



City of Ketchum
Planning & Building

January 3, 2022

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to conduct a public hearing and conduct third reading of Ordinance 1231

Recommendation and Summary

Staff recommends the City Council conduct a public hearing and conduct the third reading of Ordinance 1231, the permanent ordinance for historic preservation and amendments to the preapplication design review process.

Reason for Recommendation:

- The interim Historic Preservation Ordinance expires on January 15, 2022 and a permanent ordinance must be in effect by January 15th.
- The Planning and Zoning Commission (the "Commission") and the Historic Preservation Commission (the "HPC") reviewed the draft documents and recommend city council approval of the proposed ordinance.
- The City Council conducted a workshop on November 29, 2021, providing direction to staff to prepare the ordinance for public hearing review and schedule a joint workshop with City Council, the Planning and Zoning Commission, and the public for January 2022.
- The Council has separated adoption of the Historic Preservation Ordinance from Proposed Design Guidelines. The Design Guidelines are not connected to the Historic Preservation Ordinance.
- The City Council held first reading of the Ordinance 1231 on December 13, 2021, and second reading on December 20, 2021.

This is the third reading of Ordinance 1231. If approved, the summary would be published in the Idaho Mountain Express on January 12, 2022, ahead of the January 15, 2022, expiration of the permanent ordinance. The proposed ordinance can be found as Attachment A to this staff report.

During the December 20, 2021, hearing, the City Council had a discussion as to the necessity of the demolition requirement for buildings over 50 years old that are not on the Historic Building/Site List. City Council directed staff to revise the proposed ordinance to allow for

issuance of the demolition permit at the time a complete building permit application is submitted to the city for the replacement project instead of issuance of the building permit.

Introduction and Background

The project introduction and background were included, in detail, in the staff report and attachments for the November 29, 2021, work session with City Council. That package of information can be found here:

- [Work Session – November 29, 2021 – Staff Report and Attachments](#)

Additional information can be found in the packets for the first and second readings of the ordinance here:

- [First Reading – December 13, 2021 – Staff Report and Attachments](#)
- [Second Reading – December 20, 2021 – Staff Report and Attachments](#)

Analysis

Per direction from the City Council, Section 17.20.010 B – *Applicability* has been revised to read as follows:

- B. *Applicability*: The regulations and procedures set forth in this ordinance shall apply to each and every structure listed on the adopted Historic Building/Site List. All other buildings over 50 years of age shall follow the process for demolition of buildings per Ketchum Municipal Code Section 15.16.040, except that no demolition permit shall be issued for any structure over 50 years old until a complete building permit application for a replacement project on the property and required fees have been accepted by the City.

Staff has updated the approval date of the ordinance on the last page (page 10). No other revisions have been made to the ordinance.

Sustainability

The approval of Ordinance 1231 does not inhibit the City's ability to achieve the goals of the 2020 Ketchum Sustainability Action Plan.

Financial Impact

No financial resources outside of the contract agreement with Logan Simpson approved in March 2021 are necessary for Ordinance 1231.

Attachments

- A. Ordinance 1231

ORDINANCE NUMBER 1231

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, REPEALING AND REPLACING CHAPTER 4.08 OF THE KETCHUM MUNICIPAL CODE, HISTORICAL PRESERVATION COMMISSION; ADDITION OF CHAPTER 17.20, HISTORIC PRESERVATION, TO TITLE 17 ZONING REGULATIONS OF THE KETCHUM MUNICIPAL CODE; AMENDING TITLE 17 ZONING REGULATIONS OF THE KETCHUM MUNICIPAL CODE BY AMENDING SECTION 17.96.010.C – PREAPPLICATION DESIGN REVIEW; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION BY SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 2014 Comprehensive Plan identifies community character preservation as one of the community’s ten core values; and

WHEREAS, Policy CD-1.2 of the Comprehensive Plan states, “Individual buildings and sites of historical, architectural, archaeological, or cultural significance should be identified and considered for protection. The City should encourage the private sector to preserve and rehabilitate buildings and sites through local landmark designations, public improvements, guidelines, and other tools.”; and

WHEREAS, on October 15, 2020, the City Council of the City of Ketchum adopted Ordinance No. 1213, as an emergency ordinance to stay the processing of new demolition permit applications in the Community Core from October 15, 2020 through January 17, 2021 for purposes of historic preservation; and

WHEREAS, Idaho Code 67-6524 provides for the City to adopt an interim ordinance and permit restrictions, effective up to one (1) year, during the pendency of preparation and adoption of a permanent ordinance; and

