

ORDINANCE NUMBER 1054

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.136.050, RESTORATION, AND CHAPTER 17.136.060, ENLARGEMENT, BY DELETING LANGUAGE; ADDING NEW LANGUAGE; CLARIFYING THE PURPOSE, APPLICABILITY AND EXCEPTIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ore House, LLC, applied for a text amendments to Title 17.136.050. *Restoration*, and Section 17.136.060. *Enlargement of a Nonconforming Building or a Nonconforming Use*;

WHEREAS, the proposed changes will apply to nonconforming structures and uses in all zone districts;

WHEREAS, the applicant is seeking to change the provision that: nonconforming structures which have been substantially damaged have a time period of 6 months in which to begin restoration activities. The applicant has proposed changing the 6 month time frame for restoration to a period of two years in which to begin restoration work.

WHEREAS, the applicant requests that nonmaterial changes to the preexisting nonconforming structure be approved at the City's discretion; and that if additional square footage is added, that additional square footage be subject to the current requirements of the underlying zone district at the discretion of the Planning and Zoning Department Head.

WHEREAS, the City initiated changes to the *Enlargement of a Nonconforming Building* Section of the code by deleting the provisions for modifying a nonconforming building's height and side yard setbacks in the Limited Residential (LR) zone district. The provisions for modified height and side yard setbacks in the LR zone district have been difficult for City staff to calculate and regulate. Additionally, these rules have been difficult for the general public to interpret. The recommendation for this portion of the code is to allow nonconforming buildings and uses in all zone districts to expand provided that 50% of the original nonconforming structure's footprint and exterior walls remain unaffected.

WHEREAS, the Planning and Zoning Commission considered the application for a text amendment and made a recommendation to the City Council on February 9, 2009.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO:

SECTION 1. Amends Section 17.136.050, Restoration; be amended by deleting therefrom and adding thereto the underlined language hereinbelow, to wit:

~~A nonconforming building which has been damaged not more than sixty percent (60%) of its assessed value by fire or any other cause may be restored to its original condition, provided such work is started within six (6) months of such calamity and completed within one year of the time the restoration is commenced. A nonconforming building which has been damaged more than sixty percent (60%) of its assessed value by fire or any other cause may be restored only if:~~

~~A. Such work is started within six (6) months of such calamity and completed within one year of the time restoration is commenced; and~~

~~B. Such restoration is in conformity with the international building code then in effect in the city and the zoning regulations then in effect in the district in which the building is situated. (Ord. 208 § 26.5, 1974)~~

A nonconforming building which has been damaged or destroyed by fire or any other calamity, may be restored to its preexisting nonconforming condition if a building permit for the work of restoration is obtained within two years of the date of the fire or other calamity and the work of the restoration complies with the international building and fire codes in effect at the time of the issuance of the building permit.

Nonmaterial changes to the preexisting nonconforming condition may be approved at the City's discretion. If additional square footage is added, that additional square footage may be subject to the current requirements of the underlying zone district at the discretion of the Planning and Zoning Department Head.

SECTION 2. Amends Section 17.136.060, Enlargement of a Nonconforming Building or a nonconforming use; be amended by deleting therefrom and adding thereto the underlined language hereinbelow, to wit:

A nonconforming use shall not be enlarged or extended and a nonconforming building shall not be enlarged or extended so as to increase the degree of nonconformity. ~~For purposes of measuring side yard setbacks,~~ additions and/or enlargements to existing buildings are not considered to be nonconforming or to increase the degree of nonconformity, so long as the additions and/or enlargements comply with the following:

A. Any additional square footage may be subject to the current requirements of the underlying zone district at the discretion of the Planning and Zoning Department Head.

