

**CITY OF CLARK FORK, IDAHO  
SETBACK ORDINANCE  
NO. 216**

AN ORDINANCE OF THE CITY OF CLARK FORK, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ESTABLISHING SETBACK REQUIREMENTS FOR THE CITY OF CLARK FORK, IDAHO; PROVIDING FOR A SHORT TITLE; PROVIDING AUTHORITY, INTERPRETATION, SCOPE, DEFINITIONS, AND SETBACK REQUIREMENTS; PROVIDING FOR GENERAL STANDARDS, AND VARIANCES; PROVIDING FOR CRIMINAL MISDEMEANOR PENALTIES AND CIVIL REMEDIES FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; REPEALING CONFLICTING ORDINANCES, PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND FOR PUBLICATION THEREOF.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the city of Clark Fork, Idaho:

**SECTION 1.0 SHORT TITLE.**

This Ordinance shall be known and may be cited as the "Setback Ordinance" of the City of Clark Fork, Idaho.

**SECTION 2.0 AUTHORITY.**

This Setback Ordinance is adopted pursuant to authority granted by Title 67, Chapter 65 of the Idaho Code, and Article 12, Section 2 of the Idaho Constitution, as amended or subsequently codified.

**SECTION 3.0 INTERPRETATION.**

In their interpretation and application the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare, to retain the aesthetics of the community, to preserve land values to the extent possible, and to promote security within the community. To protect the public, among other purposes, such provisions are intended to assist in the provision of privacy, open areas, adequate light, safety from fire and other danger, and undue concentration of structures and populations.

---

**SECTION 4.0 SCOPE.**

It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or with private restrictions placed upon property by covenants running with the land to which the City is a party. Where this Ordinance imposes a greater restriction upon land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control. If privately imposed restrictions are greater, this Ordinance shall not affect them.

**SECTION 5.0 DEFINITIONS.**

For the purposes of this Ordinance the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory and the word "may" is permissive.

Alley - A public or approved private way at the side or rear of property permanently reserved as a means of secondary vehicular access to abutting property and not intended as a traffic thoroughfare.

Abut or Abutting - Means contiguous to.

Building - Any structure built or maintained for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The word "building" shall include the word "structure".

City, the - The words "the City" mean the City of Clark Fork, Idaho.

City Council - The duly elected and appointed officials comprising the City Council of the City of Clark Fork, Idaho.

City Comprehensive Plan - That Plan adopted by the City of Clark Fork, Idaho, setting forth the objectives of the City of Clark Fork for its future growth.

Cul-De-Sac - A passage or street having only one outlet.

Easement - A right of use within or over a lot or parcel of land reserved for public utilities or public and private uses.

Existing properties - Those properties platted at the time of enactment of this Ordinance.

Fence - Any structure, material or thing forming a physical barrier.

Front - On an interior property, "front" means the property line abutting the street. On a corner property, "front" means the property line abutting the same street as the adjacent interior property. The City Council shall make the final determination as to "front" on any property that may be in question.

Interior lot line - A property line which does not abut a street or alley.

Lot - A parcel of land, the legal description for which is recorded in the office of the County Recorder of Bonner County.

Newly developed properties - Those properties developed and subdivided after the enactment of this Ordinance.

Non-conforming use - The use of property and/or structure which was lawful at the time of its establishment and which under subsequently-enacted ordinances is no longer permitted.

Property, corner - A lot at the junction of two or more intersecting streets with a boundary line abutting on each of the streets.

Property, interior - A lot which is not a corner lot.

Rear - The property line abutting an alley and/or is opposite the front property line.

Secondary front - On a corner property, the property line abutting the street which extends in the same general direction as the lot line determining the depth and, is perpendicular to the property line that has been determined to be the "front".

Setback line - The line which defines the width or depth of a required yard. Such setback line is parallel with the property line and removed therefrom by the perpendicular distance as set forth herein. No portion of a building or structure shall reside or project into any such yard except as set forth herein.

Side - See "Interior lot line"



Structure - Anything constructed or built, or anything artificially built up or composed of parts joined together in some manner which requires location on the ground, or is attached to something having a location on the ground, excepting outdoor areas such as patio slabs, paved areas, walks and similar facilities.

Use - The purpose for which land is used or a building is erected, arranged, designed or intended, or for which land or a building is or may be occupied or maintained.