WHEREAS, on January 15, 2021, the City adopted Ordinance No. 1216, as an interim ordinance to establish a list of historic buildings and sites within the City of Ketchum, establishing review standards for demolition or alteration of historic structures, establishing minimum maintenance requirements for historic structures, providing remedies for dangerous buildings, and providing enforcement standards from January 15, 2021 through January 15, 2022, for purposes of historic preservation; and

WHEREAS, the City of Ketchum (“City”) conducted numerous public focus group meetings and two online questionnaires seeking discussion on potential options for historic preservation in the Community Core; and

WHEREAS, the City has established a Historic Preservation Commission per Chapter 4.08 of the Ketchum Municipal Code; and

WHEREAS, the City updated the 2005 Archaeological and Historic Survey Report and determined 26 structures to be of historic significance in the Community Core that were included in the Interim Ordinance, and

WHEREAS, the Historic Preservation Commission adopted a set of criteria for the listing of Historic Buildings and Sites within the City of Ketchum on July 7, 2021; and

WHEREAS, the Historic Preservation Commission further refined the list of historic structures identified in the interim ordinance based on the adopted criteria and adopted a revised Historic Building/Site List on August 19, 2021 identifying 24 structures; and

WHEREAS, Chapter 46 of Title 67 of Idaho Code broadly provides for a municipality to seek to preserve historical, archaeological, architectural, and cultural heritage through a comprehensive program of historic preservation; see Idaho Code 67-4601; and

WHEREAS, Idaho Code 67-4612 authorizes the City to provide for historic preservation by ordinance and special restrictions; and

WHEREAS, the City has an established Design Review process per Chapter 17.96 of the Ketchum Municipal Code, including requirements for Preapplication Design Review; and

WHEREAS, the City conducted numerous online surveys, a community open house, and stakeholder interviews to seek feedback on the integration of historic structures with new development in the Community Core and ways to streamline the Design Review process; and

WHEREAS, the City Planning and Zoning Commission (the “Commission”) held a public hearing on October 26, 2021 and November 16, 2021 to review the proposed permanent ordinance for historic preservation and amendments to the Design Review process and recommended approval to the City Council; and

WHEREAS, the City Council, having considered the recommendation from the Planning and Zoning Commission, and any comments from the public during a public hearing on December 13, 2021, determined that it is in the best interest of the public to adopt the proposed amendments.

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

Section 1. REPEAL AND REPLACE OF CHAPTER 4.08, HISTORICAL PRESERVATION COMMISSION:

Chapter 4.08 - Historic Preservation Commission

4.08.010 Purpose.

The purpose of this Chapter is to define the composition, duties, and responsibilities of the City of Ketchum Historic Preservation Commission.

4.08.020 Definitions.

The following words and phrases, when used in this chapter, shall have, unless the context clearly indicates otherwise, the following meanings:

City: The City of Ketchum, Idaho.

Historic Building/Site List: The list of buildings and sites deemed to be historically significant as adopted by resolution by the HPC.

Historic preservation: The research, documentation, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archaeology or culture of this state, its communities or the nation.

Historic property: Any building, structure, area or site that is significant in the history, architecture, archaeology or culture of this community, the state, or the nation.

HPC: The Historic Preservation Commission of the City of Ketchum, Idaho.

4.08.030 Created; appointments.

- A. There is created an HPC which shall consist of five (5) members comprised of a maximum of three (3) and a minimum of one (1) member of the Planning and Zoning Commission and a maximum of four (4) and a minimum of two (2) members of the community who shall be appointed by the Mayor with the advice and consent of the Council.
- B. All members of the HPC shall have a demonstrated interest, competence or knowledge in history or historic preservation. The Council shall endeavor to appoint community members with professional training or experience in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation related disciplines.
- C. Initial appointments to the HPC shall be made as follows: two two-year terms, and three three-year terms. All subsequent appointments shall be made for three-year terms. HPC members may be reappointed to serve additional terms. Vacancies shall be filled in the same manner as original appointments, and the appointee shall serve for the remainder of the unexpired term.
- D. The members of the HPC may be reimbursed by the City for expenses incurred in connection with their duties and for meetings, subject to a resolution adopted by the City Council.

4.08.040 Organization, officers, rules, meetings.

- A. The HPC shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this chapter. Rules of procedure and bylaws adopted by the HPC shall be available for public inspection.
- B. The HPC shall elect officers from among the HPC members. The chairperson shall preside at meetings of the HPC. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson.
- C. All meetings of the HPC shall be open to the public and follow the requirements of Idaho's open meeting laws. The HPC shall keep minutes and other appropriate written records of its resolutions, proceedings and actions.
- D. The HPC may recommend to the Council, within the limits of its funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the HPC.

