Aluminum and Steel Fencing – Fencing material typically used as an alternative to wrought iron fencing.

OUTDOOR LIGHTING Use of an artificial source of light for illumination the outdoors.

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

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

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 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 feet that provides vehicular and pedestrian access to one subdivided parcel.

Professional and Administrative Offices – Activities that include managerial, clerical, consultation and professional, including medical services for therapeutic, preventative or corrective personal treatment typically performed by insurance, real estate, architects, engineers, lawyers, accountants, doctors, dentists, health care practitioners and corporate headquarters and branch offices.

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. For irregular 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 and the nearest point of the residence.

Restaurant – an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for guests.

Retail Sales and Services – The sale of goods or services directly to the consumer. Types of retail sales include automotive, automotive accessory, building supply, construction supply, department store, home furnishing and specialty retail. Retail Services include work done for others as an occupation or business. Types of retail services include salons and consulting firms.

Setback – The distance between a building and any lot line.

Side Property Line – Any lot line other than the front or rear lot line.

Side Yards – The required open space on a lot between the side wall line of the principal 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.

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

Structure Height – Structure height is defined as the vertical distance measured from the elevation of the grade at the front of the building to the highest point of the roof and to the top of building walls for gable, and hip and gambrel roofs. Grade shall be measured beginning from Coeur d'Alene Lake Drive.

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



Welded Wire Fencing – A fence used to temporarily contain pets and small children and is often used as a temporary barrier to keep animals out of gardens. The material is available from 3' to 6' high in 25' to 50' rolls. Like chain link fencing it's also available with a vinyl coating, usually green or brown. When used with rail fencing, welded wire can make an effective pet containment fence for large areas.

Yard – An open space that lies between the principal building or buildings and the nearest lot line.

YARD WASTE: Waste that includes but is not limited to: earth, rock or landscape debris which includes grass clippings, leaves, twigs, branches, and other garden refuse. Grass or shrubbery cuttings, leaves, tree limbs, and other materials accumulated as the result of the care of lawns, shrubbery, vines, and trees.

Yard, Required – The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as provided and specifically delineated.

### **SECTION 3 AMENDMENTS TO ARTICLE FIFTEEN**

#### **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- 6509A1B. 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 and structures:

- A. Attached Accessory Structures are allowed when attached to the main building structurally or by a breezeway. Garages are limited to not more than four (4) vehicles.
- B. Detached Accessory Structures (including pavilion, pergola, gazebo) –One detached accessory structure and one pavilion, pergola, and gazebo are allowed on a lot. The lot must have a primary use (residence).
- C. Size
  - a. Floor Area Ratio – The maximum size of the structure shall not exceed 10x10 or 100 square feet.
  - b. Height – the maximum height of the structure shall not exceed 8 feet including roof line.
- D. Location – All detached accessory structures shall be located in the rear or side yard. No detached accessory structures allowed in the front yard. All detached accessory structures shall meet the following setbacks from property lines:

Rear yard – 0 feet

Side Yard – 0 feet

Distance from side of primary structure – must be a minimum of 5 feet per International Life Safety Code (International Fire Code)

Distance from back of primary structure-0 feet

- E. No accessory structure shall be constructed prior to a principal use being established and shall be located on the same lot as the principal use.
  - F. Appearance – New Detached accessory Structures including Gazebos and pergolas shall be constructed of wood or vinyl. Wood shall be treated for pests or rot and painted or stained. Vinyl shall be maintenance free and weather resistant. All structures (existing and new) shall be maintained in a sound condition. For example, structures shall show no evidence of rust, rot or peeling paint. All detached accessory structures shall remain structurally sound.
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 occupation's
  - 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. 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.
  - f. Conditions: Conditions may be imposed by the City Clerk to ensure compliance with the standards.

- g. 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 of 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.

- i. 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 of-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. Expansion or alteration of public recreational parks
3. Outdoor lighting that exceeds residential lighting standards
4. Outdoor residential lighting that is not located directly on the primary residential structure or garage.

