

**ORDINANCE NUMBER 1084**

**AN ORDINANCE OF THE CITY OF KETCHUM IN BLAINE COUNTY, IDAHO, ENACTING TITLE 12, CHAPTER 40, KETCHUM CITY CODE; ESTABLISHING A PERCENT FOR PUBLIC ART ON ALL ELIGIBLE CAPITAL IMPROVEMENT PROJECTS IN THE CITY OF KETCHUM; PROVIDING DEFINITIONS OF ELIGIBLE PUBLIC CAPITAL IMPROVEMENT PROJECTS; PROVIDING GENERAL REQUIREMENTS FOR PUBLIC ART; PROVIDING ADMINISTRATIVE RESPONSIBILITIES FOR CONSERVATION AND MAINTENANCE OF PUBLIC ART; PROVIDING FUNDING SOURCES FROM ELIGIBLE PUBLIC CAPITAL IMPROVEMENT PROJECTS; PROVIDING FOR SAVINGS AND SEVERABILITY; REPEALING ALL ORDINANCES AND PARTS OR ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

WHEREAS, the Ketchum City Council has determined that it is in the public's best interest to promote and encourage the safe placement of public art within the City of Ketchum; and,

WHEREAS, the City Council finds it appropriate and in the best interest of the City to establish a Public Art Fund within the Parks & Recreation Fund to allocate monies for the administration and implementation of this Chapter; and,

WHEREAS, the City Council has the authority, by law, to supervise and control all public streets and ways and to adopt regulations to preserve and protect the public health, safety and welfare, including the placement of public art within 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 12 of the Ketchum Municipal Code to be known as Chapter 40, Percent for Public Art, to read as follows:

- 12.40.010 Purpose**
- 12.40.020 Percent for Art Program Established**
- 12.40.030 Eligible Capital Improvement Projects**
- 12.40.040 General Requirements for Art**
- 12.40.050 Administrative Responsibilities**
- 12.40.060 Source of Funds**

**12.40.010 Purpose:** It is the purpose of this Chapter and the policy of the City through the dedication of one and one third percent (1.33%) of the actual cost of all eligible Capital Improvement Projects, as defined herein, for the funding of art in public places in the City in order to beautify public areas, to enhance the quality of life for Ketchum citizens, to attract tourism and to enhance community interest in municipal facilities, thereby expanding the City's economic base.

**12.40.020 Percent for Art Program Established:** There is hereby established a Percent for Art Program, which shall be administered as set forth in this Chapter.

**12.40.030 Eligible Capital Improvement Projects:**

A. Eligible capital improvement projects shall include, for the purposes of this chapter, every capital municipal construction or improvement project or portion thereof, paid for wholly or in part by the City of Ketchum including, but not limited to, construction, renovation or remodel of any public park, public building or structure, street or road, or public parking facility developed by the city or developed privately and leased back to the City.

B. In the event bonds are used to fund capital improvement projects, the capital improvement projects shall be an eligible capital improvement project if so approved by:

1. The bond election ordinance; or
2. The bond ordinance authorizing revenue bonds; or
3. Other appropriate laws or regulations;
4. An official interpretation by another governmental entity regarding reliable use of funds which the agency is providing for the project and which includes art as an expenditure of funds.

C. The following categories of projects are exempt from the Percent for Art requirements:

1. Local Improvement Districts (LIDs).
2. Major repair, renovation or maintenance of public improvements such as streets, sidewalks, curbs alleys or right-of-way improvements that would not be capitalized under the City's fixed asset policy definitions.
3. Subsurface public utility improvements such as storm and sanitary sewers, water lines and other appurtenances.
4. Project costs for which art is not eligible by statute, law or regulation.

D. All completed artworks commissioned or purchased through the Percent for Art program will be owned, insured and maintained by the City.

E. Nothing contained herein shall preclude funding or the acquisition or commission of other public art for municipal property through other sources or mechanisms including contributions, matching monies, donations, or grants.

**12.40.040 General Requirements for Art:**

A. Works of art may be an integral part of a structure, attached to a structure or detached from a structure within or outside of it.

B. All works of public art shall be located in a public place with public visibility and impact, and shall comply with all standards and guidelines for art in public places as set forth by the City of Ketchum Arts Commission and approved by the City Council and Mayor.

C. A professional artist, or artists, shall be selected through a public selection process to consult, conceptualize, and/or design and fabricate an art component for the identified capital project.

D. Activities that support public awareness and understanding of the City of Ketchum's art in public places program such as walking tours, printed materials, lectures and website development and maintenance may be funded from the Public Art Fund as recommended and approved by the Ketchum Arts Commission, City Council and Mayor.

E. Money from the Public Art Fund may not be spent for:

1. Art objects of standard design or mass production, such as playground structures.
2. Directional or other functional elements, such as supergraphics, signs, color coding, maps, etc., except where an artist is commissioned by the City.

#### **12.40.050 Administrative Responsibilities:**

A. The City shall empower its Parks & Recreation Director or designee, in cooperation with the Ketchum Arts Commission, to be responsible for the selection of artists, project management and maintenance of public art in the City commissioned through the Percent for Art program. The Parks & Recreation Director shall make recommendations for and shall advise other City departments regarding the maintenance, repair or other conservation of public art.

B. An annual report shall be prepared by the Ketchum Arts Commission and submitted to the City Council regarding the Commission's activities in the furtherance of the objectives of this chapter, including the existing condition of all works of art in the Percent for Art program and completed and ongoing maintenance.

C. Selected public art shall be consistent with the City's comprehensive plan, Downtown Master Plan, zoning and subdivision ordinances, and land uses contemplated therein.

