

ORDINANCE NUMBER 1093

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.64, COMMUNITY CORE DISTRICT, BY AMENDING LANGUAGE PERTAINING TO DECKS IN THE REQUIRED SETBACKS; CHAPTER 17.166, CONDITIONAL USES, BY AMENDING LANGUAGE PERTAINING TO NOTICING PROCEDURE, TERM OF PERMITS AND EXTENSIONS; AND CHAPTER 17.128, SUPPLEMENTARY LOCATION AND BULK REGULATIONS, BY AMENDING LANGUAGE PERTAINING TO DECKS THAT ENCROACH INTO THE REQUIRED SETBACKS; BY ADDING NEW LANGUAGE; CLARIFYING THE PURPOSE, APPLICABILITY AND EXCEPTIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has initiated these text amendments to eliminate conflicting language, provide more clarity, and better align the Code with State Statute; and,

WHEREAS, the Planning and Zoning Commission considered these text amendments and made a recommendation to the City Council on November 14, 2011; and,

WHEREAS, the City Council held a public hearing on this matter on January 17, 2012;

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

SECTION 1. Section 17.64.010.L, CC – COMMUNITY CORE DISTRICT, subsections 4.b(B), 5.b(B), 6.b(B), 7.b(B), 8.b(B), and 9.b(C), be amended by deleting therefrom the stricken language and adding thereto the underlined language hereinbelow, to wit:

***4.b(B) Setback line:** The building facade shall be set back an average of 5 feet from the front property line and from the side property line of a corner lot, except in subdistrict A where no setback is required. Buildings fronting a 60 foot or narrower right of way shall be set back a minimum of 5 feet from the property line. Cantilevered decks and overhangs ~~13~~ 8 feet 6-inches or greater in height above the finish grade below sidewalk, measured to the underside of the lowest structural element of the deck or eave, may extend to the property line.*

***5.b(B) Setback line:** The building facade shall be set back an average of 5 feet from the front property line and from the side property line of a corner lot, except in subdistrict A, where no setback is required and as provided in subsection D of this legend. Buildings fronting a 60 foot or narrower right of way shall be set back a minimum of 5 feet from the property line. Cantilevered decks and overhangs ~~13~~ 8 feet 6-inches or greater in height above the finish grade below sidewalk, measured to the underside of the lowest structural element of the deck or eave, may extend to the property line.*

6.b(B) Setback line: The building facade shall be set back an average of 5 feet from the front property line and from the side property line of a corner lot. Buildings fronting a 60 foot or narrower right of way shall be set back a minimum of 5 feet from the property line. Cantilevered decks and overhangs 13 8 feet 6 inches or greater in height above the finish grade below sidewalk, measured to the underside of the lowest structural element of the deck or eave, may extend to the property line.

7.b(B) Setback line: The building facade shall be set back an average of 5 feet from the front property line. Buildings fronting a 60 foot or narrower right of way shall be set back a minimum of 5 feet from the property line. Cantilevered decks and overhangs 13 8 feet 6 inches or greater in height above the finish grade below sidewalk, measured to the underside of the lowest structural element of the deck or eave, may extend to the property line.

8.b(B) Setback line: The building facade shall be set back an average of 5 feet from the front property line. Buildings fronting a 60 foot or narrower right of way shall be set back a minimum of 5 feet from the property line. Cantilevered decks and overhangs 13 8 feet 6 inches or greater in height above the finish grade below sidewalk, measured to the underside of the lowest structural element of the deck or eave, may extend to the property line.

9.b(C) Setback line: Minimum average setback of 5 feet from the front property line, except in subdistrict A, where no setback is required. Buildings fronting a 60 foot or narrower right of way shall be set back a minimum of 5 feet from the property line. Cantilevered decks and overhangs 13 8 feet 6 inches or greater in height above the finish grade below sidewalk, measured to the underside of the lowest structural element of the deck or eave, may extend to the property line.