4.08.050 Powers, duties and responsibilities.

The HPC shall be advisory to the Council and shall be authorized to:

- A. Conduct a survey of local historic properties;
- B. Recommend the acquisition of fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequests or donation;
- C. Recommend methods and procedures necessary to preserve, restore, maintain and operate historic properties under the ownership or control of the City;
- D. Recommend the lease, sale, other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
- E. Contract, with the approval of the Council, with the state or federal government, or any agency of either, or with any other organization;
- F. Cooperate with the federal, state and local governments in the pursuance of the objectives of historic preservation;
- G. Make recommendations in the planning processes undertaken by the county, the City, the state or the federal government and the agencies of these entities;
- H. Recommend ordinances and otherwise provide information for the purposes of historic preservation in the City;
- I. Promote and conduct an educational and interpretive program on historic preservation and historic properties in the City;
- J. HPC members, employees or agents of the HPC may enter private property, buildings or structures in the performance of their official duties only with the express consent of the owner or occupant;
- K. Review nominations of properties to the National Register of Historic Places for properties within the City's jurisdiction;
- L. Establish and maintain the Historic Building/Site list;
- M. Review and make decisions on Demolition and Alteration applications.

4.08.060 Special restrictions.

Under the provisions of Idaho Code section 57-4612, the City of Ketchum, Idaho, may provide by ordinances, special conditions or restrictions for the protection, enhancement and preservation of historic properties.

Section 2. ADDITION OF CHAPTER 17.20, HISTORIC PRESERVATION, TO TITLE 17 ZONING REGULATIONS

17.20.010 - General Provisions

- A. The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public of the City of Ketchum through the identification,

evaluation, designation and protection of buildings, sites, areas, structures and objects which reflect significant elements of the City's, the state's, and the nation's historic, architectural, archaeological and cultural heritage.

- B. *Applicability:* The regulations and procedures set forth in this ordinance shall apply to each and every structure listed on the adopted Historic Building/Site List. All other buildings over 50 years of age shall follow the process for demolition of buildings per Ketchum Municipal Code Section 15.16.040, except that no demolition permit shall be issued for any structure over 50 years old until a complete building permit application for a replacement project on the property and required fees have been accepted by the City.
 - 1. Except as provided in Section 17.20.040, Remediating of Dangerous Building Conditions, no person shall make, or otherwise cause to be made, any demolition or alterations to structures on the Historic Building/Site List without approval by the Historic Preservation Commission (HPC) through the Demolition or Alteration application process described in Section 17.20.030. The following types of modifications require HPC review:
 - a. Partial or total demolition of any portion of the structure; or
 - b. Exterior alterations, including windows or siding replacement, or
 - c. Additions to any structure.
- C. *Exceptions:* This ordinance shall not apply to dangerous building conditions that would imperil the health or safety of the public as determined by the Building Official and the Director of Planning and Building.

17.20.020 - Historic Building/Site List

- A. The Historic Building/Site List shall be established and maintained by the HPC.
- B. The HPC shall have the authority to add or remove structures from the Historic Building/Site List using the criteria below to determine if a structure should be added or removed from the Historic Building/Site List.
- C. Buildings or sites shall meet Criteria 1 and 2 and shall meet one or more of the Criteria listed in 3.
 - 1. Historic buildings must be at least fifty (50) years old. A historic building may be exempt from the age standard if it is found to be exceptionally important in other significant criteria.
 - 2. All buildings and sites must retain their physical integrity as determined by the following criteria. However, a site need not meet all of the following criteria:
 - a. Shows character, interest, or value as part of the development, heritage or cultural characteristics of Ketchum, the region, state, or nation;
 - b. Retains a significant amount of the original design features, materials, character or feeling of the past;

- c. Is in the original location or same historic context after having been moved;
 - d. Has been accurately reconstructed or restored based on documentation.
3. Historic buildings or sites shall meet one or more of the following criteria:
- a. *Architectural criteria.*
 - i. Exemplifies specific elements of a recognized architectural style or period or a style particularly associated with Ketchum neighborhoods;
 - ii. Example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents an innovation in construction, materials or design;
 - v. Pattern or grouping of elements that enhance the identity of the community;
 - vi. Significant historic remodel contributing to Ketchum’s identity.
 - b. *Social/historic criteria.*
 - i. Site of historic event;
 - ii. Exemplifies cultural, political, ethnic, economic, or social heritage of the community through the built environment or with people associated with an era of history;
 - iii. Associated with a notable person or the work of a notable person;
 - iv. Is valued by the Ketchum community as an established or familiar visual or cultural feature due to its architectural history, siting, massing, scale, cultural characteristics, or heritage such that its removal would be irreparable loss to the setting.
 - c. *Geographic/Natural Features.*
 - i. Enhances sense of identity of the community;
 - ii. Is an established and familiar natural setting or visual feature of the community.

