

ALCOHOL LICENSING ORDINANCE NO. 215
CITY OF CLARK FORK, IDAHO

AN ORDINANCE REGULATING THE SALE AND CONSUMPTION OF BEER, WINE AND LIQUOR, DEFINING TERMS USED, PREMISES AND RETAILER, LICENSING REQUIRED FOR RETAIL SALES, MANNER AND MEANS APPLICATION THEREOF, INVESTIGATION, PROHIBITIONS OF LICENSING OF CERTAIN PERSONS, ISSUANCE OF LICENSES, FEES TO BE PAID FOR LICENSES, REGULATIONS AND RESTRICTIONS OF SALES, TRANSFER OR CHANGE OF LOCATION OF LICENSES, PROHIBITING SALE DURING CITY ELECTIONS, PROVIDING FOR NOTICE AND HEARINGS PERTAINING TO SUSPENSION OR REVOCATION OF LICENSES AND PENALTIES FOR VIOLATIONS OF THE ORDINANCE OR OTHER LAWS, REPEALING OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE, PROVIDING SEVERABILITY, AND PROVIDING FOR EFFECTIVE DATE AND PUBLICATION.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CLARK FORK, IDAHO:

SECTION 1. STATEMENT OF PURPOSE.

The purpose of this Ordinance shall be to regulate the sale and consumption of alcoholic beverages within the City of Clark Fork to protect the public health, safety, and general welfare of the community. This ordinance shall apply, as appropriate, to beer, wine and liquor licensing within the City.

SECTION 2. DEFINITION OF TERMS.

Unless otherwise expressly provided herein, terms shall be accorded the same definition as provided in relevant sections of Idaho Code Title 23. The terms Clerk, Mayor, and City Council shall respectively refer to the City Clerk, Mayor and City Council of the City of Clark Fork, Idaho.

SECTION 3. LICENSE REQUIRED.

It shall be unlawful for any person to sell at retail package ~~beer and wine; or beer,~~ wine or liquor by the drink as defined by Idaho law within the corporate limits of the City of Clark Fork without first having procured a license ~~therefor~~ from the City as hereinafter set forth. The provisions of this Chapter shall not apply to the State of Idaho or its agencies.

SECTION 4. COMPLETED APPLICATION REQUIRED.

Each person requesting a license to sell beer, wine or liquor shall first complete an application for said license setting forth such information as may be necessary to demonstrate compliance with the provisions of ordinances of the City and relevant provisions of state law. Each application for license shall be in writing, signed and sworn to by the applicant upon an application form furnished by the City Clerk.

SECTION 5. QUALIFICATIONS FOR OBTAINING AND MAINTAINING A BEER, WINE OR LIQUOR LICENSE.

A. An applicant for a beer, wine or liquor license shall possess all of the qualifications necessary to obtain a license from the Director of the Department of Law Enforcement of the State of Idaho as prescribed by the laws of the State of Idaho and shall maintain all such qualifications throughout the period for which such license is issued. The possession of a valid beer, wine, or liquor license regularly issued by the Idaho Department of Law Enforcement and Bonner County, Idaho shall be a necessary condition precedent for issuance of a City license hereunder. No City license shall be issued unless the applicant provides proof that the state and county have acted favorably upon the applicant's license request.

B. License applicants to sell beer, wine, or liquor by the drink shall fully disclose any and all involvement with law enforcement or alleged violations of the law occurring within the 10-year period preceding the application for license, including but not limited to: arrests, convictions, guilty pleas, withheld judgments, deferred prosecutions, indictments or other formal criminal proceedings relating to use, sale, or possession of alcohol, alleged acts of violent conduct, conduct involving use or possession of firearms, State building or safety code violations, crimes or conduct involving allegations of dishonesty or moral turpitude, or any other felony or non-traffic related misdemeanor violations, either alleged or proven.

C. No person shall be granted a license to sell beer, wine, or liquor by the drink if any of the following conditions are found to exist:

1. Applicant has been involved in criminal activities which demonstrate unsound moral character or involvement with law enforcement which demonstrates substantial law enforcement burden or responsibility could result from licensing the applicant.
 2. Premises to be used do not comply with State building or safety codes.
 3. Existing licensed premises have caused problems for law enforcement or have been involved in conflicts with neighboring land uses.
 4. Conditions have existed which constitute a nuisance for the neighborhood in which licensed premises are located or for the community in general.
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SECTION 6. LICENSING PROCEDURES.

