

**ORDINANCE NO. #1172**

**AN EMERGENCY ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, FINDING AN IMMINENT PERIL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE DUE TO ANTICIPATED FLOODING CAUSED BY WOOD RIVER VALLEY SNOWPACK BEING ONE HUNDRED AND EIGHT PERCENT (180%) ABOVE NORMAL AND THEREFORE AMENDING KETCHUM CITY CODE 17.88 TO PROVIDE FOR EMERGENCY PROCEDURES FOR RIPARIAN ALTERATION AND EMERGENCY CITY ACTIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Ketchum is authorized to adopted emergency ordinances pursuant to Idaho Code § 67-6523; and

WHEREAS, the City first adopted an ordinance regulating development in the floodplain in 1974 with the passage of Ord. 208;

WHEREAS, the City first distinguished between Floodplain and Floodway areas and established a streambank alteration permit in 1989 with the adoption of Ord. 525;

WHEREAS, the City participates in the Federal Emergency Management Agency (FEMA)'s National Flood Insurance Program (NFIP) in order to protect the health, safety, and welfare of its citizens and to ensure that flood insurance is available to them; and

WHEREAS, by participating in the NFIP the City's responsibilities include requiring permits for all development within the 100-year floodplain, ensuring all other permits required by local, State, and Federal laws are obtained, maintaining records of all development permits, and ensuring flood carrying capacity of altered or relocated watercourses is maintained; and

WHEREAS, the snowpack in the Wood River Valley is approximately one hundred and eight percent (180%) above normal; and

WHEREAS, as of March 24, 2017 the water discharge rate on the Big Wood River, as measured from the Ketchum gauge station, is 198 cubic feet per second (cfs) while the previous highest recorded on this date was 142 cfs and the mean discharge on this date is 55 cfs and the 198 cfs reading is 360% of normal discharge for this date; and

WHEREAS, as of March 22, 2017 flooding has already occurred in south Blaine County, with high water on roadways causing roadways to be closed for periods of time; and

WHEREAS, as flooding within the City of Ketchum is anticipated to occur and the City Council finds that the high likelihood of flooding constitutes an imminent peril to the public health, safety, and welfare; and

WHEREAS, the date of high water on the Big Wood River during the ten (10) highest water events recorded has occurred between May 21 to June 18; and

WHEREAS, the City desires to create processes with defined review criteria and standards in order to evaluate and permit emergency actions to protect the health, safety, and welfare to be carried out during flood events; and

WHEREAS, adoption of this ordinance is necessary to address the imminent perils identified above and it is to be done as an emergency ordinance effective for a period of up to one hundred eight-two days pursuant to Idaho Code § 67-6523;

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

**Section 1: AMENDMENTS TO CHAPTER 17.88 FLOODPLAIN MANAGEMENT OVERLAY ZONING DISTRICT.** That Title 17 of the Ketchum Municipal Code be amended to add a new Section III. Emergency Riparian Alteration to Chapter 17.88 Floodplain Management Overlay Zoning District as attached and incorporated as Exhibit A to this Ordinance.

**Section 2: AMENDMENTS TO CHAPTER 17.88 FLOODPLAIN MANAGEMENT OVERLAY ZONING DISTRICT.** That Title 17 of the Ketchum Municipal Code be amended to add a new Section IV. Emergency City Initiated Actions to Chapter 17.88 Floodplain Management Overlay Zoning District as attached and incorporated as Exhibit B to this Ordinance.

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

**Section 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect after its passage, approval and publication, according to law. Pursuant to Idaho Code § 67-6523 the restrictions established by this emergency ordinance will be effective for a period of not longer than one hundred eight-two (182) days.

PASSED BY the CITY COUNCIL and APPROVED by the MAYOR of Ketchum, Idaho, on this 3rd day of April, 2017.

APPROVED BY the Mayor of the City of Ketchum, Idaho, this 3rd day of April, 2017.

APPROVED:

  
\_\_\_\_\_  
Nina Jonas, Mayor

ATTEST:

  
\_\_\_\_\_  
Robin Crotty, Interim City Clerk

**EXHIBIT A**

### Article III. Emergency Riparian Alteration

17.88.170: Title

17.88.180: Guidelines

17.88.190: Procedure

17.88.200: Application For Emergency Riparian Alteration

17.88.210: Action Upon Submittal Of Emergency Riparian Alteration Application

17.88.220: Site Inspection

17.88.230: Basis For Denial Of An Emergency Riparian Alteration Permit

17.88.240: Conditions Of Emergency Riparian Alteration Approval

17.88.250: Enforcement

17.88.170: TITLE:

This article shall be known and may be cited as the EMERGENCY RIPAIAAN ALTERATION ORDINANCE.

