

ORDINANCE NO. 996

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.104, MOUNTAIN OVERLAY ZONING DISTRICT (MO) SECTIONS 17.104.030, MOUNTAIN OVERLAY ZONING DISTRICT BOUNDARIES, B., 17.104.060, MOUNTAIN OVERLAY DESIGN REVIEW PREAPPLICATION REVIEW, F., 17.104.070, MOUNTAIN OVERLAY DESIGN REVIEW, CRITERIA AND STANDARDS, A AND C OF THE KETCHUM MUNICIPAL CODE BY MAKING AN ADDITION TO THE BOUNDARIES WITHIN THE KNOB HILL AREA, BY AMENDING THE AMOUNT OF TIME ALLOWED FOR DELAYS OF COMMISSION ON-SITE REVIEWS AND BY ADDING CERTAIN LANGUAGE TO THE MOUNTAIN OVERLAY DESIGN REVIEW CRITERIA AND STANDARDS; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING A CODIFYING CLAUSE; BY PROVIDING A REPEALER CLAUSE; BY PROVIDING FOR PUBLICATION BY SUMMARY; AND BY PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mountain Overlay Zoning District, was established by the Ketchum City Council in 1974 to identify those areas where the orderly development of hillside areas is vital to the public interest; that the City should regulate access to, erosion of, damage from and construction on hillsides; that it is obligated to protect the public health, safety and welfare; and that special regulations regarding hillside development should be imposed within such district;

WHEREAS, Section 17.104.020, Title 17, Zoning Code states the purposes of the Mountain Overlay Zoning District:

- A. To protect the public health, safety and welfare of inhabitants of hillside areas;
- B. To encourage land uses harmonious with existing natural resources;
- C. To prohibit detrimental alteration of existing topography and terrain leaving hillsides generally open and unobstructed; to prohibit scarring by roadways;
- D. To protect natural land features and wildlife habitat;
- E. To minimize or prohibit alteration of hilltops, rock outcrops, knolls and ridges;
- F. To facilitate adequate provision of public services and facilities (i.e., water and sewer, and police, fire and ambulance protection) through standards appropriate to local conditions;
- G. To minimize or prohibit detrimental effects on the natural topography, geology, soils, drainage, wildlife and vegetation;
- H. To carry out provisions contained in Ketchum's Comprehensive Plan;
- I. To minimize the visual impact of building sites and access drives that are significantly higher than the vast majority of building sites in Ketchum;
- J. To protect hillsides in Ketchum which are physically and topographically unique due to their present lack of access roads and thus their lack of development;
- K. To ensure preservation of hills, ridges, ridge lines and their natural features which are visible from the valley floor from obstruction by development;
- L. To direct building away from the higher elevations; and
- M. To assure the property owner is not deprived of economically viable use of his/her property;

WHEREAS, the City Council designated those areas within the City found to be hillside and mountain areas that due to their steepness of slope, high visibility from other areas within and outside of the City by the general public, unique physical characteristics including knolls, ridges and rock outcroppings, and/or skyline juxtaposition among other mountain slopes require regulation in order to carry out the purposes of this district. The following area was included within the Mountain Overlay Zoning District: Within the Knob Hill area, the Mountain Overlay boundary shall be defined as all that area north of Sixth Street, east of Walnut Avenue, south of Tenth Street and the southern limit of the Bigwood PUD as platted, and the parcels of land containing slopes of twenty-five (25) percent or greater to the northeast of Ketchum Townsite Blocks 99 and 100 and west of the City limits line common to that of the City of Sun Valley, Idaho. All that property contained within the boundary shall be included;

WHEREAS, standard 17.104.070.A.1 states: There shall be no building on ridges or knolls which would have a material visual impact on a significant skyline visible from a public vantage point entering the City or within the City. Material, as the term is used herein, shall be construed in light of the magnitude of the negative impact on the objectives of this Section;

