

**Title 2 Chapter 1
Town of Lake Mills Alcoholic Beverage Licensing and Control**

Alcoholic Beverage Licensing

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2-1-1 Title and Purpose

The title of this Ordinance is the Town of Lake Mills Alcohol Beverage Licensing and Control Ordinance. The purpose of this ordinance is for the Town to regulate by license, license issuance, suspension, and revocation, penalties, or other specific actions at or near any alcohol beverage retail locations in the Town.

2-1-2 Authority

The Town Board of the Town of Lake Mills has the authority under Sec. 125.10, Wis. stats. and under its Village Powers under Sec. 60.22 (3), Wis. stats., to regulate the wholesale or retail sale of alcoholic beverages at the permitted locations in the Town, to the extent that Town regulations are not in conflict with State Statute, specifically including the regulation of underage and intoxicated persons at alcohol beverage retail sale licensed premises in the Town and the issuance, renewal, revocation, suspension and regulation of alcohol retail sale or wholesale sale, licenses, or permittees, along with the penalties for violations of this Ordinance.

2-1-3 Adoption of Ordinance

The Town Board of the Town of Lake Mills, by this ordinance, adopted on proper vote with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the Town to regulate by permit, revoke or suspend permits and enforce other specific actions at or near alcohol retail sales premises located in the Town and other regulatory and enforcement authority noted in this Ordinance.

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2-1-4 Definitions

Alcohol beverages: Means fermented malt beverages, wine, and intoxicating liquor.

Controlled substance: Means a drug, substance, or immediate precursor included in Schedules I to V of Subchapter II in Chapter 961, Wis. stats.

Fermented malt beverage: Means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without un-malted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

Gambling: For the purposes of this ordinance means to risk money for uncertain gain or to play games of chance for money.

Intoxicated person: Means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

Intoxicating liquor: Means all ardent, spiritous, distilled, or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include “fermented malt beverages” which contain less than 5% of alcohol by weight.

Legal drinking age: Means 21 years of age.

License: Means an authorization to sell alcohol retail or wholesale beverages issued by the Town Board or its agent under this Ordinance.

Licensee: Means any person issued a license under this Ordinance and Chapter 125, Wis. stats., by the Town.

Open: Means conducting a business publicly at least 500 hours per calendar year.

Permit: Means any permit issued by the Town under this Ordinance.

Permittee: Means any person issued a permit by the Town under this Ordinance.

Person: Means a natural person, sole proprietorship, partnership, limited liability, company, corporation, or association or the owner of a single-owner entity that is disregarded as a separate entity under Chapter 71, Wis. stats.

Premises: Means the area described in a license or permit.

Regulation: Means any rule or ordinance adopted by a municipal governing body.

Retailer or retail: Means any person who sells, or offers for sale, any alcohol beverages in the Town to any person other than a person holding a permit or a license under this chapter.

Sell, sold, sale or selling: Means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme, or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

Soft drink: Means any liquid capable of being used for beverage purposes containing any degree of alcohol less than one-half of one percent by volume.

Tavern: Means any place in which fermented malt beverages or intoxicating liquor are sold for consumption upon said premises.

Town: Means the Town of Lake Mills, Jefferson, County, Wisconsin.

Town Board: Means the board of supervisors for the Town of Lake Mills, Jefferson County, Wisconsin and includes designees of the board authorized to act for the board.

Town Clerk: Means the clerk of the Town of Lake Mills, Jefferson County, Wisconsin.

Under the influence: Means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition that is the result of

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indulging to any degree in alcohol beverages and that tends to deprive a person of the clearness of intellect and control of himself or herself that he or she would otherwise possess.

Underage person: Means a person who has not attained the legal drinking age.

Wis. stats.: Means the Wisconsin Statutes, including successor provisions to cited statutes.

Wholesale or wholesaler: Means a person, other than a brewer, manufacturer, or rectifier, who sells alcohol beverages to a licensed retailer in the Town or to another person who holds a permit or license to sell alcohol beverages in the Town at wholesale.

Wine: Means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits, or other agricultural products, imitation wine, and compounds sold as wine, vermouth, cider, perry, mead, and sake, if such products contain 0.5% or more of alcohol by volume.