17.88.180: GUIDELINES:

Guidelines for determining if an emergency for purposes of this article is imminent are as follows:

A. The water equivalent measurements at Galena, Galena Summit, Dollar Hide and Lost Wood Divide as recorded by the national resource conservation service (NRCS) SNOTEL sites;

B. The forecast temperatures available from the national weather service;

C. The flow of the Big Wood River as measured at the Ketchum gauging station or Hailey gauging station and recorded by the United States geological survey (USGS) in Boise, Idaho;

D. Local site conditions, such as downed trees, debris build up, or trees in imminent danger of falling as determined by the administrator and advised by the City Arborist; and

E. Failure to submit an application under section 17.88.200 of this chapter far enough in advance of the desired start date for riparian alteration work shall not be considered an emergency.

17.88.190: PROCEDURE:

To obtain an emergency permit, an applicant must submit an application as described in section 17.88.200 of this chapter and receive written approval to perform the emergency work from the administrator. The administrator may consult a qualified engineer or professional regarding the proposed emergency work. A site inspection must be performed by the administrator before approval can be granted. Under no circumstances shall work commence without the approvals required herein.

17.88.200: APPLICATION FOR EMERGENCY RIPARIAN ALTERATION:

The applicant shall first complete and submit an emergency application provided by the city which shall include, but not be limited to, the following information:

A. Description of the emergency impact to public health, safety or welfare;

B. Name of proposed contractor or executor of work;

C. Description of proposed work;

D. Nonrefundable application fee in the amount as set by the city council; and

E. Where applicable, a waiver from the Idaho department of water resources as specified under Idaho Code section 42-3808, and the stream channel alteration rules of the Idaho water resource board.

17.88.210: ACTION UPON SUBMITTAL OF EMERGENCY RIPARIAN ALTERATION APPLICATION:

Upon submittal of the application, the applicant shall contact the administrator to arrange for a site inspection.

**17.88.220: SITE INSPECTION:**

Upon receipt and review of a completed application, a site inspection shall be performed by the administrator. Written findings of fact and conclusions of law granting or denying the application will be prepared for city records and the applicant upon the conclusion of the site inspection and within five (5) working days from the date of the decision.

**17.88.230: BASIS FOR DENIAL OF AN EMERGENCY RIPARIAN ALTERATION PERMIT:**

No permit shall be granted if the administrator determines that the proposed emergency work is contrary to the public health, safety or welfare or that it is contrary to adopted city policies regarding riparian areas and river systems.

**17.88.240: CONDITIONS OF EMERGENCY RIPARIAN ALTERATION APPROVAL:**

Conditions which may be required for the granting of a permit include, but are not limited to, the following:

A. The administrator may require the applicant to post financial security, and enter into an agreement with the city, to mitigate possible impacts of the proposed work.

B. The proposed action shall be conducted so as to minimize the impact on riparian vegetation and soil stability.

C. If an emergency permit is granted, the applicant shall apply for a waterways design review/stream alteration permit under article I of this chapter within six (6) months from the date of the issuance of the emergency permit.

D. If a waterways design review/stream alteration permit under article I of this chapter and all other applicable state and federal agency permits are granted, the applicant shall then complete restoration of the affected property to city and state standards by either March 31 of the year following the issuance of the emergency permit or by another date specified by approval authority.

E. Copies of the approved emergency permit shall be posted on site throughout the duration of the work.

**17.88.250: ENFORCEMENT:**

A. It is unlawful for any person, firm or corporation to:

1. Fail to obtain a permit before commencing emergency work.

2. Perform emergency work beyond that expressly allowed by the permit.

3. Provide false documentation in connection with the emergency work performed..

B. Any person, firm, or corporation violating any provision of this article shall, for each offense, be subject to the enforcement procedures established in chapter 17.156 of this title.

**EXHIBIT B**

## **Article IV. Emergency City Initiated Actions**

**17.88.260: Title**

**17.88.270: Guidelines**

**17.88.280: Procedure**

**17.88.290: Application**

**17.88.300: Action Upon Submittal Of Emergency Application**

**17.88.310: Conditions Of Emergency Stream Bank Stabilization Approval**

**17.88.260: TITLE:**

This article shall be known and may be cited as the EMERGENCY CITY INITIATED ACTIONS ORDINANCE.

