

**ORDINANCE NO. 1096**

**AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO AMENDING THE CITY OF KETCHUM MUNICIPAL CODE, TITLE 15, BY ADDING A NEW CHAPTER: GREEN BUILDING CODES, AND ADOPTING THE 2008 EDITION OF THE NATIONAL GREEN BUILDING STANDARD (NGBS), INTERNATIONAL CODE COUNCIL (ICC) 700-2008 WITH AMENDMENTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR APPEALS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Ketchum City Council passed Resolution #10-024 on October 4, 2010, establishing goals for the City, including pursuing a green building code;

WHEREAS, the City of Ketchum has made a commitment to preserving the environmental quality of the region through participation in energy initiatives, resource conservation in City buildings, encouraging water conservation by its citizens and educational outreach to the community;

WHEREAS, the City of Ketchum has adopted the International Code Council's (ICC) series of codes including the International Building Code, the International Residential Code and the International Energy Conservation Code;

WHEREAS, codes have evolved in recent years to regulate not only immediate life safety hazards, but also a larger set of hazards created by the cumulative impacts of buildings on human and environmental health;

WHEREAS, the National Green Building Standard (NGBS) (ICC 700-2008) was developed by the ICC in cooperation with the National Association of Homebuilders, both respected national construction-related organizations;

WHEREAS, the adoption of the NGBS (ICC 700-2008) will conserve energy, water and other natural resources and preserve the health of our environment through requirements related to design, construction, operations and recycling, thereby promoting the public health, safety and welfare;

WHEREAS, buildings use the most energy (40%) of any sector in the United States, therefore it makes sense to curtail impact where it is greatest;

WHEREAS, Ketchum's climate results in high heating load and large energy consumption, which provides an opportunity to conserve large amounts of energy and to save resources and money;

WHEREAS, in the United States, buildings use 14% of potable water consumption, and in Ketchum's dry, high desert climate, it is prudent to strive to conserve water for a better environment;

WHEREAS, exterior energy consumption has to date been largely unregulated, and exterior energy

conservation represents a great opportunity to begin to reduce/mitigate that energy use;

WHEREAS, studies have found that green buildings exhibit substantial energy savings, reduce water usage and maintenance costs and increase levels of occupant health, satisfaction and comfort;

WHEREAS, green buildings contribute to better indoor and outdoor air quality by reducing fossil fuel emissions and limiting indoor toxins;

WHEREAS, the cost of building green has dropped significantly in the last decade, with studies reporting current increased costs of 1 to 5%, much of which is attributable to third party verification;

WHEREAS, a 2010 McGraw Hill study found that the return on investment of energy efficient buildings, mainly from avoided electricity or heating costs, is nearly 10% higher than for conventional new buildings and 19% higher for retrofits;

WHEREAS, the same study found increased building values for green buildings of 11% for new buildings and 7% for retrofits;

WHEREAS, the same study found reduced operating costs for green buildings of 14% for new buildings and 9% for retrofits;

WHEREAS, studies shows that green building retains existing and creates new locally-sourced, construction-related employment opportunities, with 2009-2013 forecasts of generation of an additional \$554 billion in GDP and support of 7.9 million jobs, up from 2.4 million in 2000-2008;

WHEREAS, standard best building practices in the community will relatively easily meet the requirements of the proposed green code, and the members of the building community that design and build to those standards will be recognized and rewarded for their commitment to quality;

WHEREAS, evidence shows that a mandatory green building code, combined with incentives to go beyond the minimum code, is at the heart of sustainability planning for raising the floor for the entire community;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Ketchum, Idaho that within Title 15 of the Ketchum Municipal Code, a new chapter: Green Building Codes, is hereby created with the following (New language is indicated in underlined and deleted language is indicated in strike-out format.):

**Section 1.** A new chapter of Title 15 of the Ketchum Municipal Code is hereby created, adding the following:

### **GREEN BUILDING CODES**

**Section 2.** A new section under **GREEN BUILDING CODES** is hereby added: **Applicability**, containing the following:

**Applicability:**

This Chapter supplements the other International Code Council codes adopted by the City and is not intended to be used as independent construction regulations or to abridge or supersede safety, health or environmental requirements under other applicable codes or ordinances. The provisions of this Chapter shall not be deemed to nullify any provisions of local, state or federal laws or codes.

**Section 3.** A new section under **GREEN BUILDING CODES** is hereby created, adding the following:

**Residential Green Building Code**

The National Green Building Standard (ICC 700-2008) as amended herein is adopted by reference by the City of Ketchum, Idaho.

Copies of the National Green Building Standard (ICC 700-2008) are on file and are open to public inspection in the office of the Building Official of the City of Ketchum, Idaho.

