



Introduced by:	Fannie Suvlu, Mayor
Date:	11/30/17
Public Hearing:	12/21/17
Action:	PASSED
Vote:	5 to 0

CITY OF UTQIAGVIK, ALASKA

ORDINANCE #17-2017

**AN ORDINANCE AMENDING CHAPTER 8.15
OF THE CITY OF UTQIAGVIK CODE OF ORDINANCES
TO PROVIDE THAT CERTAIN TRIBAL COURT ORDERS SHALL PREVENT INDIVIDUALS
FROM OBTAINING ALCOHOL THROUGH THE CITY ALCOHOL DELIVERY SITE; AND TO
CLARIFY THAT "CALENDAR MONTH" AS USED IN CHAPTER 8.15 MEANS THE THIRTY
DAY PERIOD BEGINNING THE DAY THAT ALCOHOL IS PICKED UP AT THE DELIVERY
SITE**

WHEREAS the Native Village of Barrow Inupiat Traditional Government is one of 229 federally recognized tribes in Alaska; and

WHEREAS the Native Village of Barrow Inupiat Traditional Government has established a Tribal Court ("Tribal Court") that enforces traditional law and the written Code of the Native Village of Barrow Inupiat Traditional Government; and

WHEREAS many of the other 229 federally recognized tribes in Alaska have also established tribal courts; and

WHEREAS the Attorney General of the State of Alaska issued an opinion on October 19, 2017 recognizing the tribal sovereignty of the 229 federally recognized tribes in Alaska in accordance with *John v. Baker*, 928 P.2d 738 (Alaska 1999) and subsequent Alaska Supreme Court decisions ("AG's Opinion"); and

WHEREAS the AG's Opinion expressly reaffirmed and acknowledged the power of the 229 federally recognized tribes to enforce tribal law through their tribal courts; and

WHEREAS in light of federal and state recognition of the enforceability of the Tribal Court's orders as well as orders from other tribal courts established by other federally recognized tribes in Alaska, the City of Utqiagvik desires to amend its alcohol delivery site ordinance to provide that individuals may not obtain alcohol from the delivery site who (1) are prohibited from consuming or possessing alcohol, controlled substances or inhalants by tribal court order; (2) have violated an order of a tribal court; or (3) have been convicted by a tribal court of offenses similar to those provided for in Section 8.15.100.B(10) of the Code within the time limitations imposed by Section 8.15.100.B(10) of the Code; and

WHEREAS the City of Utqiagvik desires to clarify that the term “calendar month” in Chapter 8.15 refers to the thirty day period beginning the day that alcohol is picked up at the delivery site and ending thirty days later.

BE IT ORDAINED by the City Council of Utqiagvik, Alaska, that:

SECTION 1. Classification. This ordinance is permanent and general in nature and shall be incorporated into the City of Utqiagvik Code of Ordinances (“Code”).

SECTION 2. Amendments to Chapter 8.15, entitled “Alcohol Delivery Site.”

Section 8.15.010 (“Definitions”) shall be amended by adding the following definitions:

“Calendar month” means the thirty day period beginning the day that alcohol is picked up at the delivery site and ending thirty days later.

“Court order” means an order issued by a state court, a federal court, or a tribal court.

“Criminal record” means state court or federal court criminal convictions or tribal court convictions.

Section 8.15.100 (“Redelivery of alcoholic beverages”), Subsection B, shall be amended as follows (new language underlined; deleted language stricken through):

8.15.100 Redelivery of alcoholic beverages.

B. The following persons are not authorized to receive alcoholic beverages:

1. A person who is under the influence of an alcoholic beverage, controlled substance or inhalant;
2. A person who is unable to provide to the delivery site the person’s current, valid permit;
3. A person who is unable to satisfy the delivery site employee that they are the person to whom the permit was issued;
4. A person who has received during the current calendar month the maximum quantity of one or more of the types of alcoholic beverages permitted to the person under this chapter; or who, upon delivery of the alcoholic beverages would exceed a limit; provided, so much of the beverages sought may be delivered to the extent the delivery does not

cause the person to exceed their monthly limit for the alcoholic beverage;

5. A person who fails or refuses to pay all amounts owing the city and delivery site with respect to the alcoholic beverages;

6. A person who fails or refuses to execute a certificate required by the Board or the mayor;

7. For so long as a court order is in effect, a person who is the subject of a court order prohibiting the person from consuming alcohol, controlled substances or inhalants, or from possessing an alcoholic beverage, controlled substance or inhalant;

8. For so long as the condition is in effect, a person who has been released on bail, probation, parole or under similar circumstances, if a condition of the release is that the person not consume or possess alcoholic beverages, controlled substances or inhalants;

9. A person who is not able to satisfactorily prove that their domicile is the place shown on their permit;

10. A person who has a criminal record as provided for in this subsection;

a. Two years have not elapsed from the person's unconditional discharge due to a conviction, or adjudication as a delinquent, for any of the following offenses or a law or ordinance from another state, federal or tribal jurisdiction with similar elements:

(1) Driving while intoxicated under AS 28.35.030 or AS 28.33.030, or refusal to submit to a chemical test under AS 28.35.032;

(2) A crime involving domestic violence, as that term is defined under AS 18.66.990, or violating a protective order under AS 11.56.740; or

(3) Misconduct involving weapons under AS 11.61.190-.220.

b. Five years have not elapsed from the person's unconditional discharge due to a conviction, or adjudication as a delinquent, for any of the following offenses or a law or ordinance from another jurisdiction with similar elements:

(1) A felony violation or a felony attempt to commit a violation of AS [11.41](#); or

(2) A misdemeanor violation of, or a misdemeanor attempt to violate a provision of Title [4](#) of the Alaska Statutes; or

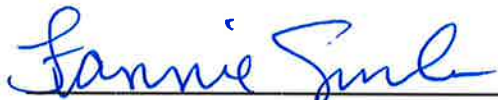
c. Ten years have not elapsed from the person's unconditional discharge due to a conviction, or adjudication as a delinquent, for a felony violation or a felony attempt to violate a provision of Title [4](#) of the Alaska Statutes or a law or ordinance from another jurisdiction with similar elements.

5. The alcoholic beverage or its container violates AS [04.16.100](#), [04.16.110](#) or this chapter; or

6. The recipient has not paid any applicable taxes or fees.

SECTION 3. Effective Date. This ordinance shall become effective upon adoption.

ENACTED THIS 21st DAY OF DECEMBER, 2017, by a vote of 5 in favor and 0 opposed.



Fannie Suvlu, Mayor

ATTEST:



Loyla T. Leavitt, City Clerk