WHEREAS, standard 17.104.070.A.2 states: Building, excavating, filling and vegetation disturbance on hillsides which would have a material visual impact visible from a public vantage point entering the City or within the City shall be minimized. Material, as the term is used herein, shall be construed in light of the magnitude of the negative impact on the objectives of this Section;

WHEREAS, standard 17.104.070.A.5 states: Significant rock outcroppings shall not be disturbed;

WHEREAS, standard 17.104.070.A.13 states: The development is consistent with the Ketchum Comprehensive Plan;

WHEREAS, Goal 1 of the City of Ketchum 2001 Comprehensive Plan in Chapter 4.1, General Land Use Policies states: To strategically plan for present and future land use needs thereby establishing a well thought out pattern of development. This includes the following:

- encourage land uses in harmony with existing natural resources
- prohibit detrimental alteration of existing topography and terrain
- protect natural land features and wildlife habitat
- prohibit alteration of hilltops, rock outcrops, knolls, ridges, river banks, marshes, and river channels through development standards and other regulations
- ensure new development fits in with Ketchum's small mountain town character
- establish land use policies that ensure orderly development relative to public services and facilities
- consider incentives and/or land use regulations that promote energy efficiency, and reduce over consumption of resources
- concentrate densities within the existing community to most efficiently provide services and commercial necessities;

WHEREAS, policy 4.1.2 in the City of Ketchum 2001 Comprehensive Plan states: Protect hillsides from further development by enforcing and strengthening the Mountain Overlay chapter of the Zoning Code, requiring clustering at lower elevations, creating conservation easements, or buying out private property on hillsides;

WHEREAS, the City of Ketchum 2001 Comprehensive Plan in Chapter 4.9.F, Knob Hill Neighborhood states: This residential neighborhood, located directly to the north of the Community Core Zone, known as Knob Hill, is also part of the original Ketchum Townsite. The original townsite did not take into account the existing steep topography. Platted lots and streets are located high on the hillside. Streets such as Walnut Avenue are paved off center to avoid massive cuts in the hillside. The lots located between Tenth and Sixth Streets and the alley between Walnut and Spruce Avenues up to Spruce Avenue are not realistic for development due to the potential environmental, visual and safety impacts to the hillside;

WHEREAS, Policy 4.9.F.1 in the City of Ketchum 2001 Comprehensive Plan states: Protect Knob Hill hillsides from development as outlined in Part 9, Environmental Resources and Hazards;

WHEREAS, Policy 8.1 in the City of Ketchum 2001 Comprehensive Plan states: Preserve the aesthetic views of the mountains from public places including restricting disturbance on the mountains and hillsides from development;

WHEREAS, Policy 8.3 in the City of Ketchum 2001 Comprehensive Plan states: Preserve aesthetic and sensitive areas in their natural states through open space zoning, zoning district standards, purchase of land and/or cooperation with public and private entities. Continue to implement and enforce standards outlined in both the Floodplain and Mountain Overlay Districts;

WHEREAS, Goal 4 in Part 9, Environmental Resources and Hazards in the City of Ketchum 2001 Comprehensive Plan states: Protect the mountain slopes surrounding the City, leaving them open and unobstructed. Protect Ketchum residents from the hazards associated with development on mountain slopes;

WHEREAS, Policy 9.4.2 in the City of Ketchum 2001 Comprehensive Plan states: Prohibit alteration of hilltops, rock outcrops, knolls and ridges through development standards and restrictions;

WHEREAS, Policy 9.4.3 in the City of Ketchum 2001 Comprehensive Plan states: Strengthen the Mountain Overlay Zone;

WHEREAS, Policy 9.4.4 in the City of Ketchum 2001 Comprehensive Plan states: Work with Knob Hill landowners to transfer development rights off of the hillsides to more suitable areas in the neighborhood or elsewhere in town;

WHEREAS, Policy 9.5.1 in the City of Ketchum 2001 Comprehensive Plan states: Protect the views of the surrounding mountains and landscape as seen from salient view corridors on important public roadways, rights-of-way, trails and open spaces;

