

ORDINANCE NUMBER 1165

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, AMENDING THE TITLE AND TEXT OF TITLE 12, CHAPTER 12, OF THE KETCHUM CITY CODE, SO AS TO UPDATE, SIMPLIFY, AND CLARIFY THE ADMINISTRATIVE PROCEDURES OF SUCH CHAPTER RELATED TO TEMPORARY USE AND STORAGE ON CITY RIGHTS OF WAY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has determined that updates and revisions to Chapter 12 of Title 12 are warranted to simplify, clarify, and update administrative procedures related to temporary use of city streets, rights of way, and easements; and

WHEREAS, the City has determined that a permit required for the use and storage of materials in city rights of way is not limited only to building equipment and building materials.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Ketchum, Blaine County, Idaho:

SECTION 1: That the title of Chapter 02 of Title 12 of the Ketchum City Code be and the same is hereby amended to read as follows:

Chapter 12.02 TEMPORARY USE OF PUBLIC RIGHTS OF WAY

SECTION 2: That Chapter 12 of Title 12 of the Ketchum City Code be and the same is hereby amended to read as follows:

12.12.010: SHORT TITLE:

This chapter shall be known and may be cited as the *RIGHT OF WAY ENCROACHMENT ORDINANCE OF THE CITY*.

12.12.020: PURPOSE

The purpose of this chapter is to regulate the use of public rights of way, including revocable permanent and temporary encroachments for private use. This chapter establishes administrative procedures to protect and maintain public space by requiring any person intending to use the right of way to file an application and obtain a permit for such work as set forth in this chapter.

12.12.030: DEFINITIONS:

As used in this chapter, the following terms mean:

ADMINISTRATOR: The City Administrator of the City of Ketchum or his or her designee.

CITY: The City of Ketchum.

PERMIT: A permit as required by this chapter.

PERSON: Any person, firm, partnership, association, company or organization of any kind.

PUBLIC RIGHT OF WAY: All areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, parking lots, alleys, or other places owned in fee by the City of Ketchum, or in, on or over which an easement exists in the name of or held by the City of Ketchum, or which exists for the benefit and use of the public.

STREET: The entire width between the boundary lines of every way when part is open to the use of the public.

12.12.040: PERMIT REQUIRED:

- A. No person shall place, store or cause to be placed or stored any temporary or permanent item in the public right of way for the purpose of, but not limited to, building equipment, building material, commercial objects, or structures on or in any public right of way for any length of time unless a permit shall have been obtained from the administrator.
- B. Temporary Use of Right of Way Permit (TURP) is required for any temporary occupancy or storage that encroaches on the public right-of-way and where there is no permanent fixture to the ground or a building.
- C. A Right of Way Encroachment Permit is required for any permanent encroachment of the public right-of-way, where a permanent fixture to the ground or a building will occur. In most cases a Right of Way Encroachment Agreement between the City and property owner will be required.
- D. A Revocable Encroachment License is required for any permanent or seasonal encroachment on the public right-of-way where the encroachment is not permanently affixed to the ground or a building.

12.12.050: APPLICATION:

A person seeking issuance of a permit shall file an application with the administrator on forms provided by him or her.

- A. Filing Period: An application for a permit shall be filed with the administrator not less than five (5) working days before the date on which the person intends to encroach the public right of way. The administrator, where good cause is shown, shall have the authority to approve any application which is not filed within the period established in this section.

- B. Permit: The City will require completion of a written application for a permit on a form to be provided by the City and approved by the administrator or his/her delegate, and the payment of the appropriate application fee.

12.12.060: STANDARDS FOR ISSUANCE:

The administrator shall issue a permit as provided for under this chapter when, from a consideration of the application and from such other information as obtained, he or she finds that:

- A. The use of the public right of way by the applicant is necessary and in the public interest.
- B. Traffic and/or pedestrian conditions at a proposed location and/or winter road conditions may, in the discretion of the administrator, require rejection of a permit application.
- C. The permittee has submitted a completed application for a permit and payment of all required fees.
- D. Encroachment into the right of way follows all regulations and standards set forth by the Ketchum Municipal Code and complies with the Ketchum Comprehensive Plan.
- E. There are not negative impacts on law enforcement, streets division operations, utility service operations, safety services, pedestrians, and other users. Pedestrian clearance zone must meet or exceed four (4) feet clearance width.
- F. There are not significant reductions in parking spaces due to the right of way encroachment.
- G. All encroachments in the right of way comply with ADA regulations.
- H. The applicant has not previously had a permit revoked.
- I. If the applicant has previously been issued a permit, all conditions of the permit have been satisfied.

12.12.070: NOTICE OF REJECTION:

The administrator shall act upon the applications for a permit within five (5) working days after the filing of such application. If the administrator disapproves the application, he or she shall notify the applicant, within five (5) working days after the date upon which the application was filed, a notice of his or her action, stating the reasons for his or her denial of the permit.

12.12.080: APPEAL PROCEDURE:

Any person aggrieved shall have the right to appeal the denial or revocation of a permit to the City Council. The appeal shall be taken within fifteen (15) days after notice. The City Council shall act upon the appeal within thirty (30) days after its receipt.

12.12.090: CONDITIONS OF PERMIT:

- A. Each permit shall be valid for the time period approved by the administrator.
- B. The permittee shall return all surfaces of the public right of way to the same or better condition than existed prior to permittee's use.
- C. The permittee shall be responsible for maintaining and repairing the public right of way in any way necessary to keep the right of way safe and clean.
- D. If there is change of ownership of the property attached to the encroachment, the permit is terminated. The exception to this is when a Right of Way Encroachment Agreement has been recorded with the property.
- E. If the permit expires or the City terminates the permit for any reason, the licensee shall remove any encroachments from the right of way and restore the property to a satisfactory condition at their own expense.
- F. The permittee shall comply with any other conditions as the administrator shall find necessary in the enforcement of this chapter.

12.12.100: DUTIES OF PERMITTEE:

A permittee under this chapter shall comply with all permit directions and conditions and with all applicable laws and ordinances.

12.12.110: PREVENTION OF UNAUTHORIZED ACTIVITY:

The city may stop an encroachment at any time that there is an alteration in use or that it is being done beyond the scope of the description of encroachment as found in the application filed with the city, or at any time that the work is progressing or being done in such a way as to be injurious to, or potentially injurious to, the health, safety and welfare of the people of the city.

12.12.120: REVOCATION OF PERMIT:

The administrator may revoke a permit when the permittee fails to comply with the standards for issuance, including any conditions established by the administrator at the time of issuance.

12.12.130: PENALTIES:

Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine or imprisonment not exceeding six (6) months, or both, as provided in the general penalty provisions of this code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

SECTION 3: REPEALER. All previous ordinances, resolutions, orders, or parts thereof, are in conflict herewith are hereby repealed.

SECTION 4: SAVINGS AND SEVERABILITY. 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 5: EFFECTIVE DATE. This ordinance shall be in full force and effect after its passage, approval and publication, according to law.


PASSED BY the City Council of the City of Ketchum, Idaho, this 6th day of February, 2017.

APPROVED BY the Mayor of the City of Ketchum, Idaho, this 6th day of February, 2017.



Nina Jonas, Mayor

ATTEST:



Robin Crotty, Interim City Clerk