E 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 (1200) 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 International 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: Note: See Ordinance Numbers 108 and 109 for animals, dismantled or inoperable vehicle regulations. Declaration of Nuisance. No person in charge of or in control of a premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any "nuisance" as defined in this chapter to remain on the premises unless permitted within a fully enclosed structure. Nuisance includes any of the following:
  - 1. Junk or Litter of any size or quantity that are not located in a fully enclosed structure.
  - 2. Yard Waste that has accumulated to become odiferous to the normal senses at the property line.
  - 3. Accumulations of noxious weeds and grasses and other growths upon property within the city limits constitute a source of fire hazard and shall be removed, cut and destroyed by the owner or agent of the ground or premises on which the same is located.
  - 4. Outdoor lighting that causes light trespass or glare to adjoining properties or public space or right of ways. Disabling glare such as bright light reducing the ability of the eyes to see into shadows or (d) reduction of visual performance
    - a. Lighting Standards. Outdoor lighting shall be downward directed and have full-cutoff shielded fixtures to prevent projection of the illumination beyond the subject site property lines. All full cutoff shielded fixtures shall meet IES (Illuminating Engineering Society) standards.
    - b. Outdoor lighting shall be low voltage fixtures and have a maximum lamp wattage at the property line of:
      - i. 75 watts incandescent,
      - ii. 26 watts compact fluorescent for residential lighting.

- iii. 50 watts metal halide
  - c. Lighting attached to single-family home structures or garages should not exceed the height of the eave.
  - d. Lighting Requiring Special Use Permits
    - i. Parks, and any other non-residential property
    - ii. Any outdoor recreational facilities
    - iii. Any lighting facility fixture that is not attached to the primary structure or garage.
  - e. Exemptions to Lighting Requirements
    - 1. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
    - 2. Municipal street and roadway lighting.
    - 3. Illumination required by building codes including lighting for stairs and ramps.
    - 4. Holiday and temporary lighting (from October 15 ~~November 15~~ through January ~~February 15~~)
    - 5. Landscape lighting that does not exceed 12 watts incandescent.
    - 6. Carriage lights on walkways and driveways that does not exceed 40 watts incandescent.
- 5. The production of noise by human voice, domestic animal crowing or barking, live, recorded, transcribed or transmitted music, exhaust systems of motor vehicles, operation of machinery or equipment in excess of listed standards measured at a distance of 25 feet from the source of the noise or at the property line, whichever is less, is prohibited. No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being received that when measured exceeds the applicable dB(A) level listed below for the property on which the sound is received:
  - a. Residential property:
    - i. Sixty-five dB(A) during daytime hours. Daytime is defined as hours from 7:00 a.m. until 10:00 p.m during weekdays (Monday through Friday) and 7:00 a.m. until 11:00 p.m. on a weekend (Saturday and Sunday). Decibels shall be measured 25' from the sound source or at the property line where the sound is being received, whichever is less.
    - ii. Fifty-eight dB(A) during nighttime hours. Nighttime is defined as hours from 10:00 p.m. to 7:00 a.m. on weekdays (Monday through Friday) and 11:00 p.m. to 7:00 a.m. on weekends (Saturday and Sunday), except as otherwise authorized by the city council for utility construction or service emergencies. Decibels shall be measured 25' from the sound source or at the property line where the sound is being received, whichever is less.

- b. The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that when measured 25' from the sound source or at the property line where the sound is being received, whichever is less exceeds the db(A) levels set forth in this section is a violation of this Chapter. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section when measured at the site where the sound is being produced if available shall be prima facie evidence of a sound nuisance which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city in violation of this chapter.
- c. Exceptions to Noise Standards. The following shall be exempted from provisions of this Chapter:
  - i. Sound emitted from sirens of authorized emergency vehicles.
  - ii. Lawn mowers, garden tractors, and similar power tools when properly muffled, between the hours of 7:00 a.m. and 10:00 p.m.
  - iii. Community events approved by the City Council.
  - iv. The emission of sound for the purpose of alerting persons to the existence of an emergency or for the performance of emergency work.
  - v. In the case of motor vehicles, where the noise is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven (7) business days of notice from the City of a nuisance.

**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 4: AMENDMENTS TO ARTICLE 16**

##### **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 subdivision plat that any improvements 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 provision of this Development Code. Failure to comply with any of its requirements shall constitute a violation.
- F. Declaration of Nuisance. No person in charge of or in control of a premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any "nuisance" as defined in this Code to remain on the premises unless permitted within a fully enclosed structure. (See Article 15)

#### 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 and accessory structures of any size.

- A. All applications for building permits shall be submitted to the Administrator and accompanied by the following:
  - 1. 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;
  - 2. Such other information as may be necessary to show compliance with the provisions of the Development Code.
  - 3. One copy of applicable construction drawings
  - 4. Applicable fees
  - 5. If applicable, proof of conditions met with the 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 specifically damaged by 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 5: SEVERABILITY**

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 6 CONFLICTING ORDINANCE PROVISIONS**

If any conflict occurs between this Ordinance and provisions of the other City Ordinances, the more restrictive Ordinance shall take precedence.

**SECTION 7: EFFECTIVE DATE**

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

ADOPTED this      day of      , 2010

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Jim Elder, Mayor

ATTEST:

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Cheri Howell, City Clerk