SECTION 2. Section 17.116.040, CONDITIONAL USES: PROCEDURE, subsection E be amended by deleting therefrom the stricken language and adding thereto the underlined language hereinbelow, to wit:

E. Mailing: Notice shall also be mailed to property owners or purchasers of record within three hundred feet (300') of the external boundaries of the land being considered ~~and any additional area that may be substantially impacted by the proposed conditional use as determined by the commission.~~ When notice is required to ~~seven~~ two hundred fifty (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be used in lieu of mailed notice. Said alternate forms of notice shall be per Idaho code 67-6512 in effect at the time of notice. ~~provided at least fifteen (15) days prior to said public hearing and shall contain notice of the time and place and a summary of the proposal. The forms of alternative notice shall be:~~

- 1. ~~Posting of said notice in three (3) conspicuous locations within the city; and~~*
- 2. ~~Making said notice available to other local newspapers; and~~*

~~3. Making said notice available to the local radio stations for a public service announcement.~~

SECTION 3. Section 17.116.080, CONDITIONAL USES: TERM OF PERMITS, be amended by deleting therefrom the stricken language and adding thereto the underlined language hereinbelow, to wit:

~~All conditional use permits shall be issued and construction shall commence within twelve (12) months from the date that such conditional use permit is granted; otherwise, the conditional use permit shall no longer be considered valid. (Ord. 1035 § 2, 2008)~~

Activities permitted by the granting of a conditional use permit (CUP) shall commence within twelve (12) months from the signature of the approved Findings of Fact for such conditional use permit.

SECTION 4. Section 17.116.090, CONDITIONAL USES: EXTENSIONS, subsection A, be amended by deleting therefrom the stricken language and adding thereto the underlined language hereinbelow, to wit:

~~A. For all conditional use permits issued for "civic" buildings, the head of the planning department and the chair of the planning and zoning commission may, upon written request by the holder, grant a maximum of one 12-month extension to an unexpired conditional use permit. For conditional use permits issued to all other buildings, the head of the planning department and the chair of the planning and zoning commission may, upon written request by the holder, grant a maximum of one 6-month extension to an unexpired conditional use permit. Upon receipt of the written request for extension, the head of the planning department and the chair of the planning and zoning commission shall determine if an extension is warranted, based on the following considerations: A conditional use permit, not acted upon, shall expire twelve (12) months after the signing of the approved Findings of Fact. Upon written request by the CUP holder, the Commission may, in a public hearing, grant one (1) maximum twelve (12) month extension, based on the following considerations:~~

- ~~1. Whether there have been significant amendments to the city's ordinances which will apply to the subject conditional use permit; or~~
- ~~2. Whether significant land use changes have occurred in the project vicinity which would adversely impact the project or be adversely impacted by the project; or~~
- ~~3. Whether hazardous situations have developed or have been discovered in the project area; or~~
- ~~4. Whether community facilities and services required for the project are now inadequate.~~

5. Whether conditions on the site, including, but not limited to, noxious weeds, unsightly trash or storage conditions, or other items in violation of the Ketchum Municipal Code, have occurred during the time that the CUP was not activated.

SECTION 5. Section 17.128.020 SUPPLEMENTARY YARD REGULATIONS, subsection I, is amended by deleting therefrom the stricken language and adding thereto the underlined language hereinbelow, to wit:

I. Decks more than thirty inches (30") in height from existing grade at any point shall be subject to setbacks, except in the GR-H, T, T-3000 and T-4000 zoning districts. In the GR-H, T, T-3000 and T-4000 districts, decks more than thirty inches (30") in height from existing grade may be allowed to encroach into the required yard setback up to a maximum one-half ($\frac{1}{2}$) the distance of the required yard setback, or four feet (4'), whichever is less, with design review approval ~~the issuance of a conditional use permit~~. In addition to requirements set forth in Chapter 17.116 of this title, the following criteria shall apply:

- 1. A minimum of five feet (5') is maintained between any point of the deck and the property line;*
- 2. The application has been approved by the subject property's homeowners' association (if any);*
- 3. Written approval from a majority of owners of property contiguous to the subject property has been obtained;*
- 4. Upper story decks/balconies are cantilevered from the building (no supporting posts are permitted within the required yard setback);*
- ~~5. No single deck which encroaches into the required yard setback may have a width of greater than four feet (4') nor a floor area of greater than forty five (45) square feet, subject to design review approval;~~*
- ~~6.5.- No portion of a deck which encroaches into the required yard setback may be enclosed or covered by a roof; and~~*
- ~~7.6. Restrictions on exterior storage of personal property may be required through the design review process.~~*

SECTION 6. 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.