D. All structures on the Historic Building/Site List shall be maintained to meet the requirements of the International Property Maintenance Code and/or the International Existing Building Code, as adopted and amended by the City. The owner of such structure(s) shall also keep in good repair all structural elements thereof which, if not so maintained, may cause, or tend to cause the exterior portions of such structure to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair which would have an adverse effect upon such designated structures.

17.20.030 - Demolition or Alteration Request Process:

A. An applicant seeking to demolish or make any alterations to structures on the Historic Building/Site List shall file a Request for Demolition or Alteration application with the Planning and Building Department. The application shall be processed as set forth in KMC Chapter 17.96., Design Review. This process may run concurrent with applications for

Design Review.

- B. Upon receipt of a complete Request for Demolition or Alteration application and fee, as determined by the Zoning Administrator, the application shall be scheduled for a public hearing before the HPC within 60 days of the application being deemed complete. Notice shall be provided in accordance with KMC Section 17.116.040 C, D, and E.
- C. Following the public hearing, the HPC may approve, deny, or approve with conditions the Request for Demolition or Alteration. The HPC will review the application using the criteria below to determine if the proposed demolition or alteration of the structure may proceed.
 - 1. Is the structure of historic or architectural value or significance and does it contribute to the historic significance of the property within the Community Core.
 - 2. Would the loss, alteration of, or addition to, the structure adversely affect the historic integrity of the structure, impact the significance of the structure within the Community Core, impact the architectural or aesthetic relationship to adjacent properties, or conflict with the Comprehensive Plan.
 - 3. Does the structure retain the requisite integrity to convey its historic and/or architectural significance.
 - 4. Does the proposed demolition or alteration adversely affect the historic significance or architectural distinction of the structure or the Community Core.
- D. Appropriate alterations might include but are not limited to:
 - 1. Changes to the building's interior that are not visible from a public street, alley, park, or other public place;
 - 2. Changes to internal building systems that will not adversely affect the external appearance of the building;
 - 3. The erection or removal of temporary improvements.
 - 4. Adaptive reuse consistent with the Secretary of the Interior's Standards for Rehabilitation and Idaho Code Title 67-4618.
- E. The HPC shall consider the unique circumstances of each proposed demolition or alteration. Approval of each individual Demolition or Alteration application is unique to that property and does not constitute a precedent for other properties.
- F. The decision of the HPC on a Demolition or Alteration application may be appealed to the City Council by the applicant or affected party pursuant to the appeal provisions contained in Ketchum Municipal Code Section 17.144, Appeals of the Planning and Zoning Commission Decisions.

17.20.040 - Remediating of Dangerous Building Conditions

- A. If the Building Official finds a historic structure constitutes dangerous building conditions that would imperil the health or safety of the public, it shall first be determined by the Building Official if the structure is capable of being made safe by repairs in which said repairs shall be made by the owner of the structure.

- B. If the Building Official finds the structure is not capable of being made safe by repairs, then the Building Official may order the structure to be demolished.
- C. Nothing contained herein shall be construed as making it unlawful for any person to comply with the Building Official's authority as stated in this section.

17.20.050 - Enforcement and Maintenance

- A. If any alteration is made without approval of a Demolition or Alteration application, the City may issue a stop work order for all construction activity, withhold inspections and final approvals, withhold approval of additional City permits, and take any other available action, or any combination of the aforementioned, until the applicant has applied for and received approval for the alteration. If the alteration is not approved, the property owner shall restore the structure to its original condition prior to any alteration occurring.
- B. Except as provided in Section 6, Remediating of Dangerous Building Conditions, no permit shall be issued authorizing any alteration to a structure listed on the Historic Building/Site List until the HPC approves the Request for Demolition or Alteration application. If the approval or denial of the application is administratively appealed, no further development permits shall be approved for the property until the City Council has made a final decision on the administrative appeal.
Normal repair and maintenance of structures on the Historic Building/Site List is permitted. Nothing in this Section shall be construed to prohibit the alteration of any structure necessary as a part of normal repair and maintenance when such alteration will not change the exterior appearance or materials or the interior support structure of the building, including the character or appearance of the land itself.