B. Fifty percent (50%) of the building footprint and exterior walls of a nonconforming structure must remain unaltered.

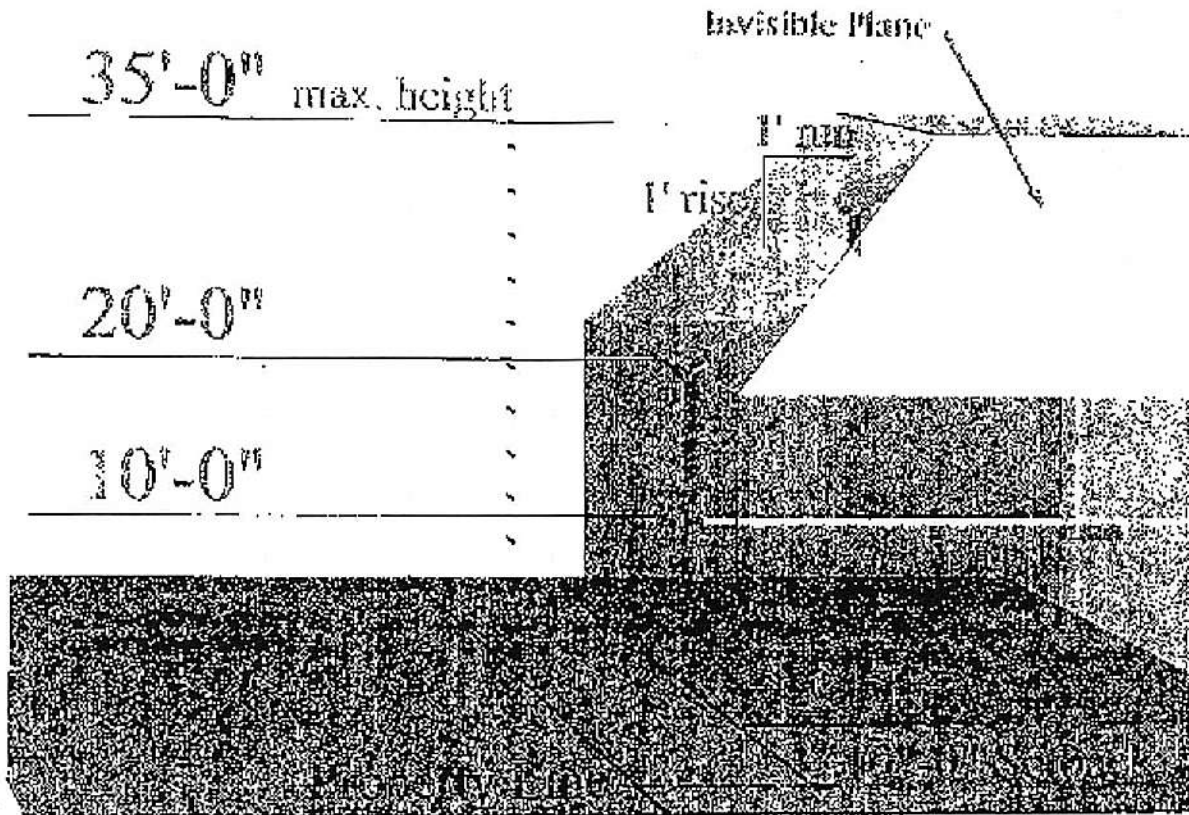
~~A. The subject property is zoned LR limited residential.~~

~~B. Any building wall along the side yard cannot be increased in height unless it meets the current side yard setbacks for the LR limited residential zone. Roof additions or roof remodels for energy efficiency purposes are permitted subject to a maximum height increase of twenty~~

four inches (24") above the existing roof elevation. Notwithstanding, all roofs must meet the height limits of the LR zone.

C. Any addition or enlargement to the existing building shall be inside an invisible plane drawn ten feet (10') from the side property line, twenty feet (20') vertically from that point and at a one foot (1') rise to one foot (1') run up to a maximum height of thirty five feet (35') (see following illustration).

Delete the Following Illustration:



(Ord. 874 § 1, 2001; Ord. 208 § 26.6, 1974)

Delete the Above Illustration

SECTION 3. 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.

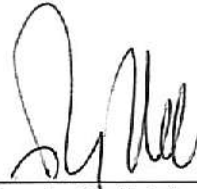
SECTION 4. CODIFICATION CLAUSE. The City Clerk is instructed to immediately forward this ordinance to the codifier of the official municipal code for proper revision of the code.

SECTION 5. PUBLICATION. This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form attached 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. REPEALER CLAUSE. All City of Ketchum code sections, ordinances or resolutions or parts thereof, which are in conflict herewith are hereby repealed.