#### **12.40.060 Source of Funds:**

A. A Public Art Fund within the Parks & Recreation Fund shall be established into which funds authorized and collected pursuant to this chapter shall be deposited. A separate sub-account shall be established for the maintenance and conservation of commissioned public art works.

B. From each qualifying and funded capital improvement project, the City shall place in the Public Art Account an amount equal to one and one third percent (1.33%) of such capital improvement project's actual costs to the City regardless of whether or not such capital improvement project is completed.

C. In computing the amount to place in the Public Art Fund, the projected actual costs to the City shall include all amounts paid by the City to third parties in connection with the projects, including, but not limited to, amounts paid on contracts relating to the project and consultant fees incurred in connection with the project.

D. Of the one and one third percent (1.33%) from each qualifying capital improvement project allocated to the Public Art Account:

1. No less than one percent (1%) of the eligible capital improvement project costs shall be allocated toward purchase, creation or installation of public art pieces.
2. No more than one third of one percent (.33%) shall be used for administrative costs, including, but not limited to, costs of selection, project management, maintenance, repair and conservation.

**SECTION 2. PUBLICATION OF ORDINANCE BY SUMMARY.** In lieu of publishing this Ordinance in its entirety, the City of Ketchum shall publish the summary of this Ordinance, attached hereto as Exhibit A, and incorporated herein by reference. The City Council hereby finds that said summary is true and complete and provides adequate notice of the contents of this Ordinance to the public in compliance with law.

**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. REPEALER CLAUSE.** All City of Ketchum ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of Ketchum this 22<sup>nd</sup> day of February, 2011.

CITY OF KETCHUM, IDAHO



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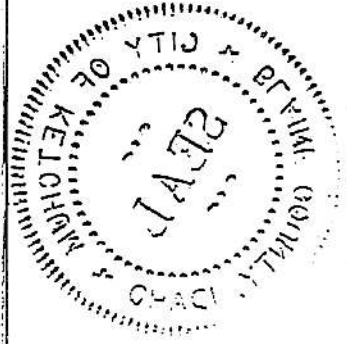
Randy Hall, Mayor

ATTEST:

A handwritten signature in blue ink that reads "Sandra E. Cady". The signature is written in a cursive style and is positioned above the printed name.

Sandra E. Cady, CMC  
Clerk/Treasurer





**EXHIBIT A**  
**SUMMARY OF ORDINANCE NUMBER 1084**  
**OF THE CITY OF KETCHUM, IDAHO**

**PUBLIC NOTICE IS HEREBY GIVEN** that the City of Ketchum, Idaho, adopted at its regular meeting of February 22<sup>nd</sup>, 2011, that Ordinance No. 1084 entitled:

**AN ORDINANCE OF THE CITY OF KETCHUM IN BLAINE COUNTY, IDAHO, ENACTING TITLE 12, CHAPTER 40, KETCHUM CITY CODE; ESTABLISHING A PERCENT FOR PUBLIC ART ON ALL ELIGIBLE CAPITAL IMPROVEMENT PROJECTS IN THE CITY OF KETCHUM; PROVIDING DEFINITIONS OF ELIGIBLE PUBLIC CAPITAL IMPROVEMENT PROJECTS; PROVIDING GENERAL REQUIREMENTS FOR PUBLIC ART; PROVIDING ADMINISTRATIVE RESPONSIBILITIES FOR CONSERVATION AND MAINTENANCE OF PUBLIC ART; PROVIDING FUNDING SOURCES FROM ELIGIBLE PUBLIC CAPITAL IMPROVEMENT PROJECTS; PROVIDING FOR SAVINGS AND SEVERABILITY; REPEALING ALL ORDINANCES AND PARTS OR ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

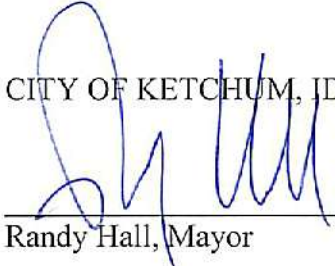
This ordinance establishes a Percent for Art program and adopts as a policy for the City of Ketchum that one and one-third percent (1.33%) of eligible capital improvement projects be appropriated for the acquisition of public art. The ordinance defines "eligible capital improvement projects," certain general requirements for public art and establishes administrative responsibilities of the Parks and Recreation Director and Ketchum Arts Commissions related to selection of artists, management and maintenance of public art.

The ordinance establishes a Public Art Fund to be used for the acquisition and maintenance of public art. Of the one and one-third percent of eligible capital improvement project costs to be appropriated for public art, the ordinance establishes that no less than one percent (1%) be allocated toward the purchase, creation or installation of public art pieces. No more than one third of one percent (.33%) is to be used for administrative costs and maintenance.


The effective date of Ordinance 1084 is the date of its passage, approval and publication. A copy of the full text of the Ordinance is available at the Office of the City Clerk, Ketchum City Hall, 480 East Avenue North, Ketchum, Idaho 83340, and will be provided to any citizen upon personal request during normal office hours pursuant to Idaho Code §50-901A(4).

DATED this 22<sup>nd</sup> day of February 2011.

CITY OF KETCHUM, IDAHO

  
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Randy Hall, Mayor

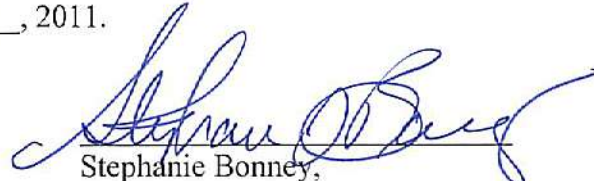
ATTEST:

  
Sandra E. Cady, CMC  
Clerk/Treasurer

**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. 1084 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 22 day of February, 2011.

  
Stephanie Bonney,  
Ketchum City Attorney

Publish: Idaho Mountain Express  
Date: March 2, 2011