17.20.060 – Relief from Regulations

- A. The relief from regulations within the City of Ketchum Code of Ordinances is applicable to properties on the Historic Building/Site List to ease the burden of preserving buildings.
- B. Relief from Building Code requirements of Title 15 of the City of Ketchum Code of Ordinances.
 - 1. The Building Official has the authority to consider alternative options for historic buildings to comply with building code so long as they do not compromise health and safety.
- C. Relief from Off Street Parking and Loading requirements of Chapter 17.125 of the City of Ketchum Code of Ordinances.
 - 1. Where additions or alterations to an historic building are proposed, the

square footage of the existing historic building shall not be counted toward the minimum parking requirement for the proposed project regardless of use.

2. No additional parking relief is provided for projects that include full demolition of historic buildings.
3. When projects include partial demolition of historic buildings, the square footage of the historic building that remains shall not be counted toward the minimum parking requirement for the proposed project regardless of use.

D. Relief from Nonconforming Building Requirements of Chapter 17.136 of the City of Ketchum Code of Ordinances.

1. Properties are allowed to increase existing nonconformities on expansions by matching existing setbacks, height, and other dimensional standards.
2. Properties are exempted from the limitation on and expanding nonconforming buildings.

Section 3. AMENDMENT TO SECTION 17.96.010.C, PREAPPLICATION DESIGN REVIEW:

17.96.010.C – Preapplication Design Review

1. Preapplication review is required for all new non-residential and multi-family residential developments with four (4) or more stories and all new developments on a lot or lots totaling 11,000 square feet. Applicants of projects exempt from Preapplication Design Review may request a Preapplication Design Review at their discretion. ~~new nonresidential construction and all multi-family developments of five or more units.~~
2. The purpose of preapplication review is to allow the Commission to exchange ideas and give direction to the applicant on the "design concept", keeping in mind the purpose of this chapter and the application of the evaluation standards.
3. Preapplication review materials shall be submitted according to the application requirements of section 17.96.040 of this chapter.
4. The Commission may require a model of the project or computer simulation renderings showing the proposal from one or more key vantage points for presentation at regular design review meetings in order to assist in the understanding of the project. Models and computer renderings must include surrounding properties in sufficient detail for the proposal to be viewed in context.
5. The Administrator may waive the requirement for preapplication review if the project is found to have no significant impact.

Section 4. 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 5. REPEALER CLAUSE: All City of Ketchum Ordinances or resolutions or parts thereof which are in conflict herewith are hereby repealed.

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 from and after its passage, approval, and publication according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO, and approved by the Mayor this 3rd Day of January 2022.

Neil Bradshaw, Mayor

Attest: Tara Fenwick, City Clerk

EXHIBIT A: PUBLICATION SUMMARY

ORDINANCE NO. 1231

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO, REPEALING AND REPLACING CHAPTER 4.08 OF THE KETCHUM MUNICIPAL CODE, HISTORICAL PRESERVATION COMMISSION; ADDITION OF CHAPTER 17.20, HISTORIC PRESERVATION, TO TITLE 17 ZONING REGULATIONS OF THE KETCHUM MUNICIPAL CODE; AMENDING TITLE 17 ZONING REGULATIONS OF THE KETCHUM MUNICIPAL CODE BY AMENDING SECTION 17.96.010.C – PREAPPLICATION DESIGN REVIEW; PROVIDING A SAVINGS AND SEVERABILITY 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. 1231 of the City of Ketchum, Blaine County, Idaho, adopted on _____ 2022, is as follows:

- SECTION 1.** Repeals and replaces Chapter 4.08 – Historic Preservation Ordinance, which includes creation, composition, organization, and duties and responsibilities of the Historic Preservation Commission.

- SECTION 2.** Addition of Chapter 17.20 – Historic Preservation to Title 17 Zoning Regulations of the Ketchum Municipal Code which includes applicability, process and criteria for designation of historic buildings and sites, process and criteria for demolition or alteration of historic buildings, provisions for dangerous buildings, maintenance of historic buildings, enforcement provisions, and relief from regulations for historic buildings.

- SECTION 3.** Amendment of Section 17.96.010.C – Preapplication Design Review of Title 17 Zoning regulations to exempt certain application types from preapplication design review process.

- SECTION 4.** Provides a savings and severability clause.

- SECTION 5.** Provides a repealer clause.

- SECTION 6.** Provides for publication of this Ordinance by Summary.

- SECTION 7.** Establishes an effective date.

The full text of this Ordinance is available at the City Clerk’s Office, Ketchum City Hall, 191 5th Street West, Ketchum, Idaho 83340 and will be provided to any citizen upon personal request during normal office hours.

ATTEST:

Tara Fenwick, City Clerk

APPROVED:

Neil Bradshaw, Mayor