2-1-5 Revocation and Cancellation

- 1) Grounds for revocation and suspension: A license issued under this ordinance may be suspended or revoked by the Town Board under the procedures described herein upon the finding of a violation of this ordinance or Chapter 125 of Wis. stats.
- 2) Procedure: A license may be revoked or suspended pursuant to Sec. 125.12 (2) of Wis. stats.
- 3) Hearing Procedure: In the event disciplinary action is taken against an alcohol beverage retail sale or wholesale licensee or permittee, the procedure mandated under Sec. 125.12, Wis. stats. or its successor, will be followed.
 - a) In lieu of a hearing, the Town Board may accept surrender of the alcohol beverage retail or wholesale sale license or permit and the board shall then determine the time period before another application for the same type of license or permit will be accepted from the former licensee or permittee.
 - b) Evidence and testimony at the hearing shall be given in open session. The Town Clerk shall post or arrange to post the hearing notice or publish in a format acceptable to the Town chairperson.
 - c) Unless no disciplinary action is ordered by the Town Board, the alcohol retail sale or wholesale licensee or permittee shall reimburse the Town for costs of personal service, mailing, fax costs, copies, and any per diem paid for a Town Officer to attend the hearing or other meeting due to a license violation. Unpaid costs assessed under this subsection shall accrue interest at the rate of 5% per annum if unpaid after 30 days. Payment shall be required before any future alcohol retail or wholesale license or permit is issued or reinstated to the licensee or permittee holder.
- 4) Automatic Revocation: Any license issued under this ordinance shall stand revoked without further proceedings upon conviction of a licensee or employee, agent or representative thereof for a second offense under this section or violation of Chapter 125 of Wis. stats. or any other State or Federal alcohol beverage law.

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- 5) **Effect of Revocation of License:** When a license is revoked under this Ordinance, the revocation shall be recorded by the Town Clerk and no other license issued under this ordinance may be granted within 12 months of the date of revocation to the person whose license was revoked. No part of the fee for any license so revoked may be refunded.
- 6) **Repossession of License:** Whenever any license under this Section shall be revoked or suspended, the licensee shall surrender the license to the Town Clerk or the Town Police shall have the right to take physical possession of the suspended or revoked license wherever it may be found and file it in the Clerk's office.

2-1-6 Compliance Conditions

- 1) It shall be unlawful for any person to sell or keep for sale at wholesale or retail, or permit to be sold or kept for sale at wholesale or retail, within the Town any alcohol beverage or soft drink, except in strict accordance with the provisions of this Ordinance and State law. Any license or permit issued to any person under this Ordinance and Chapter 125, Wis. Stats., shall be contingent upon full compliance with this Ordinance by the licensee or permittee. Any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured, or rectified without a valid permit or license issued under this Ordinance or Chapter 125 or 139, Wis. Stats., or where persons are permitted to drink alcohol beverages in violation of this chapter, is a public nuisance and may be closed until the activity in violation of this Ordinance is abated. When the activity is abated, the building or place may be used for any lawful purpose.
- 2) It shall be unlawful for the licensee, permittee, or any employee, operator, or manager of a tavern or other licensed or permitted establishment to be under the influence of an intoxicant, or a controlled substance or a combination of an intoxicant and a controlled substance while performing services on the licensed or permitted premises of the Town.
- 3) It is unlawful for any person, including any owner, tenant, employee, operator, or manager of a tavern, who has engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct in a Town tavern premises under circumstances in which such conduct tends to cause or provoke a disturbance and who has been ordered by the Town Board or law enforcement officer not to enter or to remain in a tavern or other licensed or permitted establishment to so enter or remain during any period after having been ordered not to enter or remain by a law enforcement officer. An order prohibiting entry under this subsection may prohibit entry for a period up to 6 months.
- 4) As a condition of maintaining and keeping an alcohol beverage retail sale license for a Tavern in the Town, any licensee of a Tavern premise must stay open and continue in business and demonstrate business continuance satisfactory to the Town Board. Issuance or retention of a license by a party not open for business and not demonstrating business continuation is hereby declared by this Ordinance to be against public policy for the Town. A determination by the Town Board that a person is not demonstrating business continuation establishes grounds for suspension or revocation of the alcohol beverage retail sale license. The Town Board shall issue a summons and set a hearing to determine whether the license shall be suspended or revoked under this subsection. The hearing shall be held not later than 30 days after the

