

ORDINANCE NO. 182

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

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

Section 1. DEFINITIONS: The following words shall have the following specified meanings when used herein:

BEER--Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt or other ingredients in water.

BOTTLED BEER OR CANNED BEER--Beer sold or dispensed in sealed containers of glass or metal, having a capacity not greater than two(2) gallons..

PREMISIS--Includes the actual building in which beer is dispensed or sold and the legal subdivisions or lot upon which said building is located.

RETAILER--Any person engaged in the sale or distribution of beer to the consumer within the corporate limits of the City.

Section 2. LICENSE REQUIRED: It shall be unlawful for any person to sell or dispose of beer within the City without first obtaining a proper beer retailer's license from the City.

Section 3. APPLICATION FOR LICENSE: Each applicant for a license hereunder shall execute and file with the Clerk an application in writing verified by oath of the applicant, or one of his officers, upon a form to be provided by the City and shall pay to the Clerk the amount of the fee for the license applied for, as specified in section 11 hereof. The application shall contain the following information:

- A. The name, address and occupation of the applicant for the three(3) years preceding the date of the application.
- B. A description of the room or rooms in which the licensed business is to be conducted.
- C. The name of the owner or owners of such premises.
- D. A description of the lot or block, or street number of the building in which such room or rooms are located.
- E. The interest of the applicant in the premises where the business is to be conducted.
- F. The name of any other person other than the applicant who is interested financially or otherwise in the business.

G. A statement of the following facts concerning the applicant or his associates if any:

1. That he or they are citizens of the United States and have been bona fide residents of the State of Idaho for a period of not less than thirty(30) days prior to the date of the application.
2. That he or they are over the age of nineteen(19) years.
3. That he or they are of good moral character, and have never been convicted of any violation of law regulating, governing or prohibiting the sale of beer or intoxicating liquors.
4. Whether the applicant, and any person interested in the applicant's business as a retailer, has ever been convicted of a felony or any crime involving moral turpitude, and if so give details of such conviction.

Section 4. LICENSE - FEE - PERIOD--All licenses shall be granted by the Mayor and Council for a period of one year beginning January 1st and ending December 31st. A full year's license fee shall be collected after January 1st. The City Council shall grant or deny the application within 30 days of the time it is filed with the City Clerk. Prior to any revocation or suspension the licensee shall be afforded a hearing according to Section 23-1016, Idaho Code. Whenever the Mayor and City Council denies an application, they shall specify in writing:

- A. The statutes, ordinances and standards used in evaluating the application.
- B. The reason for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

In all cases where the City Council is considering applications for licenses, transfers, or renewals thereof, a transcribable verbatim record of the proceeding shall be made. If the applicant for a license, transfer or renewal is denied, a transcribable, verbatim record of the proceedings shall be kept for a period of not less than six(6) months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The City Council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

Section 5. LICENSE - INVESTIGATION OF APPLICANTS. No license shall be granted hereunder until there has been an investigation by law enforcement personnel of all applicants hereunder. After investigation the applicants will be forwarded to the City Council with a recommendation from law enforcement personnel. If the law enforcement personnel recommend an application be denied they shall state in writing:

- A. The statutes or ordinances and standards used in evaluating the application;
- B. The reason for the denial; and
- c. The action, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

Section 6. FORM OF LICENSE; LICENSE NONTRANSFERABLE - The license shall be upon a form to be provided by the City and shall not be

transferable.

Section 7. LICENSE PROHIBITED TO CERTAIN PERSON - No license shall be granted to, nor the licensee's business carried on under such license by any of the following persons:

- A. Any person whose license herein provided for is at any time revoked or suspended for any violation of this ordinance, during the period of revocation or suspension.
- B. Any person who is not qualified to obtain a retailer's license from the State of Idaho.
- C. Any person who makes any false statement or representation in any application for a license hereunder.
- D. Any person who is the business associate, employee, partner or agent of any disqualified person hereunder, or or under the laws of the State of Idaho, when such disqualified person is interested in the ownership, management or control of the business of retailer for which application is being made.
- E. Any person who, at any time prior to making application, has failed, neglected or refused to conduct a quiet, orderly place of business as retailer within the City.

Section 8. ISSUANCE OF LICENSE - The application shall be presented to the City Council by the Clerk at the Council's next succeeding meeting and after consideration by the Council shall be granted or refused or tabled for further inquiry. In the event that the license is granted, the Clerk shall issue to the applicant the license applied for. In the event the application is denied, the money deposited by the applicant with the City Clerk shall be returned to the applicant.

Section 9. REGULATIONS AND RESTRICTIONS

- A. Every person whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.
- B. No licensee shall:
  - 1. Sell or dispense any beer outside the licensed premises
  - 2. Sell, dispense or serve any beer to a person under nineteen(19) years of age.
  - 3. Violate any law of the State of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.
  - 4. Fail to keep the license posted in a conspicuous place within the licensed premises.
  - 5. Fail to keep the licensed premises open to inspection by the police officers of the City and the Sheriff of Bonner County.
  - 6. Sell, serve or dispense or permit to be consumed on the premises any beer between the hours of 1:00 AM and 7:00 AM.

Section 10. TRANSFER OF LICENSE; POSTING REQUIRED; CHANGE OF LOCATION-- Nothing in this ordinance shall be construed to create any vested right in any person to assignment, renewal or reissuance or continuance of any license or the right to assign any license, or the right to issue a power of attorney over a license.

Section 11. FEES - A fee shall be paid by the applicant to the City Clerk in advance of issuance of any license. The fee for a retail beer license, draft or bottled, shall be the sum of fifty (\$50.00) dollars. The fee for a retailer to sell bottled beer only shall be the sum of twenty five (\$25.00) dollars. The fee for a retailer to sell bottled or canned beer, for consumption on premises other than that of the retailer, shall be the sum of twelve dollars and fifty cents (\$12.50). All fees are subject to change by a resolution passed by the City Council.

Section 12. REVOCATION OR SUSPENSION OF LICENSE - Any license issued hereunder may be revoked by the City Council or suspended for a period not to exceed six(6) months or the Council may refuse to grant a renewal of said license after the date of expiration thereof, for any fraud or misrepresentation on the part of the licensee or his employee or agent for any violation of any ordinance of the City or of any law of the State relating to the manufacture, sale or possession of intoxicating liquor or beer. Whenever information shall be received by the City Council that any licensee has rendered his license subject to revocation or suspension as herein provided, or any complaint in writing is filed with the Council stating facts establishing that such licensee has rendered his license subject to revocation or suspension, a copy of such report or complaint shall be mailed to the licensee together with a notice directing him to appear before the Council at its next succeeding regular meeting and answer said charge. At such meeting the Council shall hear the licensee and any evidence that may be offered by him or the complainant, and thereupon, if it shall find cause exists for the revocation or suspension of such license, the City Council may revoke such license or suspend the same for a period not to exceed six (6) months and may direct that the license theretofore issued shall be taken by law enforcement personnel and forthwith cancelled or revoked or suspended as the case may be.

Section 13. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 14 -- This ordinance shall take effect and be in full force upon its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 10th DAY OF April, 1984.

Albert E. Schenk  
MAYOR

ATTEST: J. F. Brashear  
CLERK