WHEREAS, the City of Ketchum adopted Ordinance 208 in 1974 which states in the purpose section of Chapter 17.96, Design Review District the following: That it is necessary in order to protect the general health, welfare and safety of the community, future inhabitants of proposed projects, and adjacent property owners to establish a D - Design Review Overlay Zoning District and to adopt regulations with regard thereto in order to achieve the following purposes:

1. To insure that the general appearance of building design and construction shall be orderly and harmonious with the appearance and character of this neighborhood and the City,
2. To insure appropriate and adequate landscaping,
3. To protect the beauty of the community,
4. To protect the historic and cultural character of the community,
5. To minimize the impact of the vehicular traffic on adjacent streets and to prevent traffic congestion,
6. To provide for proper ingress and egress with safe, adequate and efficient pedestrian and vehicular traffic systems,
7. To coordinate on-site vehicular and non-vehicular traffic circulation patterns with adjacent transportation systems,
8. To insure efficient arrangement of on-site parking with regard to building location, adequate access points, utilities and public services, and uses of adjacent lands,
9. To provide for and protect existing light, air, solar access and orientation, privacy, views and vistas by proper and efficient location of building sites and design layout,
10. To protect and preserve wildlife, streams, natural topography and other desirable natural features and qualities such as, but not limited to, skyline ridge-tops, knoll ridges, established tree and shrub masses, mature trees, top soil, stream beds and banks and drainage swales,
11. To prevent unnecessary excavation or fill for building foundations, access roads, driveways and similar improvements,
12. To provide adequate usable open space in a manner which is appropriate for the development and uses of adjacent lands,
13. To protect and conserve the economic base of the community including property values,
14. To encourage and promote the energy conservation and alternative energy sources as well as other advanced building technology, and
15. To prevent soil erosion and flood damage;

WHEREAS, the adoption by the City Council of the proposed amendments will apply to all development projects within the Mountain Overlay Zoning District within the City of Ketchum;

WHEREAS, the adoption by the City Council of the proposed amendments will better protect the general health, welfare and safety of the community and to fulfill the goals and policies of the City of Ketchum 2001 Comprehensive Plan;

WHEREAS, adoption by the City Council of significant landmarks within the City allows the Planning and Zoning Commission to better apply standards in their review of development projects; and,

WHEREAS, after proper notice pursuant to the State Local Planning Act, a recommendation by the Planning and Zoning Commission and due consideration, the Council has determined that the following change to the Subdivision Code is in the public interest.

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

SECTION 1. That Section 17.104.030 of the Ketchum Municipal Code is hereby amended, altered, and changed by adding thereto the underlined language herein below and by deleting there from the language stricken through, to wit:

The Mountain Overlay Zoning District boundaries shall be an "overlay district" and shall designate those areas within the City found to be hillside and mountain areas that due to their steepness of slope, high visibility from other areas within and outside of the City by the general public, unique physical characteristics including knolls, ridges and rock outcroppings, and/or skyline juxtaposition among other mountain slopes require regulation in order to carry out the purposes of this district. The Mountain Overlay Zoning District shall include those areas so designated illustratively on the "Zoning Map of the City of Ketchum, Idaho, dated 1974" and more specifically defined as follows:

- A. Within the Warm Springs area, the Mountain Overlay boundary shall be defined as all of that area north of Warm Springs Road having a slope of twenty-five (25) percent or greater, except that the boundary beginning in the vicinity of the intersection of West Canyon Run Boulevard with North Canyon Run Boulevard shall be where said twenty-five (25) percent slope line intersects with the five thousand nine hundred (5,900) foot elevation and shall follow the five thousand nine hundred (5,900) foot elevation until it intersects with the twenty-five (25) percent slope line which then runs generally north and parallel to the Big Wood River to the City limits. All that property generally north of the described boundary to the City limits shall be included.
- B. Within the Knob Hill area, the Mountain Overlay boundary shall be defined as all that area north of Sixth Street, east of Walnut Avenue, south of Tenth Street and the southern limit of the Bigwood PUD as platted, and the parcels of land containing slopes of twenty-five (25) percent or greater to the northeast of Ketchum Townsite Blocks 99 and 100 and west of the City limits line common to that of the City of Sun Valley, Idaho. All that property contained within the boundary shall be included. The area within these boundaries, northeast of the alley bisecting Walnut Avenue and Spruce Avenue consisting of Lots 5,6,7 & 8,