Variance - An exception to the terms of this Ordinance where such variance will not be contrary to the public interest, and where owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. A variance shall not be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

Yard - An unoccupied space on a lot on which a building is situated, which space is open from the ground upward except for projections permitted herein.

#### **SECTION 6.0 SETBACK REQUIREMENTS.**

A. The setback requirements for EXISTING PROPERTIES are as follows.

1. INTERIOR PROPERTIES:

(a) For properties with less than 70 feet of frontage, minimum setbacks from property line shall be:

Front: 10 feet

Rear 10 feet

Side: (Interior lot line) 5 feet

(b) For properties with 70 or more feet of frontage, minimum setbacks from property line shall be:

Front: 15 feet

Rear 10 feet

Side: (Interior lot line) (Combination of 15 feet) with no less than 7 feet on any one side.

2. CORNER PROPERTIES:

(a) For properties with less than 70 feet of frontage, minimum setbacks from property line shall be:

Front: 10 feet  
Rear 10 feet  
Side: (Interior lot line) 5 feet  
Secondary front: 10 feet

(b) For properties with 70 or more feet of frontage, minimum setbacks from property line shall be:

Front: 15 feet  
Rear 10 feet  
Side: (Interior lot line) 7 feet  
Secondary front: 10 feet

B. The setback requirements for ALL NEWLY-DEVELOPED PROPERTIES are as follows.

1. INTERIOR PROPERTIES:

Minimum setbacks from property line shall be:

Front: 20 feet  
Rear 10 feet  
Side: (Interior lot line) (Combination of 25 feet) with no less than 10 feet on any one side.

2. CORNER PROPERTIES:

Minimum setbacks from property line shall be:

Front: 20 feet  
Rear 10 feet  
Side: (Interior lot line) 10 feet  
Secondary front: 20 feet

**SECTION 7.0 GENERAL STANDARDS.**

A. Lot Areas:

Every building erected in new developments shall have a land area of not less than fourteen thousand five hundred and twenty (14520) square feet (1/3 acre), with a frontage on a public street or streets of not less than one hundred twenty five (125) feet and a width of not less than ninety (90) feet at the front building setback line. Lots with frontage on a cul-de-sac shall have a minimum frontage on a public street of not less than sixty-five (65) feet measured as a chord.

B. Building Height:

No structure or building shall exceed two (2) stories and/or a height of thirty (30) feet.

C. Fence Restrictions:

1. Fences are permitted to a maximum height of six (6) feet, as measured from the original grade, and shall be permitted along property lines except as otherwise prohibited by the provisions of this Ordinance and state law. No fence may enclose the vision triangle at street intersections in violation of state law.

2. All fences on the front setback shall not exceed a height of forty-two (42) inches. Variances may be given for installation of chain link fences.

**SECTION 8.0 VARIANCES.**

A. General:

The Clark Fork City Council may authorize in special cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special site conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance shall apply solely to building bulk and placement standards imposed by this Ordinance. No non-conforming use of neighboring lands, structures or buildings in the same district and no permitted or non-conforming use of lands, structures or building in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Ordinance would result in unnecessary hardship and the public interest or safety would not be compromised thereby. Public hearings shall be required for all proposed variances in accordance with Idaho Code.

B. Variance Standards:

The standards which the Clark Fork City Council will apply in considering a request for variance from these regulations are the following, which it is the obligation of the applicant to show by the preponderance of the evidence submitted:

1. That special conditions and circumstances exist which are peculiar to the site involved and which are not applicable to other similar sites elsewhere in the City.
2. That special conditions and circumstances do not result from the actions of the applicant;
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other similar sites in the City, absent consideration of the special nature of conditions and circumstances which affect the requested variance; and
4. That granting the variance will better contribute to the intent of this Ordinance and the City's Comprehensive Plan than will its denial;
5. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
6. That when a variance is requested for the expansion or enlargement of a portion of a structure which does not conform to present setback requirements, the variance requested should be shown not to harm the public interest or to diminish the potential for use or development of neighboring properties because of inadequate building separation or reduction of available light, air or line of sight.