**Section 4.** A new subsection under **Residential Green Building Code** is hereby added: **Amendments**, containing the following:

**Amendments:**

Amendments to the National Green Building Standard (ICC 700-2008):

1. In all chapters: The Adopting Entity shall be the City of Ketchum, Idaho.
2. **Section 103.4 Alternative compliance methods:** As alternatives to City certification of compliance with the NGBS (ICC700-2008), the City of Ketchum will accept the following certifications:
  - Leadership in Energy and Environmental Design (LEED) Silver certification, verified by a LEED verifier; or
  - NGBS Silver certification, verified by a National Association of Home Builders (NAHB) verifier.
3. **Section 202 – DEFINITIONS:** the following definition shall be added:

**MASS TRANSIT.** Municipal or regional public shared transportation, such as buses, streetcars, and ferries, open to all on a nonreserved basis.
4. **Section 303 - GREEN BUILDINGS:** The minimum required performance level shall be Silver.
5. **Section 305.1(1) Renovations, add new text:**

The applicant shall submit a checklist showing which NGBS items they plan to implement for review and chapter point totals. There shall be no minimum required performance level. Projects achieving the points required for a particular performance level will be awarded a certificate for that level.

(a) Exemptions to the requirement to submit the checklist:

- (i) Projects that do not require a building permit.
- (ii) Projects that renovate less than 300 sf of conditioned space.
- (iii) Tenant and ADA improvements required by the Building Official.
- (iv) Structures listed on the National Historic Register.
- (v) Projects deemed unfeasible by the Building Official.

6. Section 305.1(2) Additions as follows, add a new section:

(b) Exemptions:

- (i) Projects that do not require a building permit.
- (ii) Projects that add less than 300 sf of conditioned space.
- (iii) Projects that do not include plumbing will receive a credit for the minimum number of points for Silver in Chapter 8: Water Efficiency.
- (iv) Projects deemed unfeasible by the Building Official.

7. Section 305.5 Green Remodel Path: The applicant shall submit documentation showing which NGBS items they plan to implement for review. There shall be no minimum required performance level. Projects achieving the points or energy/water consumption levels required for a particular performance level will be awarded a certificate for that level.

(a) Exemptions to the requirement to submit the checklist:

- (i) Projects that do not require a building permit.
- (ii) Projects that renovate less than 300 sf of conditioned space.
- (iii) Tenant and ADA improvements required by the Building Official.
- (iv) Structures listed on the National Historic Register.
- (v) Projects deemed unfeasible by the Building Official.

8. Section 501.2 Mass Transportation: revise per below:

Mass Alternative transportation. A range of mass transportation choices, alternative to the automobile, are promoted by one or more of the following:

9. Section 1003.1. Building construction manual, deleting the struck out text below:

(2) A local green building program certificate as well as a copy of the National Green Building Standard<sup>TM</sup> as adopted by the Adopting entity, and the individual measures achieved by the building.

Section 5. Said NGBS is amended by adding a new Chapter 11, as follows:

### Chapter 11: Exterior Energy Conservation (EEC)

1101.0 Intent. Exterior heating of pools, spas and snowmelt uses a large amount of energy. In

order to decrease or offset that use, the City of Ketchum requires measures to mitigate 25% of exterior energy use through conservation OR installation of a renewable energy system.

**1101.1 Applicability.** EEC applies to new exterior improvements, including:

1. Heated pools with over 200 square feet of surface water area;
2. Spas with over 64 square feet of surface water area; and
3. Snowmelt systems that heat over 50 square feet of pavement.

Exceptions:

1. Specific areas deemed critical to life safety may be exempted by the Building Official.
2. Repair/maintenance/replacement of existing systems.

**1101.2 Exterior Energy Conservation**

1101.2.1. Prescriptive Path:

(a) Pool/Spa Requirements:

- Automated cover required for pools;
- Minimum 92% efficiency pool heater or Energy Star heat pump;
- Variable speed pumps or equivalent;
- Insulate all pipes to R-10;
- Insulate below grade walls where feasible;
- Spa cover - minimum R-18, tested at 25° degrees F;
- Indoor pools - building is required to meet 2009 IECC.

(b) Snowmelt Requirements:

- Insulate below and perimeter with minimum R-10 structural insulation;
- Minimum 92% efficiency boiler or Energy Star heat pump;
- Automated controls capable of shutting off the system when the pavement temperature is above 50° F and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40° F;
- Positive drainage off driveway (Use geofabric under pavers.);

1101.2.2. Performance Path:

- (a) Provide engineered, stamped drawings by an engineer licensed in the State of Idaho, showing that the system will perform using 25% less energy than a standard, current energy code-compliant design.