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summons is issued. The Town Board may make its decision effective on a later date, in its discretion. The procedure for the hearing shall be in accordance with Sec. 125.12, Wis. Stats. Testimony of any party, any eviction notice, court documentation, or other valid evidence of such actions may be presented. All testimony shall be under oath. A person who was licensed or permitted for the tavern premises for an alcohol beverage retail tavern is not demonstrating business continuation if any of the following is demonstrated:

- a) The person has not done business in the tavern premises for at least 180 consecutive days (6 months).
 - b) The person has voluntarily vacated the premises more than 10 days before the hearing held under this subsection.
 - c) The person was ordered by a court of competent jurisdiction to vacate the premises at least 10 days before the hearing held under this subsection.
- 5) A license or permit shall not be denied on the grounds that the applicant lacks good moral character, unless there is evidence that the applicant would, if granted an initial or renewed license or permit, pose a threat to the safety or welfare of patrons of the licensed or permitted establishment in which he or she would be employed. The following will be considered grounds for a determination that an applicant, licensee, or permittee lacks good moral character:
- a) Suspension or revocation of a Class A, Class B, Operator's, or Manager's License under Chapter 125, Wis. stats., or this Ordinance, or dismissal from a bartending job if all of the following apply:
 1. There is a relationship between the reasons for the suspension, revocation, or dismissal and the applicant's ability to competently tend bar without endangering the safety or welfare of the patrons of such bar.
 2. The suspension, revocation, or dismissal occurred within a year of the date of the application, or there has been more than one such suspension, revocation, or dismissal within 3 years of the date of the application.
 - b) Conduct exhibiting the use, within 3 years of the date of the application, of alcoholic beverages or controlled substances, to an extent or in a manner dangerous to any other person, or to an extent that such use would impair his or her ability to competently tend the Tavern business.
 - c) The applicant, licensee, or permittee has habitually been a law offender or has been convicted of a felony and the circumstances of the crime or crimes substantially relate to the circumstances of the permitted or licensed activity, unless the person has been duly pardoned.

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- d) The applicant, licensee, or permittee is subject to a pending criminal charge and the circumstances of the charge substantially relate to the circumstances of the permitted or licensed activity.
- e) The applicant, licensee, or permittee has been convicted of one or more of the following:
 - 1. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under Sec. 961.41 (1), Wis. stats.
 - 2. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under Sec. 961.41 (1m), Wis. stats.
 - 3. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to s. 961.41 (1) or (1m), Wis. stats.
- f) If any Town Committee, or local law enforcement recommends to the Town Board denial of an Operator's License or Manager License or other license or permit on the basis provided herein, the applicant shall be given the opportunity to present evidence of rehabilitation. Such evidence may include, but is not limited to, letters of recommendation, evidence of family stability or educational advancement, satisfactory work performed, professional counseling, and participation in community activities.
- g) If a license or permit is denied by the Town Board, the applicant shall have the right to file an appeal with the Town Clerk within 30 days of the date of the decision, and to appear and be represented by legal counsel before the Town Board, to be heard, to present evidence in favor of the granting of the license or permit and to rebut the evidence presented in opposition to the granting of the license or permit. The hearing on the appeal shall be held within 40 days of the filing of the appeal. Notice of the time and place of the hearing on the appeal shall be mailed by the Town Clerk to the applicant by certified mail at least 10 days before the date of the hearing. The Town Board shall, after the hearing, comply with Chapter 125 Wis. stats. by providing in writing the reasons for its decision to grant or not grant a license or permit. The Town Board shall comply with Sec.125.12 Wis. stats in the denial, revocation, suspension, or non-renewal of a license or permit.

2-1-7 License Classes (and Fees)

There shall be the following classes of licenses, which are issued by the Town Clerk under the authority of the Town Board after the payment of the appropriate fee specified in the Town of Lake Mills Fees, Bonds, and Deposits document which shall permit the holder to sell, deal, or traffic in alcohol beverages as provided in Chapter 125 of Wis. stats. Except as otherwise provided in this Section, the full license fee shall be charged for the whole or any fraction of a year.