C. Application for Variance:

A variance from the terms of this Ordinance shall not be considered by the City Council unless and until a written application for a variance, accompanied by payment of an application fee, if one is established, is submitted to the City Council containing:

- (a) Name, address, and phone number of applicant;
- (b) Legal description of the property;
- (c) A layman's description of the location of the site;
- (d) A description of the nature of the variance requested including the specific ordinance provision from which variance is requested ; and
- (e) A scale drawing showing an outline of the site and structures which are the subject of the variance request.
- (f) The names and mailing addresses of all adjacent landowners, including those properties across streets, alleyways , and easements from the subject property.
- (g) Applicant shall submit all of the above items to the City not later than twenty-one (21) days before the scheduled City Council meeting at which the matter may be heard.

D. Variance Decisions:

Each decision made by the Clark Fork City Council regarding a variance request shall set forth in the minutes of the City Council the reasons for the decision, and in case of denial, the steps, if any, which the applicant could take to obtain the requested permit.

**SECTION 9.0 PENALTIES AND CIVIL REMEDIES.**

A. Unless stated otherwise, any person violating any of the requirements set forth in, or pursuant to, this Ordinance, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined an amount not to exceed three hundred dollars (300.00) and/or by imprisonment in the county jail not exceeding six (6) months or by both. This Ordinance may also be enforced by initiating civil legal action in a court of competent jurisdiction.

B. A separate violation is deemed to have occurred with respect to each building or structure not in compliance with the codes herein. Each day such violation continues constitutes a separate offense.

**SECTION 10.0 REPEAL OF CONFLICTING ORDINANCES.**

Ordinance Number 193, Building Codes, enacted 9/18/91 , as amended by Ordinance Number 193-2, enacted 10/11/94, and as amended by Ordinance Number 193-3, enacted 4/11/95, and as amended by Ordinance Number 193-4, enacted 3/10/97, are hereby repealed. Any enforcement action currently in process pursuant to such ordinances shall be allowed to proceed to its conclusion despite such repeal.



**SECTION 11.0 SEVERABILITY CLAUSE.**

If any part of this Ordinance shall be declared invalid by any Court having jurisdiction, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect. To this end, the provisions of this Ordinance shall be severable.

**SECTION 12.0 EFFECTIVE DATE AND PUBLICATION.**

This Ordinance shall be in full force and effect following its passage, approval and publication in one (1) issue of the Bonner County Daily Bee.

PASSED AND APPROVED as an ordinance of the City of Clark Fork, Idaho, the 8th day of June, 1998.

City of Clark Fork, Idaho

Linda V. Reed  
Linda Reed, Mayor

Attest:

Elizabeth Parenti  
Elizabeth Parenti, City Clerk

**CITY COUNCIL MEMBERS**

Brian Cantrell  
Mike McDaniel  
Art Ratcliff  
Tom Shields

YES	NO	ABSENT	ABSTAIN
<u>✓</u>	___	___	___
<u>✓</u>	___	___	___
<u>✓</u>	___	___	___
<u>✓</u>	___	___	___

SUMMARY OF CLARK FORK SETBACK ORDINANCE  
ORDINANCE NO. 216

The City of Clark Fork, Idaho hereby gives notice of the adoption of Clark Fork Ordinance No. 216, an ordinance establishing setback requirements for the City of Clark Fork. The ordinance contains the following provisions: statements of authority, interpretation and scope; definitions of terms used in the ordinance; setback requirements for existing and newly-developed properties; a section on general standards regarding lot areas, building height and fence restrictions; a section on variances; provides penalties for violation including fines, misdemeanor criminal penalties and civil remedies; provides for repeal of conflicting ordinances including ordinances #193, 193-2, 193-3, and 193-4; provides severability; and provides that the ordinance shall be effective following its passage on June 8, 1998 and publication which is accomplished by this summary. The full text of the Clark Fork Setback Ordinance is available at City Hall in Clark Fork.

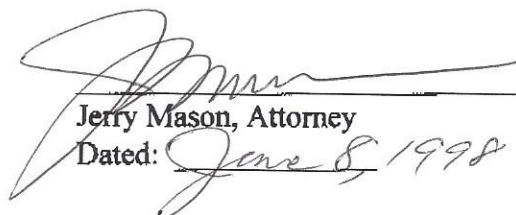
Dated this 8th day of June, 1998

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 Setback Ordinance dated June 8, 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: June 8, 1998