A. Issuance of License: Upon filing the application for license, production of evidence as required as to the qualifications of the applicant, assembly of responses from law enforcement officials, and payment of the required non-refundable fees provided for herein, the Clerk shall forward the license application to sell beer, wine, or liquor by the drink at retail within the City for a calendar year beginning January 1 or for the remainder of the year thereof to the City Council for consideration. The City Council shall review the license application and respond as promptly as information can be gathered. If the City Council determines that the applicant is qualified under Paragraphs A & B of Section 5 of this ordinance and is not disqualified under any of the reasons given in Paragraph C of Section 5, and that the application complies with all applicable laws, the Council may approve the requested license. If the Council denies the requested license, it shall state its reason(s) therefore when the action is taken. All proceedings concerning issuance of a license shall comply with procedural standards required by State law. City license fees charged shall be proportionate to the remainder of the calendar year, in monthly increments, for which the license is to be issued.

B. Clerk to Maintain records: The Clerk shall maintain a file at City Hall concerning each respective licensee possessing a license pursuant to this ordinance. Into such file shall be placed any information of which the Clerk is made aware which is relevant to the maintenance of each license issued pursuant to this ordinance. Such file shall be open for public inspection during regular business hours. If adverse information is contained in such file, or if law enforcement officials indicate that problems have occurred at the premises during any year, the Clerk shall forward the contents of the City's file on any licensee to the City Council whenever a licensing request or renewal is under consideration by the Council.

C. Processing of Applications for Renewal of Licenses: Upon the filing of an application to renew a currently issued license, the City Clerk shall transmit copies of the file maintained regarding the license to the law enforcement agency with primary jurisdiction to obtain recommendations regarding licensure. Any such information may be considered by the City Council in the course of its consideration of a license renewal.

D. Transfer Of License: Licenses issued under the provisions of this Chapter shall be transferable with approval by the City Council. The possession of a transferred license regularly issued by the Department of Law Enforcement and Bonner County, Idaho shall be prima facie evidence of the applicant's qualification to be considered for a license transfer hereunder. However, no license shall be transferred to any other person until such person has applied for such on an application provided by the City Clerk and has been found to be qualified by the City Council to obtain such license under the provisions of this ordinance. Transfer licensees must meet the same qualifications as new or renewal licensees. Upon the approval of the transfer of any license as herein provided, the City Clerk shall charge and collect the required non-refundable fees provided for herein.

E. Procedure In The Event Of Denial: In the event an application for new license, license renewal, or license transfer is denied, such notification of denial shall specify:

1. The statutes, ordinances and standards used in evaluating the application.
2. The reasons for denial.
3. The actions, if any, the applicant could take to obtain the license, transfer or renewal thereof.

An applicant denied a license, transfer or renewal thereof may request an appeal hearing before the City Council within thirty (30) days after mailing to the applicant by the City of such notice of denial. The manner of such appeal shall accord the applicant the right to present such relevant written material as the applicant deems necessary and the right to present information or argument orally to the City Council for a period not to exceed 30 minutes. The City Council may allow additional time for oral presentation in its sole discretion. Following the appeal hearing, the City Council shall decide the appeal and issue its decision setting forth its basis therefor. The decision shall be communicated to the applicant in writing setting forth the reason(s) for the decision and the actions which the applicant could take, if any, to obtain a license.

SECTION 7. LICENSE AND TRANSFER FEES.

License and transfer fees shall be established by resolution adopted by the City Council and shall be paid at the time application is made for, and as a condition precedent to, issuance or transfer of a license. Such fees are not refundable if a license is not granted.

SECTION 8. CONDITIONS OF LICENSE - RESTAURANT PREMISES.

Any license issued for sale of beer and wine secondary to a restaurant shall be deemed to permit only the sale, dispensing and distribution of beer and wine, to be consumed on the premises of the restaurant business.