- 1) Retail Class "A" Fermented Malt Beverage License
- 2) Retail Class "B" Fermented Malt Beverage License.

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- 3) Class “ B” Picnic License for Fermented Malt Beverage License for Bona Fide Clubs, State, County, or Local Fair Associations, or Agricultural Societies, Lodges, or Societies, Etc
- 4) Class “B” Fermented Malt Beverage License for Six Month Period
- 5) Operator’s License
- 6) Provisional Operator License
- 7) Manager’s License
- 8) Retail “Class A” Intoxicating Liquor License.
- 9) Retail “Class B” Intoxicating Liquor License.
- 10) Retail “Class B” Intoxicating Liquor License: for six month period
- 11) Licenses for less than one year. Pursuant to Sec. 125.51(9) Wis. stats. the fee for a license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

2-1-8 License Requirements and Restrictions

- 1) Application Procedure. All applications for a license authorized under this ordinance and Chapter 125 of Wis. stats. shall be made in writing on forms prescribed by the State Department of Revenue, as approved by the Town Board. The application shall describe the physical premises, including every room and storage space, to be covered by the license. All applications shall be signed and sworn to by the applicant as provided by Sec. 887.01 of Wis. stats.
- 2) Filing of Application: All applications shall be filed with the Town Clerk. At the time of filing, the applicant shall pay to the Town Clerk the cost of publication of the application and the annual fee for the license as established in Section 2-1-7 of this ordinance. No licenses or permits shall be granted under this Ordinance or under Chapter 125, Wis. stats., unless the Town Board shall by a vote of the majority of the members elect of the Town Board have authorized the issuance of the permit or ordinance. The Town Board shall meet not later than May 15 of each year and be in session from day to day thereafter, so long as it may be necessary for the purpose of action upon applications for licenses and permits as may be presented to them on or before April 15 and all applications for licenses so filed shall be granted or denied not later than June 15 for the ensuing license year.
- 3) Qualifications of Applicants:
 - a) All individuals, partners, and all officers and directors of Wisconsin Corporations applying for licenses under this ordinance must meet the following qualifications
 1. Be 18 years of age or older
 2. Be a Wisconsin resident continuously for at least one year immediately prior to the date of filing applications.
 3. Does not have an arrest or conviction record subject to Sec. 111.321, 111.322, and 111.335 of Wis. stats.

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- b) All officers and directors of foreign corporations must meet the qualifications of Subsections (a), (1) and (3) stated above.
 - c) All corporations must designate an agent pursuant to Sec. 125.04(6) of Wis. stats. The agent must meet the qualifications of (a), (1) and (3) stated above and must, with respect to character, record and reputation, be satisfactory to the Department of Revenue. Each corporation agent must have full written authority and control of the premise.
- 4) **Health and Sanitation Requirements:** No license shall be issued for any premises which does not conform to the sanitary, safety, and health requirements of the State Department of Industry, Labor, and Human Relations pertaining to buildings and plumbing, to the rules and regulations to the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the Town.
- 5) **Delinquent Taxes, Assessments, Claims or Obligation:** No license shall be granted for any premises or person for which taxes (real or personal), assessments, claims or where any other obligation is owed to the Town, County or State are delinquent and unpaid, or to any person delinquent in payment of such claims to the Town. In the event of the sale of a premises or transfer of a license during a license year, the Town Board shall condition the granting of a license upon payment of real estate or personal property tax prorated to the date of sale. The Town Treasurer shall estimate the tax rate to be used.
- 6) **Location of Premises:**
- a) No retail Class “A” or “B” fermented malt beverage license shall hereafter be issued for premises less than 500 feet from any established public or parochial school, hospital, or church. Such distance shall be measured by the shortest route along the highway from the closest point of the boundary of such school, hospital, or church to the closest entrance to such premises.
 - b) No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any alcohol beverages in any dwelling, house, flat, or residential apartment.

