



Chapter 17.92

AVALANCHE ZONE DISTRICT (A)

[17.92.010: A AVALANCHE ZONE DISTRICT:](#)

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The A avalanche zone district is established to identify those areas where, after due investigation and study, the city council finds that avalanche potential exists. Avalanches are caused by steepness of slope, exposure, snowpack composition, wind, temperature, rate of snowfall and other little understood interacting factors. Due to the potential avalanche hazard, special regulations should be imposed within such district.

A. Purposes: An avalanche zone district is established as a zoning overlay district for the following purposes:

1. To identify those areas within the city where, after due investigation and study, avalanche potential is found to exist.
2. To give notice to the public of those areas within the city where such avalanche potential has been found to exist.
3. To give notice to and provide the public with the opportunity to review pertinent avalanche studies and reports including the avalanche study report made by Mr. Norm Wilson, dated September 1977, and the avalanche study report made by Mr. Art Mears, dated July 1978, and avalanche study report made by Mr. Art Mears, dated January 1979, together with any future studies made. Copies of said studies are available for public inspection at the office of the Ketchum city clerk. It is recommended that said studies be examined prior to purchase, development, construction or use of land located within the avalanche zone.
4. To minimize health and safety hazards, disruption of commerce and extraordinary public expenditures.

5. To promote the general public health, safety and welfare.
6. To allow for construction of single-family residences by persons informed of potential avalanche danger with regard to a specific parcel of real property, while providing regulations to protect lessees, renters and subtenants of property within such zone.

B. Avalanche Zone District Boundaries:

1. The avalanche zone district boundaries shall be an overlay district and designate those areas within the city found subject to potential avalanche danger. The avalanche zone shall consist of two (2) subzone designation areas as follows:

a. High avalanche zone.

b. Moderate avalanche zone.

2. The avalanche zone shall include all of those areas within the city so designated by the amendment to the Ketchum zoning map adopted in this chapter. Designation as avalanche zone, high avalanche or moderate avalanche zone shall replace any existing avalanche zoning designation.

C. Uses Permitted: The avalanche zoning district shall be an overlay district and shall apply the additional requirements of the avalanche zoning district to the uses otherwise permitted in the district. All uses allowed in the district with which the avalanche zone district combines shall be subject to the additional restrictions of the avalanche zoning district. If any of the regulations specified in this section differ from corresponding regulations specified for a district with which the avalanche zone district is combined, the regulations contained in this section shall apply and govern.

D. Use Restrictions: The following restrictions are imposed upon construction, development and use of all real property located within the avalanche zone:

1. All utilities installed after the effective date hereof for development of a subdivision or providing utility services to a building or replacing existing utility services to a building or subdivision shall be installed underground in order to minimize possible avalanche damage to such utilities and injury to persons and property.

2. Avalanche protective, deflective and preventative structures, devices or earthwork which threaten to deflect avalanches toward property of others or otherwise threaten to increase the danger to persons or property are prohibited. The construction of such structures, devices or

earthwork shall be permitted only as a conditional use. Prior to granting of a conditional use permit, the applicant shall submit to the city plans signed by an engineer licensed in the state, certifying that the proposed construction will withstand the avalanche forces set forth in the avalanche studies on file with the city and that the proposed construction will not deflect avalanches toward the property of others. Other information and engineering studies may be requested in consideration of an application for a conditional use permit. As a further condition of any conditional use permit, appropriate landscaping may be required where such structures, devices or earthwork alter the natural slope or beauty of the land. This shall not apply to reforestation. Alteration or removal of any existing natural barriers is prohibited.

3. Prior to issuance of a building permit for any structure within the avalanche zone, except a single-family residence, the applicant shall submit to the Ketchum building inspector plans, signed by an engineer licensed in the state of Idaho, certifying that the proposed construction as designed will withstand the avalanche forces as set forth in the avalanche studies on file with the city, or the avalanche forces set forth in a study of the property in question prepared at the owner's expense and submitted to the city by a recognized expert in the field of avalanche occurrence, force and behavior. Warning: The avalanche forces set forth in such studies are to be considered minimum standards only, and the city does not represent, guarantee or warrant the ultimate safety of any construction, use or occupancy of structures constructed to those standards. Avalanches may occur with forces greater than those set forth in such studies, and areas of the city not designated as avalanche zone may be subject to potential avalanche danger.

4. Any structure which has been constructed within the avalanche zone and without engineering study shall not be leased, rented or sublet from November 15 through April 15 of each year. Any residence being leased or rented on the effective date hereof shall be deemed a zoning violation and shall be governed by [chapter 17.156](#) of this title.

5. There shall be no further subdivision of any real property, including lot splits, which would result in the creation of a lot or building site, in whole or part, within the avalanche zone. A variance to this provision may be granted if a lot can be created in which the building site conforms to all other provisions of this title and is located entirely outside of the avalanche zone.

E. General Notice Requirements: In order to provide reasonable notice to the public of the avalanche potential within all areas designated avalanche zone, the following notice regulations and requirements are adopted for all real property and structures located within such zone:

1. All subdivision plats shall identify and designate each lot and block, or portions thereof, located within the avalanche zone, together with applicable subzone designation, by a stamp or writing in a manner providing reasonable notice to interested parties.

2. All plans submitted with a building permit application for property within said avalanche zone shall be stamped "avalanche zone", together with the applicable subzone designation.