**Section 6. Section: Criminal Violation and Penalty and Civil Enforcement,** is hereby added with the following language:

**Criminal Violation and Penalty and Civil Enforcement:**

- (a) Any person, firm, association, or corporation that fails to comply with or violates

any of these regulations or adopted codes shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than Three Hundred Dollars (\$300.00) or imprisonment for a period not to exceed six (6) months, or both. Each day that said violation continues shall be considered a separate offense.

- (b) Appropriate actions and proceedings at law or in equity may be instituted by the City of Ketchum to restrain or abate violations of this Ordinance or adopted codes, or compel compliance herewith, or to prevent illegal construction or occupancy of any buildings, structures, or premises in violation of this Ordinance or adopted codes together with appropriate damages therefore. These remedies shall be cumulative and in addition to all other legal remedies and penalties provided by law.

**Section 7.** Section: Appeals, is hereby added with the following language:

**Appeals:**

An appeal of any order, requirement, decision or determination of the building inspector or the planning and zoning commission made in the administration or enforcement of this ordinance may be taken by any affected person, as that term is defined by Idaho Code section 67-6521, as it may be amended from time to time, or any officer or department of the city, to the city council by filing a notice of appeal in writing with the office of the planning and zoning administrator of the city in the manner prescribed in this chapter.

A. Action Required By The Planning And Zoning Administrator: The planning and zoning administrator shall certify that all procedural requirements have been satisfied and fees paid and transmit to the council the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the inspector or the commission. If applicable, a verbatim transcript of the commission proceedings shall be prepared and transmitted to the council at the appellant's expense.

B. Hearing And Notice: The council shall, following receipt of the planning and zoning administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to the appellant, the commission, and to any other affected person, as defined in Idaho Code section 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code section 67-6501 et seq., as may be amended from time to time.

C. Authority Of Council: Upon hearing the appeal, the council shall consider only matters which were previously considered as evidenced by the record, the order, requirement, decision or determination and the notice of appeal, together with oral presentation and written legal arguments by the appellant, the applicant, if different than the appellant, and the commission and/or staff. The council shall not consider any new facts or evidence at this point. The council may affirm, reverse or modify, in whole or in part, the order, requirement, decision or determination of the inspector or commission. Furthermore, the council may remand the application for further consideration with regard to specific criteria stated by the council.

D. Decision By Council: The council shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written decision separately stated. The council shall transmit a copy of the decision to the appellant and any affected person who has requested a copy in writing, as defined in Idaho code section 67-6521, as that section may be amended from time to time.

E. Appeal Of Council: In the event of an appeal of a decision of the council to district court, applications approved by the city will be processed by the city during the pendency of the appeal.

Time For Filing Appeals: All appeals permitted or authorized by this title shall be taken and made in the manner and within the time limits as follows: The written notice of appeal shall be filed before five o'clock (5:00) P.M. of the fifteenth calendar day after the order, requirement, decision or determination of the planning and zoning administrator has been made or after findings of fact have been approved by the commission, whichever is applicable. The failure to physically file a notice of appeal with the planning and zoning administrator of the city within the time limits prescribed by this section shall be jurisdictional and shall cause automatic dismissal of such appeal.

Fee For Appeals: An administrative fee and a fee equal to the expense of giving notice and providing the transcript shall be paid within two (2) days after receipt from the planning and zoning administrator of the amount of the fee. In the event the fee is not paid as required, the appeal shall not be considered filed.

Notice Of Appeal; Form And Contents: The notice of appeal shall be in writing and in such form as shall be available from the office of the planning and zoning administrator, which shall require to be set forth with specificity all bases for appeal, including the particulars regarding any claimed error or abuse of discretion.

**Section 8. 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 9. 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 10. REPEALER CLAUSE.** All City of Ketchum Ordinances or resolutions or parts thereof which are in conflict herewith are hereby repealed,

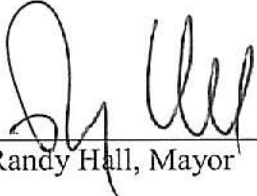
**Section 11. PUBLICATION.** This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit "A," shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**Section 12. EFFECTIVE DATE.** This Ordinance shall be in full force and effect upon the

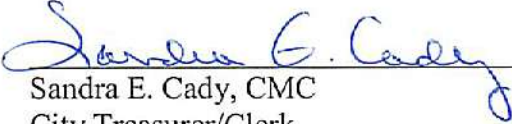
date of its publication as provided by law which is May 16, 2012.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 7th day of May, 2012.