SECTION 9. HOURS OF SALE OF LIQUOR.

In addition to the hours and times prohibiting the sale of liquor as specified by Idaho State Law, no liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet on any day of any City election until after the time when the polls are closed.

SECTION 10. REVOCATION OF LICENSE.

The right to revoke a license issued pursuant to the provisions herein contained shall at all times remain vested in the City Council, and the Mayor and the City Council may, as hereinafter provided, revoke, or cancel any license for fraud or misrepresentation in its procurement or for the violation of any of the provisions of this Chapter or for any conduct or act permitted by him or them on the premises where such business is conducted or in connection therewith or adjacent thereto tending to render such business or such premises where the same is conducted as a public nuisance or a menace to the health, peace, safety or general welfare of the City and its citizens; provided, however, that the procedure for revocation and/or suspension of the license issued herein shall follow the same procedural steps as may be followed in the instance of an appeal of a denial of a license. If the Mayor and the City Council shall, for any reason, deem revocation, cancellation or suspension of the license appropriate, the licensee shall be afforded a prompt hearing before the City Council, together with the right of representation at licensee's expense and choosing. The City Council shall provide written notice to the licensee of said hearing setting forth the time, place and date for said hearing. Only after such hearing is held, or waived by the licensee, shall the license in question be suspended, canceled or revoked, unless an emergency is found to exist, in which case a summary suspension or revocation may be allowed, to be followed promptly by an appeal hearing within 15 days.

SECTION 11. PENALTY AND ENFORCEMENT.

Any person who violates any of the provisions of this ordinance or fails to comply with any of the terms and conditions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be sentenced to not more than six (6) months in the County jail or fined in an amount not greater than three hundred dollars (\$300.00) or both. The City may also initiate civil action in a court of competent jurisdiction to compel compliance with the provisions hereof.

SECTION 12. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or resolutions or parts thereof in conflict herewith are hereby repealed and rescinded to the extent of such conflict, including ordinance #'s 104, 157, 162 and 182.

SECTION 13. SEVERABILITY.

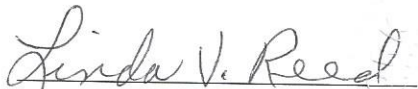
If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever become invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstance to which it may validly apply. The provisions of this ordinance are deemed severable as necessary to accomplish the purposes of this ordinance.

SECTION 14. EFFECTIVE DATE.

This ordinance shall be effective on the date of its publication in the official newspaper of the City.

Approved as an ordinance of the City of Clark Fork by majority vote of the City Council and signature by the Mayor the 11th day of May, 1998.

City of Clark Fork, Idaho


Linda Reed, Mayor

Attest:


Elizabeth Parenti, City Clerk

CITY COUNCIL MEMBERS

	YES	NO	ABSENT	ABSTAIN
Brian Cantrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike McDaniel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Art Ratcliff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Shields	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SUMMARY OF CLARK FORK ALCOHOL LICENSING ORDINANCE
ORDINANCE NO. 215

The City of Clark Fork, Idaho hereby gives notice of the adoption of Clark Fork Ordinance No. 215, an ordinance regulating the sale and consumption of beer, wine and liquor in the City of Clark Fork. The ordinance contains the following provisions: a statement of purpose; definitions of terms used in the ordinance; requirement for license and application thereof; qualifications for obtaining and maintaining a license; licensing procedures; license and transfer fees; conditions of license for a restaurant; hours when alcohol may not be sold; revocation of license; provides penalties for violation including fines, infractions and misdemeanor criminal penalties; provides repeal of conflicting ordinances; provides severability; and provides that the ordinance shall be effective following its passage on May 11, 1998 and publication which is accomplished by this summary. The full text of the Clark Fork Alcohol Licensing Ordinance is available at City Hall in Clark Fork.

Dated this 11th day of May, 1998

Elizabeth Parenti
City Clerk

STATEMENT OF LEGAL ADVISER

I, Jerry D. Mason, am the City Attorney for the City of Clark Fork, Idaho. I have examined the summary of the Clark Fork Alcohol Licensing Ordinance dated May 11, 1998 and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the contents thereof.


Jerry Mason, Attorney

Dated: May 11, 1998