3. Prior to the issuance of any building permit for construction or improvements within the avalanche zone, the applicant shall submit to the building inspector a written acknowledgment, signed by the applicant under seal of a notary public, of the applicant's actual knowledge that the proposed building or improvement will be located within the avalanche zone. The applicant will also acknowledge that he or she has actual knowledge of the studies conducted to date regarding the avalanche zone that are on file with the planning department. The acknowledgment shall state the following:

I, (applicant's name), the applicant named in Building Permit Number (#) intend to construct (type of building, outbuildings and/or improvements) on (property description, including legal description and (street address)). I acknowledge that this development and the parcel of land on which the development will be situated are within the Avalanche Zoning District. I have thoroughly read and fully understand Ketchum Zoning Code [Title 17, Chapter 17.92](#) "Avalanche Zone District" and the reports by Art Mears and Norman Wilson on file with the City of Ketchum Planning Department. I fully understand that building within the Avalanche Zone may pose a substantial hazard to life, health, and property for residents, guests, visitors, both invited and uninvited, children, city employees, utility workers, public servants, and animals. I also fully understand that City services, including fire protection, police, and medical and ambulance service may be suspended during times of high hazard.

I, on behalf of myself, my personal representatives and my heirs, hereby voluntarily agree to release, waive, discharge, hold harmless, defend and indemnify the City of Ketchum and its officers, employees, agents, and contractors from any and all claims, actions, or losses for bodily injury, death, wrongful death, property damages, and loss of services which may arise out of the construction of the buildings, outbuildings, and/or improvements that are the subject of my Building Permit Number ().

I also promise and agree to file an executed copy of this Acknowledgment, confirmed or stamped as received by the Ketchum Planning Department as an addendum to my deed to the real property described herein with the County Recorder.

4. The city shall file with the office of the Blaine County recorder such document(s) as necessary to provide record notice of each existing lot and/or parcel of real property within the avalanche zone; and such document(s) as necessary to provide record notice that each owner who rents or leases any structure located in whole or part within the avalanche zone shall provide the tenant, lessee or subtenant with written notice that said property is located within the avalanche zone prior to any occupancy.

5. The city shall post signs in the public right of way to reasonably identify the boundaries of the avalanche zone.

6. All persons who rent, lease or sublet any structure or premises within the avalanche zone shall provide the tenant, lessee or subtenant with written notice that said property is located within such avalanche zone prior to occupancy.

7. Each and every real estate agent, sales person and broker, and each and every private party who offers for sale or shows a parcel of real property and/or structure for sale, lease or rent within said avalanche zone shall, upon first inquiry, provide the prospective purchaser, lessee or tenant, prior to viewing said real property, with written notice that said real property and/or structure is located within said avalanche zone. Furthermore, such written notice shall state that the studies referred to in subsection H of this section are available for public inspection at the office of the Ketchum city clerk and that said studies should be reviewed prior to any party entering any agreement, contract or lease.

8. All brochures and other printed materials advertising and/or soliciting reservations for sale, rental or lease of living units within the avalanche zone shall contain a provision designating that said unit or units are located within the avalanche zone.

F. Suspension Of City Services: During periods of avalanche danger, city services may be suspended or otherwise not be provided to property within the avalanche zone; nor shall the city accept responsibility for or guarantee that such services, rescue efforts or emergency services will be provided during periods of avalanche danger.

G. Warning And Disclaimer Of Safety And Liability:

1. Avalanches occur naturally, suddenly and unpredictably based upon steepness of slope and runout area, exposure, snowpack composition, wind, temperature, rate of snowfall and other little understood interacting factors. The avalanche zone designated in this title is considered reasonable for regulatory purposes and is based upon and limited by the engineering and scientific methods of study. This title does not represent or imply that areas outside the avalanche zone district are free from avalanches or avalanche danger.

2. The fact that the city has not prohibited development, construction or use of real property within the avalanche zone district does not constitute a representation, guarantee or warranty of any kind as to the safety of any construction, use or occupancy. The granting of any permit or approval for any structure or use, or the declaration or failure to declare the existence of an avalanche hazard shall not constitute a representation, guarantee or warranty of any kind or nature by the city, or any official or employee, of the practicality or safety of any construction, use or occupancy, and shall create no liability upon or cause of action against such public body, or its officials or employees, for any injury, loss or damage that may result.

3. Avalanches occur naturally, suddenly and unpredictably, and persons who develop or occupy real property within said avalanche zone do so at their own risk.

H. Notice Of Avalanche Studies:

1. The city has received the following avalanche studies of areas within the city:

a. Avalanche study report by Norm Wilson, dated September 1977;

b. Avalanche study report by Art Mears, dated July 1978;

c. Avalanche study report by Art Mears, dated January 1979.

2. Copies of said studies are available for public inspection at the office of the Ketchum city clerk, city hall. Persons interested in building, using or occupying real property within the avalanche zone are encouraged and should examine the studies. However, the city does not represent or warrant the completeness or accuracy of those studies.

I. Amendment To Zoning Map: The official zoning map of the city is amended to include the avalanche zone with subcategory designation of high avalanche zone and moderate avalanche zone as part of the avalanche zone district. The boundaries of said avalanche zone are adopted as set forth on said amended official zoning map made a part of this title. (Ord. 862 § 1, 2001: Ord. 852 § 1, 2000: Ord. 772 § 4, 1999: Ord. 208 § 16, 1974)