**17.88.270: GUIDELINES:**

Guidelines for determining if an emergency for purposes of this article is imminent are as follows:

A. The water equivalent measurements at Galena, Galena Summit, Dollar Hide and Lost Wood Divide as recorded by the national resource conservation service (NRCS) SNOTEL sites;

B. The forecast temperatures available from the national weather service;

C. The flow of the Big Wood River as measured at the Ketchum gauging station or Hailey gauging station and recorded by the United States geological survey (USGS) in Boise, Idaho; and

D. Local site conditions determined by the city administrator or his or her designee to pose an imminent threat to the health, safety, and welfare of the public.

**17.88.280: PROCEDURE:**

Upon determination of an emergency, the city shall initiate actions necessary to protect public health, safety, and welfare and/or prevent or mitigate damage to public or private property or infrastructure. There is no application fee for a city-initiated application..

**17.88.290: APPLICATION:**

The city shall complete and submit emergency stream bank alteration and/or riparian alteration applications in order to document the work proposed to be undertaken. Applications shall include, but not be limited to, the following information:

A. Description of the existing site conditions, including description of the emergency impact to public health, safety or welfare;

B. Name of proposed contractor or executor of work;

C. Description of proposed work;

D. A waiver from the Idaho department of water resources as specified under Idaho Code section 42-3808, and the stream channel alteration rules of the Idaho water resource board.

**17.88.300: ACTION UPON SUBMITTAL OF EMERGENCY APPLICATION:**

The administrator shall approve the application. Written findings of fact and conclusions of law will be prepared for city records within five (5) working days from the date of the decision.

**17.88.310: CONDITIONS OF EMERGENCY APPLICATION APPROVAL:**

Conditions which may be required for the granting of a permit include, but are not limited to, the following:



- A. The proposed emergency work shall be conducted so as to minimize the impact on riparian vegetation and soil stability.
- B. Within six (6) months of the application being granted the city shall apply for a waterways design review/stream alteration permit under article I of this chapter.
- C. If a waterways design review/stream alteration permit under article I of this chapter and all other applicable state and federal agency permits are granted, the city shall then complete restoration of the affected property to city and state standards by either March 31 of the year following the issuance of the emergency stream bank stabilization permit or by another date specified by the administrator or other governmental agency.
- D. Copies of approved permits shall be posted on site throughout the duration of the work.

**EXHIBIT C**

**NOTICE AND PUBLISHED SUMMARY  
PURSUANT TO I.C. § 50-901(A)]**

**CITY OF KETCHUM  
ORDINANCE NO. 1172 (FLOODING EMERGENCIES PERMITS ORDINANCE)**

As enacted by the City Council, Ordinance 1172 is an emergency ordinance that adds two new sections to Ketchum Municipal Code 17.88 to address emergency flooding issues as follows:

- Article III provides a process for application by a private party for emergency riparian alterations, including guidelines for determining an emergency, procedure for an emergency permit and application fee, permit application requirements, action upon a permit application, site inspections, conditions for denial or approval of such permit, and enforcement for violations of such procedure and/or permits.
- Article IV provides a process for emergency city-initiated actions to stream banks and/or riparian areas so as to protect the public health, safety, and welfare. This process includes guidelines for determining an emergency, procedures, emergency application requirements, action upon an emergency application, and conditions for approval of such application.
- Providing a savings and severability clause.
- Providing for publication and an effective date, including as an emergency ordinance for an effective period of not longer than 182 days.

The full text of this ordinance is available for review at Ketchum City Hall during regular business hours.

City of Ketchum  
Mayor and City Council  
By Robin Crotty, City Clerk

# WHITE PETERSON

## ATTORNEYS AT LAW

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April 13, 2017

Robin Crotty, City Clerk  
City of Ketchum  
PO Box 2315  
Ketchum ID 83340

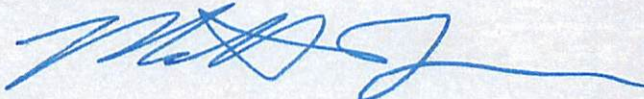
**Re: Summary Certification for Emergency Ordinance No. 1172**

**Attached:** Notice and Published Summary for Ordinance 1172

**Opinion:** As the City Attorney for the City of Ketchum, please consider this my statement and opinion that the enclosed summary is true and complete and provides adequate notice of the contents of said Ordinance to the public.

**Requested Action:** Please proceed to publish the enclosed Notice and Published Summary and file this statement with the original ordinance in the ordinance book of the City of Ketchum as required by Idaho Code § 50-901A (3).

Very truly yours,



Matthew A. Johnson  
WHITE PETERSON