CITY OF KETCHUM, IDAHO

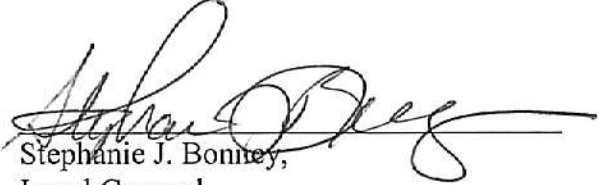
  
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Randy Hall, Mayor

ATTEST:

  
\_\_\_\_\_  
Sandra E. Cady, CMC  
City Treasurer/Clerk



APPROVED AS TO  
FORM AND CONTENT:

  
\_\_\_\_\_  
Stephanie J. Bonney,  
Legal Counsel

Legal Counsel





**EXHIBIT A:  
SUMMARY ORDINANCE NO. 1096**

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO AMENDING THE CITY OF KETCHUM MUNICIPAL CODE, TITLE 15, BY ADDING A NEW CHAPTER: GREEN BUILDING CODES, AND ADOPTING THE 2008 EDITION OF THE NATIONAL GREEN BUILDING STANDARD (NGBS), INTERNATIONAL CODE COUNCIL (ICC) 700-2008 WITH AMENDMENTS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR APPEALS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 1096 of the City of Ketchum, Blaine County, Idaho, adopted on May 7, 2012, is as follows:

**Section 1.** A new chapter of Title 15 of the Ketchum Municipal Code is hereby created, adding the following: **GREEN BUILDING CODES**

**Section 2.** A new section under **GREEN BUILDING CODES** is hereby added: **Applicability**, which states that the new chapter supplements the other International Code Council codes adopted by the City and is not intended to be used as independent construction regulations or to abridge or supersede safety, health or environmental requirements under other applicable codes or ordinances. The provisions of this Chapter shall not be deemed to nullify any provisions of local, state or federal laws or codes.

**Section 3.** A new section under **GREEN BUILDING CODES** is hereby created, adding the following: **Residential Green Building Code**. The National Green Building Standard (ICC 700-2008), as amended, is adopted by reference by the City of Ketchum, Idaho.

**Section 4.** A new subsection under **Residential Green Building Code** is added: **Amendments**, containing the following amendments:

1. Establishes the Adopting Entity as the City of Ketchum, Idaho;
2. Amends Section 103.4 to establish alternative certification paths, LEED and NGBS;
3. Amends Section 202 to add a definition for mass transit;
4. Amends Section 303 to establish the minimum required performance level for new residential construction;
5. Amends Section 305.1(1) to establish compliance requirements and exceptions for renovations;
6. Amends Section 305.1(2) to establish the minimum required performance level and exceptions for additions;

7. Amends Section 305.5 to establish compliance requirements and exceptions for renovations of buildings built prior to 1980;
8. Amends Section 501.2 to better communicate intent; and
9. Amends Section 1003.1. to not require a copy of the NGBS on site.

**Section 5.** A new Chapter 11 is added that regulates Exterior Energy Conservation (EEC).

1. Section 1101.0 establishes the intent to conserve exterior energy.
2. Section 1101.1 establishes the applicability of the regulations and the exceptions to applicability.
3. Section 1101.2 establishes the prescriptive and performance paths to compliance.

**Section 6.** Provides for criminal violation and penalty and civil enforcement.

**Section 7.** Provides for appeals.

**Section 8.** Provides a savings and severability clause.

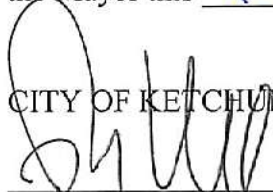
**Section 9.** Provides for codification.

**Section 10.** Provides a repealer clause.

**Section 11.** Provides for the publication of the Ordinance or a summary thereof of the Ordinance.

**Section 12.** Provides an effective date

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 7<sup>th</sup> day of May, 2011.

CITY OF KETCHUM, IDAHO  
  
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Randy Hall, Mayor

ATTEST:

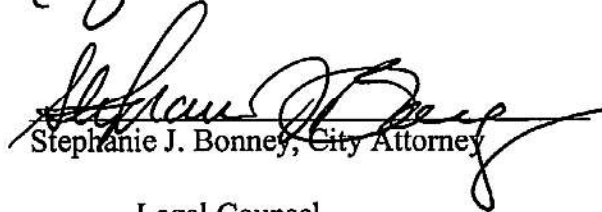


Sandra E. Cady, CMC  
City Treasurer/Clerk

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. 1096 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 7<sup>th</sup> day of May, 2012.

  
Stephanie J. Bonney, City Attorney

Legal Counsel