

**ORDINANCE NUMBER 1009**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING KETCHUM MUNICIPAL CODE, TITLE 5, "BUSINESS LICENSES AND REGULATIONS", BY ADDING A NEW CHAPTER, 5.02, "LICENSES GENERALLY" TO BE KNOWN AS THE BUSINESS LICENSE ORDINANCE; PROVIDING DEFINITIONS, APPLICATION REQUIREMENTS, EXCEPTIONS, STANDARDS FOR ISSUANCE OF LICENSE, LICENSE FEE RENEWAL, CHANGE OF LOCATION, PROHIBITION AGAINST DOING BUSINESS WITHOUT A LICENSE, RIGHT OF APPEAL AND ENFORCEMENT; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Idaho Code §50-307, cities shall have authority to levy and collect a license fee on any occupation or business within the limits of the city and to regulate the same by ordinance; and

WHEREAS, the Ketchum City Council has determined that all businesses within the City of Ketchum should be licensed; and

WHEREAS, such business licensing will also aid in the collection of local option tax for the City of Ketchum; and

WHEREAS, the business license standards will ensure compliance with building and fire regulations, zoning requirements, and city water and sewer connection requirements, which are all imperative to the health, safety and welfare of the visitors to and residents of the City of Ketchum.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the City Council of the City of Ketchum, Idaho:

SECTION 1. NEW CHAPTER. That a new Chapter be added to Title 5 of the Ketchum Municipal Code to be known as Chapter 5.02, titled "Licenses Generally", to read as follows:

**Title 5, Business Licenses and Regulations  
Chapter 5.02 Licenses Generally**

Chapter 5.02

LICENSES GENERALLY

Sections:

- 5.02.010 Definitions.
- 5.02.020 Required–Application.

- 5.02.030 Exceptions.
- 5.02.040 Reserved.
- 5.02.050 License fee–Renewal.
- 5.02.060 Change of location.
- 5.02.070 Prohibition against doing business without a license.
- 5.02.080 Right of appeal.
- 5.02.090 Enforcement.

5.02.010 Definitions. In construing the provisions of this chapter, the following definitions shall apply:

“Business” or “occupation” means all activities, trades, and pursuits conducted or engaged in for profit, including without limitation wholesale businesses, retail businesses, personal service businesses and professions, and businesses conducted as home occupations in any and all situations where suppliers, vendors, customers, clients, and/or members of the general public visit or frequent the premises where the business or occupation is conducted.

“City” means the city of Ketchum, Idaho.

“City clerk” means the city clerk of the city of Ketchum, Idaho, or his/her designee acting as the licensing officer.

“Not-for-profit business” means any organization exempt from taxation as provided by 26 USC 501 and meeting all the requirements for the exemption provided by USC 26 USC 503.

“Person” means any individual, firm, partnership, company, corporation, joint venture, association, or other business entity.

“Premises” means all real property and structures where any business or occupation is conducted.

“Public street or place” as used in this chapter means sidewalk, street, alley, highway, public right-of-way, park, parking lot, or other place owned in fee by the city or in, on or over which an easement exists in the name of or held by the city, or which exists for the benefit and use of the public.

5.02.020 Required–Application. A business license shall be required for each premises located within the city in which any person is engaged in any business or occupation. Any person conducting such a business or engaged in such an occupation shall apply for the required business license by filling out an application provided by the city clerk. A license shall be required for each branch establishment and/or separate location of a business.

5.02.030 Exceptions. The following activities are exempted from the provisions of this chapter:

- A. Any sales under court order;
- B. A bona fide auction sale, not exceeding twice in one calendar year;
- C. Garage, yard, or similar sales by individual at their residence or place of business not exceeding twice in one calendar year; which sales shall not include business inventory; and
- D. Any business activity or event approved under Chapter 15.08 (Fireworks) or Chapter 12.32 (Special Events) of the Ketchum Municipal Code.
- E. Off premises distribution points for magazines and newspapers with a valid business license.

5.02.040

Reserved

5.02.050 License fee-Renewal. A non-refundable business license fee for the administrative costs of processing applications shall be paid by each applicant at the time of making application for any business license. The license shall be issued annually and there shall be no pro-ration of the application fee. All business licenses required hereunder shall be renewed annually for each year in which the business or occupation subject to this chapter remains in operation. The amount of the fees provided for herein shall be set by resolution of the city council. Any agency of the United States government and political subdivisions of the state of Idaho, including counties, school districts, sewer districts, fire districts, and other special districts, and not-for-profit businesses shall be exempt from payment of the license fee required by Section 5.02.050, but shall be required to obtain a license and annual renewals of said license, and shall be subject to all other provisions of this chapter. A late fee shall be applied to each license fee for applications received after the deadline.

5.02.060 Change of location. No licensee shall change the location of a licensed business without having applied for and received a new business license pursuant to the terms of this chapter.

5.02.070 Prohibition against doing business without a license. No person shall engage in any business or occupation within the boundaries of the city without first having obtained a business license as required by this chapter. All business licenses required under this chapter shall be displayed on the business premises in a location clearly visible to the general public.