Block 94, Lots 5,6,7 & 8, Block 93, Lots 5,6,7 & 8, Block 92, Lots 5A,6A,7 & 8, Block 91, Lots 3 & 4, Block 97, Ketchum Townsite, and all properties within the Kinderhorn Subdivision, along with the rock outcropping within Block 29, Ketchum Townsite, is hereby designated as a significant landmark within the City of Ketchum as denoted in the map, a true and correct copy of which is attached hereto as Exhibit B and which is incorporated herein by this reference.

- C. Within southeast Ketchum, the Mountain Overlay boundary shall be defined as the irrigation ditch, commonly referred to as the Reinheimer ditch, running generally north-south beginning and ending at City limit lines and shall be the westernmost fork of the ditch at the southern end in the vicinity of Topaz and Garnet Streets. All that property east of the boundary to the City limits shall be included.

SECTION 2. That Section 17.104.060 of the Ketchum Municipal Code is hereby amended, altered, and changed by adding thereto the underlined language herein below and by deleting there from the language stricken through, to wit:

- A. The applicant may request a preapplication review by the Ketchum Planning and Zoning Commission. The purpose of the preapplication review shall be for the Commission to consider conceptually the location of the proposed activity, access and any other element of the proposal in concept as requested by the applicant. The Commission may approve, approve with conditions or deny the conceptual plans using the criteria contained in this Chapter as well as the criteria and standards contained in Section 17.96.090 as they are applicable.
- B. The preapplication review fee, as set by resolution of the Council, shall be paid at the time preapplication review is requested, and shall be nonrefundable.
- C. The City shall notify owners of property adjacent to the subject property of the date, time and place the preapplication meeting with the Commission will take place.
- D. Approval of a preapplication review does not guarantee approval of the proposed development through the design review approval process contained in Chapter 17.96.
- E. Information to be submitted with the application shall include, but not be limited to, topography of sufficient detail to represent slope of land, significant rock outcrops, cuts and fills required and similar features; elevations of proposed building pads and public streets providing access, private access drives; preliminary utility extension plans, drainage plans and driveway plans; and description of proposed drilling or blasting, if any. On-site information may be required prior to any on-site visit to the subject property by the Commission. Such information may include stakes marking boundaries of buildings, centerlines of access drives or other elements of the proposal, and/or poles illustrating proposed heights of structures and also may include recent photographs evidencing impact(s) of the proposed development from various vantage points.
- F. On-site review by the members of the Commission is required prior to taking action on said preapplication review. Extreme weather conditions or inordinate

depth of snow may cause the Commission to delay said on-site review not more than ~~thirty (30)~~ one hundred and eighty (180) days.

SECTION 3. That Section 17.104.070 of the Ketchum Municipal Code is hereby amended, altered, and changed by adding thereto the underlined language herein below and by deleting there from the language stricken through, to wit:

