

CITY OF FERNAN LAKE VILLAGE

ORDINANCE NO. 109

AN ORDINANCE OF THE CITY OF FERNAN LAKE VILLAGE, KOOTENAI COUNTY, IDAHO, PROVIDING FOR THE ABATEMENT AND REMOVAL OF ABANDONED, DISMANTLED OR INOPERATIVE VEHICLES OR PARTS THEREOF UPON PRIVATE PROPERTY OR PUBLIC PROPERTY WHICH ARE DECLARED TO BE A NUISANCE BY THE MAYOR AND CITY COUNCIL AFTER A HEARING, PROVIDING FOR THE CHARGING OF THE PERSON RESPONSIBLE FOR MAINTAINING SUCH NUISANCE, FOR THE COSTS OF ABATEMENT INCLUDING ADMINISTRATIVE COSTS AND LEVYING A SPECIAL ASSESSMENT AGAINST THE PROPERTY OF THE PERSON RESPONSIBLE FOR THE MAINTENANCE OF SUCH NUISANCE.

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

**SECTION I:** The Council finds that the accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property creates a condition tending to reduce the value of surrounding private property in the vicinity, and promotes blight and deterioration, creates fire hazards and constitutes an attractive nuisance creating a hazard to the health and safety of minors, is a harborage for rodents and insects injurious to the health, safety and general welfare of the public and is therefore a public nuisance within the meaning of Idaho Code 50-334.

**SECTION II:** DEFINITIONS:

(a) The term "vehicle" shall include any device designed to move or propel persons or property or to be drawn upon a

highway, not including a device designed to be propelled or moved by human power, such as wagons, tricycles, bicycles or to be used exclusively upon stationary rails or tracks.

(b) The term "streets" means any way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel.

(c) The term "public property" is any property in an R-1 residential district within the City not privately owned.

(d) The term "private property" is any real property in an R-1 residential district owned by any person or entity, other than the federal government, the state of Idaho, or an Idaho municipal corporation, including the City.

(e) The term "nuisance" is a vehicle described in Section I of this ordinance.

**SECTION III:** This ordinance shall not apply to:

(a) A vehicle or part thereof which is completely enclosed within a building or is not visible from the street or other public or private property.

(b) A licensed vehicle which is in the process of being repaired or restored within a reasonable time.

**SECTION IV:** This ordinance shall not be deemed to be the exclusive method of abating abandoned, dismantled or inoperative vehicles within the City, but shall supplement and be in addition to all other ordinances of the City of Fernan Lake Village and the statutes of the state of Idaho.

**SECTION V:** Except as otherwise provided herein, the

provisions of this ordinance shall be enforced by an individual appointed by the City Council who shall be called the Nuisance Vehicle Inspector. In the enforcement of this ordinance such officer and/or his deputies may enter upon private or public property to examine the vehicle or parts thereof, or obtain information as to the identity of the vehicle, and when directed by the City Council remove or cause to be removed such vehicle or part thereof declared to be a nuisance pursuant to this ordinance.

**SECTION VI:** Such vehicles as are declared to be a nuisance may be removed by an employee of the City or the Council may contract with any person or persons for such removal.

**SECTION VII:** When a vehicle has been declared by the City Council as hereinafter provided to be a nuisance as defined in this ordinance, any employee or private contractor designated by the Council shall be authorized to enter upon private or public property to remove or cause the removal of the objects declared to be a nuisance.

**SECTION VIII:** Should the Nuisance Vehicle Inspector be informed of or observe the existence of a nuisance, he shall inspect the vehicle and if in his opinion the vehicle is a nuisance, he shall notify the owner of the property, as determined from the records of the County Assessor, and the occupants of the premises, if occupied, of the fact that in his opinion the vehicle is a nuisance and he shall instruct them as to the manner in which they can remedy the situation and the time within which to do so.

**SECTION IX:** If the nuisance has not been abated as herein-before provided, the Vehicle Nuisance Inspector shall notify the Mayor of the nuisance, the Mayor shall set a time for a public hearing in the Council Chambers to be held on the question of whether or not the vehicle is a nuisance, the manner in which it may be abated and the time within which it shall be abated.

**SECTION X:** Notice of such hearing shall be given to the owner of the property, as disclosed by the records of the County Assessor, and to the occupant of the property upon which the vehicle is parked, at least ten (10) days before the hearing, either by certified mail or personal service and to the owner of the vehicle if such owner can be identified.

**SECTION XI:** At the public hearing any interested party may be represented by counsel and introduce evidence by testimony or otherwise, or may submit his position on the question by written statement. The Council shall determine whether in its opinion the vehicle is a nuisance, and if it is so found, declare the same to be a nuisance and notify the persons or parties upon whom notice has been served or who appeared at the hearing in defense of the declaration of a nuisance of its decision and may impose such conditions, take such action as it deems appropriate under the circumstances to carry out the purpose of this ordinance. It shall state the manner in which the nuisance may be abated and the time within which it should be abated. If an interested party makes a written presentation at the hearing but does not appear, he shall be notified of the decision of the council by written decision mailed to the party by certified

mail. If the party maintaining the nuisance does not remedy the situation or abate the nuisance within the time prescribed by the decision of the City Council, which time limit shall not be less than ten (10) days, the owner of the vehicle will thereby forfeit all right, title and interest therein.

**SECTION XII:** The Nuisance Vehicle Inspector shall cause the abatement of the nuisance by the removal of the vehicle by City employees or by contractor.

**SECTION XIII:** The cost of removal plus administrative costs of FIFTY DOLLARS (\$50.00) shall be paid by the party found to have caused or maintained the nuisance within thirty (30) days of the hearing. Should it appear at the hearing that the party permitting or causing the nuisance is the owner of the property from which the vehicle was removed, either as record owner or contract buyer, and the costs above provided for are not paid within thirty (30) days, the costs shall be levied as a special assessment against such property and certified to the Tax Collector of the county by the City Clerk as provided by Idaho Code 50-1008.

Whether or not the costs are levied as a special assessment, the City Council in its discretion may order such costs to be collected by civil action.

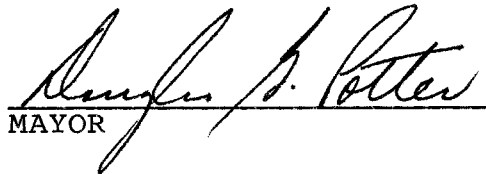
**SECTION XIV:** Within five (5) days after the abatement of the nuisance, notice shall be given to the state of Idaho Department of Law Enforcement identifying the vehicle, or part thereof, removed as fully as possible. At the same time any registration certificate or license plates found shall be transmitted to the

state of Idaho Department of Law enforcement.

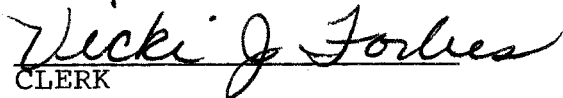
SECTION XV: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION VIII: Upon its passage and approval and publication in one issue of the Coeur d'Alene Press, the official newspaper of the City of Fernan Lake Village, Idaho, this Ordinance shall be in full force and effect commencing August 1, 1991.

Passed under suspension of the rule at which a roll call vote was taken at a regular meeting of the City Council of the City of Fernan Lake Village, Kootenai County, Idaho this 1st day of July, 1991.

  
MAYOR

ATTEST:

  
CLERK