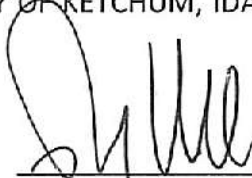
SECTION 7. CODIFICATION CLAUSE. The City Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the code.

SECTION 8. REPEALER CLAUSE. All City of Ketchum code sections, ordinances or resolutions or parts thereof, which are in conflict herewith are hereby repealed.

SECTION 9. 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 10. EFFECTIVE DATE. This Ordinance shall be in full force and effect upon the date of its publication as provided by law which is January 25, 2012.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 17th day of January, 2012.



Randy Hall, Mayor

ATTEST:



Sandra E. Cady, CMC
City Treasurer/Clerk

SUMMARY
CITY OF KETCHUM ORDINANCE NUMBER 1093

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 17, CHAPTER 17.64, COMMUNITY CORE DISTRICT, BY AMENDING LANGUAGE PERTAINING TO DECKS IN THE REQUIRED SETBACKS; CHAPTER 17.166, CONDITIONAL USES, BY AMENDING LANGUAGE PERTAINING TO NOTICING PROCEDURE, TERM OF PERMITS AND EXTENSIONS; AND CHAPTER 17.128, SUPPLEMENTARY LOCATION AND BULK REGULATIONS, BY AMENDING LANGUAGE PERTAINING TO DECKS THAT ENCROACH INTO THE REQUIRED SETBACKS; BY ADDING NEW LANGUAGE; CLARIFYING THE PURPOSE, APPLICABILITY AND EXCEPTIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 1093 of the City of Ketchum, Blaine County, Idaho, adopted on January 17, 2012, is as follows:

SECTION 1. Amends Section 17.64.010.L, CC – COMMUNITY CORE DISTRICT, subsections 4.b(B), 5.b(B), 6.b(B), 7.b(B), 8.b(B), and 9.b(C), by changing required height above grade of decks within the setback to 8 feet from 13'-6" and clarifying how the measurement should be made.

SECTION 2. Amends Section 17.116.040, CONDITIONAL USES: PROCEDURE, subsection E by eliminating need for determination of additional notice by the Commission and aligning the noticing procedure with State Statute.

SECTION 3. Amending Section 17.116.080, CONDITIONAL USES: TERM OF PERMITS, by replacing the section with language that clarifies the term of the conditional use permit.

SECTION 4. Amending Section 17.116.090, CONDITIONAL USES: EXTENSIONS, subsection A by replacing the section with language that clarifies the terms of the conditional use permit and its extension and adding an additional consideration for an extension.

SECTION 5. Amends Section 17.128.020 SUPPLEMENTARY YARD REGULATIONS, subsection I, by deleting the requirement for a conditional use permit for a deck in the setback and requiring only design review. It also removes confusing or redundant language pertaining to deck location and size.

SECTION 6. Provides a savings and severability clause.

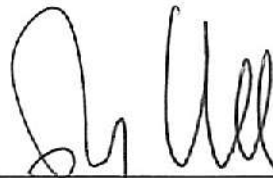
SECTION 8. Provides a repealer clause.

SECTION 8. Provides an effective date.

SECTION 9. Provides for the publication of the Ordinance or a summary thereof of the Ordinance.

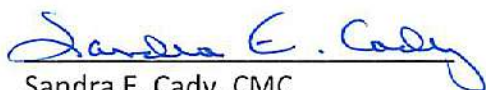
SECTION 10. Provides an effective date.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 17th day of January, 2012.



Randy Hall, Mayor

ATTEST:

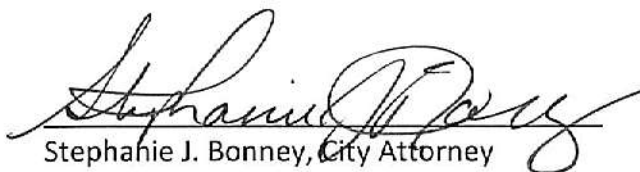


Sandra E. Cady, CMC
City Treasurer/Clerk

CERTIFICATION OF ATTORNEY

I, the undersigned, serving as city attorney to the City of Ketchum, Idaho, hereby certify that I have read the attached Summary of Ordinance No. 1093 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 as of the 17th day of January, 2012.



Stephanie J. Bonney, City Attorney