SECTION 7. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 20th day of April, 2009.



Randy Hall, Mayor

ATTEST:



Sandra E. Cady, CMC
City Treasurer/Clerk





EXHIBIT A

**PUBLICATION OF SUMMARY OF ORDINANCE NO. 1054
CITY OF KETCHUM, IDAHO**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.136.050, RESTORATION, AND CHAPTER 17.136.060, ENLARGEMENT, BY DELETING LANGUAGE; ADDING NEW LANGUAGE; CLARIFYING THE PURPOSE, APPLICABILITY AND EXCEPTIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 1054 of the City of Ketchum, Blaine County, Idaho, adopted on April 20, 2009, is as follows:

Section 1. Amends Section 17.136.050, Restoration; be amended by deleting therefrom and adding thereto the underlined language hereinbelow, to wit:

~~A nonconforming building which has been damaged not more than sixty percent (60%) of its assessed value by fire or any other cause may be restored to its original condition, provided such work is started within six (6) months of such calamity and completed within one year of the time the restoration is commenced. A nonconforming building which has been damaged more than sixty percent (60%) of its assessed value by fire or any other cause may be restored only if:~~

~~A. Such work is started within six (6) months of such calamity and completed within one year of the time restoration is commenced; and~~

~~B. Such restoration is in conformity with the international building code then in effect in the city and the zoning regulations then in effect in the district in which the building is situated. (Ord. 208 § 26.5, 1974)~~

A nonconforming building which has been damaged or destroyed by fire or any other calamity, may be restored to its preexisting nonconforming condition if a building permit for the work of restoration is obtained within two years of the date of the fire or other calamity and the work of the restoration complies with the international building and fire codes in effect at the time of the issuance of the building permit.

Nonmaterial changes to the preexisting nonconforming condition may be approved at the City's discretion. If additional square footage is added, that additional square footage may be subject to the current requirements of the underlying zone district at the discretion of the Planning and Zoning Department Head.

Section 2: Amends Section 17.136.060, Enlargement of a Nonconforming Building or a nonconforming use; be amended by deleting therefrom and adding thereto the underlined language hereinbelow, to wit:

A nonconforming use shall not be enlarged or extended and a nonconforming building shall not be enlarged or extended so as to increase the degree of nonconformity. ~~For purposes of measuring side yard setbacks,~~ ~~a~~ Additions and/or enlargements to existing buildings are not considered to be nonconforming or to increase the degree of nonconformity, so long as the additions and/or enlargements comply with the following:

A. Any additional square footage may be subject to the current requirements of the underlying zone district at the discretion of the Planning and Zoning Department Head.

B. Fifty percent (50%) of the building footprint and exterior walls of a nonconforming structure must remain unaltered.

~~A. The subject property is zoned LR limited residential.~~

~~B. Any building wall along the side yard cannot be increased in height unless it meets the current side yard setbacks for the LR limited residential zone. Roof additions or roof remodels for energy efficiency purposes are permitted subject to a maximum height increase of twenty four inches (24") above the existing roof elevation. Notwithstanding, all roofs must meet the height limits of the LR zone.~~

~~C. Any addition or enlargement to the existing building shall be inside an invisible plane drawn ten feet (10') from the side property line, twenty feet (20') vertically from that point and at a one foot (1') rise to one foot (1') run up to a maximum height of thirty five feet (35') (see following illustration).~~

Section 3: Provides a savings and severability clause.

Section 4: Provides a codification clause.

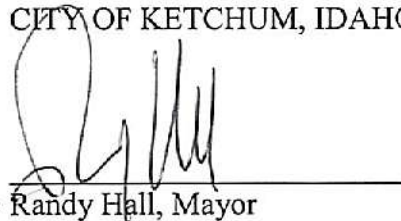
Section 5: Provides for publication of a summary of the Ordinance.

Section 6: Provides a repealer clause.

Section 7: Establishes the effective date of April 29, 2009.


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



Randy Hall, Mayor

ATTEST:



Sandra E. Cady, CMC
City Treasurer/Clerk

Publish: Idaho Mountain Express
Date: April 29, 2009