- A. Criteria and Standards.** The following list of criteria and those contained in Section 17.96.090 must be considered and addressed by each applicant seeking design review approval. The Commission will use this list of design review criteria along with that contained in Section 17.96.090 as a basis to determine whether a project is to be approved, approved with conditions or denied:
1. There shall be no building on ridges or knolls which would have a material visual impact on a significant skyline visible from a public vantage point entering the City or within the City. Material, as the term is used herein, shall be construed in light of the magnitude of the negative impact on the objectives of this Section;
 2. Building, excavating, filling and vegetation disturbance on hillsides which would have a material visual impact visible from a public vantage point entering the City or within the City shall be minimized. Material, as the term is used herein, shall be construed in light of the magnitude of the negative impact on the objectives of this Section;
 3. Driveway standards as well as other applicable standards contained in Street Standards Ordinance Number 276, codified in Chapter 12.04, shall be met;
 4. All development shall have access for fire and other emergency vehicles to within one hundred fifty (150) feet of the furthest exterior wall of any building;
 5. Significant rock outcroppings shall not be disturbed;
 6. Uniform Building Code (UBC) and Uniform Fire Code (UFC) and Ketchum Fire Department requirements shall be met;
 7. Public water and sewer service shall comply with the requirements of the City;
 8. Drainage shall be controlled and maintained to not adversely affect other properties;
 9. Cuts and fills allowed for roadways shall be minimized; lengths of driveways allowed shall be minimized; all cuts and fills shall be concealed with landscaping, revegetation and/or natural stone materials. Revegetation on hillsides with a clear zone of thirty (30) feet around all structures is recommended. Said clear zone shall include low combustible irrigated vegetation with appropriate species on file with the Ketchum Planning Department. Revegetation outside of this clear zone should be harmonious with the surrounding hillsides;
 10. Are there other sites on the parcel more suitable for the proposed development in order to carry out the purposes of this Section?;
 11. Access traversing twenty-five (25) percent or greater slopes does not have significant impact on drainage, snow and earth slide potential and erosion as it relates to the subject property and to adjacent properties;
 12. Utilities shall be underground;
 13. The development is consistent with the Ketchum Comprehensive Plan;

14. Limits of disturbance shall be established on the plans and protected by fencing on the site for the duration of construction; ~~and~~;
15. Excavations, fills and vegetation disturbance on hillsides not associated with the building construction shall be minimized; ~~and~~;
16. Preservation of significant landmarks shall be encouraged and protected, where applicable. A significant landmark is one which gives historical and/or cultural importance to the neighborhood and/or community.

- B.** Information to be submitted with the application shall include, but not be limited to, topography of sufficient detail to represent slope of land, significant rock outcrops, cuts and fills required and similar features; elevations of proposed building pads and public streets providing access, private access drives; preliminary utility extension plans, drainage plans and driveway plans; and description of proposed drilling or blasting, if any. On-site information may be required prior to any on-site visit to the subject property by the Commission. Such information may include stakes marking boundaries of buildings, centerlines of access drives or other elements of the proposal, and/or poles illustrating proposed heights of structures and also may include recent photographs evidencing impact(s) of the proposed development from various vantage points.
- C.** On-site review by the members of the Commission is required prior to taking action on said design review application. Extreme weather conditions or inordinate depth of snow may cause the Commission to delay said on-site review not more than ~~thirty (30)~~ one hundred and eighty (180) days. (Ord. 208 § 19.6, 1974; Ord. 872 § 17.104.070, 2001)

SECTION 4. SAVINGS AND SEVERABILITY. If any section, subsection, paragraph, subparagraph, item, provision, regulation, sentence, clause or phrase is declared by a court to be invalid, such actions shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared invalid.

SECTION 5. CODIFICATION. The City Clerk is instructed pursuant to Section 1-1-3 of the City of Ketchum Municipal Code to immediately forward this ordinance to the codifier of the official municipal code for proper revision of the code.

SECTION 6. REPEALER CLAUSE. All City of Ketchum Ordinances or parts thereof which are in conflict herewith are hereby repealed.

SECTION 7. 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 8: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon the date of its publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETHUM, IDAHO, and approved by the Mayor on this 30th day of October, 2006.

APPROVED:



Randy Hall, Mayor

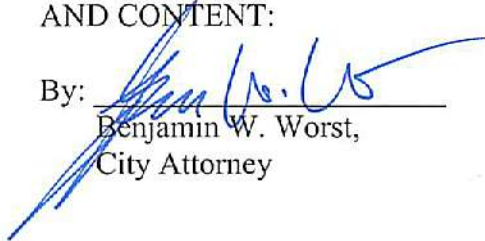
ATTEST:



Sandra E. Cady, CMC
City Treasurer/Clerk

APPROVED AS TO FORM
AND CONTENT:

By:



Benjamin W. Worst,
City Attorney



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EXHIBIT A

PUBLICATION OF SUMMARY OF ORDINANCE NO. 996
CITY OF KETCHUM, IDAHO

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.104, MOUNTAIN OVERLAY ZONING DISTRICT (MO) SECTIONS 17.104.030, MOUNTAIN OVERLAY ZONING DISTRICT BOUNDARIES, B., 17.104.060, MOUNTAIN OVERLAY DESIGN REVIEW PREAPPLICATION REVIEW, F., 17.104.070, MOUNTAIN OVERLAY DESIGN REVIEW, CRITERIA AND STANDARDS, A AND C OF THE KETCHUM MUNICIPAL CODE BY MAKING AN ADDITION TO THE BOUNDARIES WITHIN THE KNOB HILL AREA, BY AMENDING THE AMOUNT OF TIME ALLOWED FOR DELAYS OF COMMISSION ON-SITE REVIEWS AND BY ADDING CERTAIN LANGUAGE TO THE MOUNTAIN OVERLAY DESIGN REVIEW CRITERIA AND STANDARDS; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING A CODIFYING CLAUSE; BY PROVIDING A REPEALER CLAUSE; BY PROVIDING FOR PUBLICATION BY SUMMARY; AND BY PROVIDING FOR AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 996 of the City of Ketchum, Blaine County, Idaho, adopted on October 30, 2006, is as follows:

Section 1: That Section 17.104.030 of the Ketchum Municipal Code is hereby amended, altered, and changed by adding thereto the underlined language herein below and by deleting there from the language stricken through, to wit:

B. Within the Knob Hill area, the Mountain Overlay boundary shall be defined as all that area north of Sixth Street, east of Walnut Avenue, south of Tenth Street and the southern limit of the Bigwood PUD as platted, and the parcels of land containing slopes of twenty-five (25) percent or greater to the northeast of Ketchum Townsite Blocks 99 and 100 and west of the City limits line common to that of the City of Sun Valley, Idaho. All that property contained within the boundary shall be included. The area within these boundaries, northeast of the alley bisecting Walnut Avenue and Spruce Avenue consisting of Lots 5,6,7 & 8, Block 94, Lots 5,6,7 & 8, Block 93, Lots 5,6,7 & 8, Block 92, Lots 5A,6A,7 & 8, Block 91, Lots 3 & 4, Block 97, Ketchum Townsite, and all properties within the Kinderhorn Subdivision, along with the rock outcropping within Block 29, Ketchum Townsite, is hereby designated as a significant landmark within the City of Ketchum as denoted in the map, a true and correct copy of which is attached hereto as Exhibit B and which is incorporated herein by this reference.

Section 2: Amends the number of days the Commission is allowed to delay on-site visits in the design review preapplication process due to extreme weather conditions or inordinate depth of snow to not more than one hundred and eighty (180) days.

Section 3: Adds certain language to the Criteria and Standards section regarding the encouragement, protection and preservation of significant landmarks, where applicable and defines a significant landmark as one which gives historical and/or cultural importance to the

neighborhood and/or community and also amends the number of days the Commission is allowed to delay on-site visits in the design review application process due to extreme weather conditions or inordinate depth of snow to not more than one hundred and eighty (180) days.

Section 4: Provides a savings and severability clause.

Section 5: Provides a codification clause.

Section 6: Provides a repealer clause.

Section 7: Provides for publication of a summary of the Ordinance.

Section 8: 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



Randy Hall, Mayor

ATTEST:

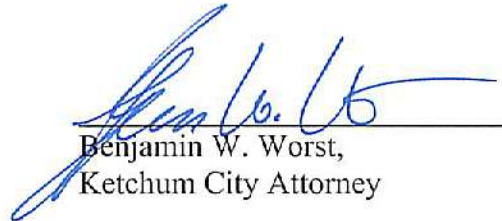


Sandra E. Cady, CMC
City Treasurer/Clerk

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. 996 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 1st day of December, 2006.


Benjamin W. Worst,
Ketchum City Attorney

Publish: Idaho Mountain Express
Date: _____