5.02.080 Right of appeal. An appeal from any decision of the city clerk made in the administration or enforcement of this chapter may be made to the city council by filing a written appeal and fee with the city clerk within fifteen days following the date of the action or decision giving rise to the appeal. Upon hearing the appeal, the city council shall consider the record, the decision of the city officer, and the written appeal, together with oral presentation by the appellant, the city officer or administrator and the applicant. The city council may affirm, reverse, or modify the decision of the city clerk. The city council shall not substitute its judgment for that of the city clerk as to the weight of the evidence on questions of fact. The city council shall affirm the city clerk's decision unless the city council finds the decision is a) clearly erroneous, b) arbitrary, capricious or an abuse of discretion, or c) not supported by substantial evidence in the record as a whole. The city clerk shall transmit a copy of the city council's decision and findings to the appellant, the applicant and any other person or entity who has requested a copy in writing. The fee for processing the appeal shall be set by resolution of the city council.

5.02.090 Enforcement. A. Civil Liability. The city attorney shall, at the direction of the city council, institute civil suit in the name of the city to enforce compliance with the provisions of this chapter by injunctive relief, declaratory relief or other civil remedy. The city shall be entitled to recover its costs and attorneys' fees from the other party upon prevailing in

any such civil action. No civil judgment, or any act by the city or the violator shall bar or prevent a criminal prosecution for each and every violation of this chapter.

B. Criminal Liability. A person who violates any provision of this chapter or operates any business or occupation for which a license is required by this chapter without having first obtained a license, as herein provided, shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars, or imprisonment for not more than thirty days, or both such fine and imprisonment, which penalty shall be in addition to any other penalties provided in this chapter. Each day that a violation of this chapter occurs shall be deemed a separate offense.

SECTION 2. SAVINGS AND SEVERABILITY CLAUSE. It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence clause or phrase of this Ordinance is for any reason held to be invalid for any reason by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. CODIFICATION CLAUSE. The City Clerk is instructed to immediately forward this ordinance to the codifier of the official municipal code for proper revision of the code.

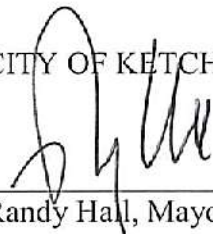
SECTION 4. REPEALER CLAUSE. All City of Ketchum Ordinances or resolutions or parts thereof which are in conflict herewith are hereby repealed.

SECTION 5. PUBLICATION. This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit "A," shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 7th day of May, 2007.


CITY OF KETCHUM, IDAHO

  
Randy Hall, Mayor

ATTEST:

APPROVED AS TO FORM  
AND CONTENT:

  
  
ORDINANCE NO. 1009





Sandra E. Cady, CMC  
City Treasurer/Clerk

Benjamin W. Worst,  
City Attorney

EXHIBIT A

**PUBLICATION OF SUMMARY OF ORDINANCE NO. 1009  
CITY OF KETCHUM, IDAHO**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING KETCHUM MUNICIPAL CODE, TITLE 5, "BUSINESS LICENSES AND REGULATIONS", BY ADDING A NEW CHAPTER, 5.02, "LICENSES GENERALLY" TO BE KNOWN AS THE BUSINESS LICENSE ORDINANCE; PROVIDING DEFINITIONS, APPLICATION REQUIREMENTS, EXCEPTIONS, STANDARDS FOR ISSUANCE OF LICENSE, LICENSE FEE RENEWAL, CHANGE OF LOCATION, PROHIBITION AGAINST DOING BUSINESS WITHOUT A LICENSE, RIGHT OF APPEAL AND ENFORCEMENT; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 970 of the City of Ketchum, Blaine County, Idaho, adopted on March 6, 2006, is as follows:

**Section 1:** Amends Ketchum Municipal Code Title 5, by adding a new Chapter, 5.02, to be known as the Business License Ordinance.

**Section 2:** Provides a savings and severability clause.

**Section 3.:** Provides a codification clause.

**Section 4:** Provides a repealer clause.

**Section 5:** Provides for publication of a summary of the Ordinance.

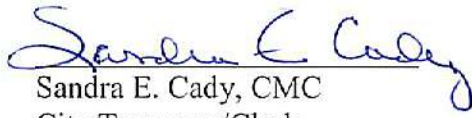
**Section 6:** Establishes the effective date.

The full text of this Ordinance is available at the City Clerk's Office, Ketchum City Hall, 480 East Avenue North, Ketchum, Idaho 83340 and will be provided to any citizen upon personal request during normal office hours.

CITY OF KETCHUM, IDAHO

  
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Randy Hall, Mayor

ATTEST:

A handwritten signature in blue ink that reads "Sandra E. Cady". The signature is written in a cursive style with a long, sweeping underline.

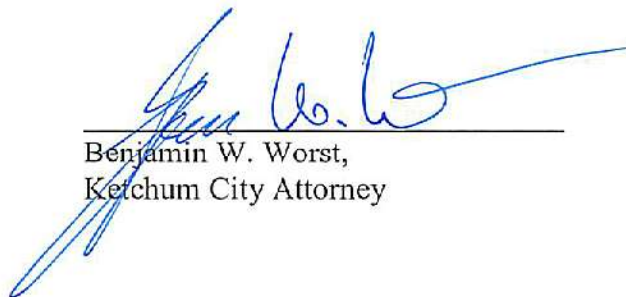
Sandra E. Cady, CMC  
City Treasurer/Clerk



**STATEMENT OF LEGAL ADVISOR**

I, the undersigned attorney at law, duly licensed in the State of Idaho and serving as City Attorney to the City of Ketchum, Idaho, hereby certify that I have read the attached Summary of Ordinance No. 1009 of the City of Ketchum and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this 7<sup>th</sup> day of May, 2007.



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Benjamin W. Worst,  
Ketchum City Attorney

Publish: Idaho Mountain Express  
Date: May 16, 2007