

**ORDINANCE NO. # 1175**

**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 TITLE 8 ADDING CHAPTER 8.12 TO PROHIBIT WITHOUT A PERMIT THE DISCHARGE OF WATER IN THE PUBLIC RIGHT OF WAY AND INSTALLING DEVICES THAT DIVERT WATER AND CAUSES DAMAGE OR AN IMMEDIATE THREAT TO THE PUBLIC HEALTH, SAFETY OR WELFARE TO ANY PUBLIC OR PRIVATE PROPERTY; AND 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 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 provide an immediate enforcement remedy to protect the health, safety, and welfare of public and private property 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;

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

**Section 1: ESTABLISHMENT OF NEW CHAPTER 8.12.** That Title 8 of the Ketchum Municipal Code be amended to add a new Chapter 8.12, Flood Diversion.

**Section 2: 8.12.010. ACTIVITIES PROHIBITED WITHOUT A PERMIT.** No person shall:

A. Willfully or negligently permit or cause the escape, flow or drainage of water into the public right of way in such quantity, in the opinion of the city engineer, or his or her designee, as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition for such traffic, or to cause damage to the public streets or alleys or public utilities of the city through the failure or neglect to properly operate or maintain any water facility or device, including, but not limited to, culverts, drains, sprinklers, hoses, pipes, ditches, standpipes, berms, valves, and gates.

B Willfully or negligently install any structure, levee, bladder, berm, barrier, riprap, diversion, trench, ditch, canal, building, dam, bridge, or other device or condition on one's property which diverts floodwaters from one's property and causes damage or an immediate threat thereof to the public health, safety or welfare to public or private property.

**Section 3. PERMIT REQUIREMENTS.** If, in the opinion of the City Engineer, or his or her designee, activities identified in 8.12.010 can occur without causing damage, a hazardous condition, or an immediate threat to the public health, safety or welfare to public or private property, a Temporary Use of Right of Way Permit may be issued for such activity.

**Section 4. ENFORCEMENT.**

A. Whenever activities identified in 8.12.010 are occurring that constitute an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice eliminate the condition. Notice shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

B. Using any lawful means, the city may enter upon a subject property and may remove or correct the condition which is subject to abatement.

C. The first five violations of the provisions of this Chapter are specifically designated as an infraction. Any person who violates any provision of this Chapter shall be deemed guilty of an infraction and, upon conviction, shall be fined \$150.000 pursuant to the General Penalty provisions of the City. Each day constitutes a separate violation and a separate offense and shall be punishable as such hereunder. After the first five violations, the person responsible for the violation shall, upon conviction, be guilty of a misdemeanor and shall be fined and/or imprisoned pursuant to the Misdemeanor Penalty provisions of the City for each day the violation existed.

**Section 5. 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 6: 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 7. 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.

PASSED BY the CITY COUNCIL and APPROVED by the MAYOR of Ketchum, Idaho, on this 17th day of April 2017.

APPROVED BY the Mayor of the City of Ketchum, Idaho, this 17<sup>th</sup> day of April, 2017.

APPROVED:

  
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Nina Jonas, Mayor

ATTEST:

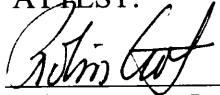
  
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Robin Crotty, Interim City Clerk

EXHIBIT A

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

**CITY OF KETCHUM  
ORDINANCE NO. 1175 (FLOOD DIVERSION EMERGENCY PERMIT ORDINANCE)**

As enacted by the City Council, Ordinance 1175 is an emergency ordinance that adds a new Chapter to Ketchum Municipal Code 8.12 to address flood diversion emergency issues as follows:

- Section 2 of this emergency ordinance prohibits allowing water to flow into and interfere or cause hazards in the public right of way without a Temporary Use Permit. The ordinance also prohibits allowing water diversion structures or instruments to interfere or cause hazards in the public right of way without a Temporary Use Permit.
- Section 3 provides for issuance of Temporary Use Permits in the opinion of the City Engineer upon certain standards of evaluation.
- Section 4 provides for enforcement and penalties, including that
  - The City may, without prior notice, enter upon a subject property and may remove, correct, or abate the condition.
  - The first five violations are considered infractions and upon conviction, the responsible person shall be fined \$150.00 per violation.
  - Over five violations the responsible person shall be charged with a misdemeanor for each day the violation existed and may be fined and/or imprisoned.
- Providing a savings and severability clause.
- Providing for publication and an effective date, ordinance shall take effect immediately upon its passage, approval and publication.

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