2-1-9 Regulation of Licensed Premises and Licenses

- 1) **Posting License:** Licenses issued under this ordinance shall be posted and displayed as provided by Sec. 125.04(10) Wis. stats. Failure to post a license as required therein shall be a presumption of operating without a license.
- 2) **Gambling and Disorderly Conduct Prohibited:** Each licensed premises shall at all times be conducted in an orderly manner; and no disorderly riotous or indecent conduct or gambling shall be allowed at any time or on any such premises.
- 3) **Employment of Minors:** No retail Class “B” licensee shall employ any person under 18 years of age to serve, sell, dispense, or give away any alcohol beverage.

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- 4) Safety and Sanitation Requirements: Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.
- 5) Closing Hours: Any premises for which an alcohol beverage license has been issued shall be subject to the closing hours pursuant to Sec. 125.32(3)(a), (am), (b), and (c) Wis. stats. This ordinance shall be subject to change as the State Statutes are amended.
- 6) Quotas: The number of persons and premises that may be granted a retail “Class B” intoxicating liquor license under this ordinance in the Town is limited as provided in Sec. 125.51(4) of Wis. stats. (*Town of Lake Mills population in 1997 was 1759 therefore the next retail “Class B” intoxicating liquor license will be available in the town when the population of the Town of Lake Mills increases by 500 over that number, or reach a population of 2259, at that time the next RESERVE “Class B” License becomes available*). A RESERVE License is subject to an initial issuance fee of twenty-five-thousand dollars (\$25,000.00) to be paid in addition to the regular retail “Class B” intoxicating liquor license fee. See Section 2-1-7 for License Fees. The initial Reserve “Class B” License Fee shall be placed in the town’s General Fund and may be used for any purpose as decided by the Town Board.
- 7) Violations by Agents and Employees: A violation of this ordinance by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

2-1-10 Form and Expiration of Licenses

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided. The Town Clerk shall affix his or her affidavit as required by Sec. 125.04(4) of Wis. stats.

2-1-11 Transfer of Licenses

- 1) From Place to Place: Every alcohol beverage license may be transferred to another place or premises within the same municipality. Transfers shall be approved by the Town Board upon application on blanks furnished by the State Department of Revenue and the payment of a fee. Refer to the Town of Lake Mills Fees, Bonds, and Deposits document. Proceedings considering such a transfer shall be conducted in the same manner and form as the original application. No retail licensee is entitled to more than one transfer during the license year.
- 2) From Person to Person: Licenses issued under this ordinance may be transferred to another person only under the terms and conditions as provided by Sec. 125.04(12)(b) of Wis. stats.

2-1-12 Underage and Intoxicated Persons / Disorderly House / After Hours:

- 1) Sale of Alcohol Beverages to Underage Persons; Restrictions:

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- a) No person may procure for, sell, dispense, or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
 - b) No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
 - c) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This paragraph does not apply to alcohol beverages used exclusively as part of a religious service.
- 2) Intoxicated Persons:
- a) No person may procure for, sell, dispense, or give away alcohol beverages to an intoxicated person.
 - b) No license or permittee may sell, vend, deal, or traffic in alcohol beverages to or with an intoxicated person.
 - c) No licensee or permittee may permit an intoxicated person to be on a licensed or permitted premises.
- 3) Disorderly House: No licensee or permittee in charge and control of a licensed or permitted premises shall keep or maintain a disorderly or riotous, indecent, or improper tavern or licensed or permitted establishment.
- 4) After hours: No licensee or permittee shall permit any person from being present on the premise operated under a Class "A," "Class A," or "Class C" license or under a Class "B" or "Class B" license or permit during hours when the premises are not open for business unless these persons are performing job-related activities.
- 5) Unsanitary or Unsafe Conduct: No licensee or permittee in charge and control shall fail to keep or maintain a tavern or other licensed or permitted premise in a sanitary and safe condition after written notice by the Department of Health and Family Services or the Town Board.

2-1-13 Penalties

- 1) A person who commits a violation of this Ordinance is subject to a forfeiture of:
 - a) Five hundred dollars (\$500.00) if the person has not committed a previous violation within 30 months of the violation.
 - b) Seven hundred fifty dollars (\$750.00) if the person has committed a previous violation within 30 months of the violation.

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- c) One thousand dollars (\$1,000.00) if the person has committed 2 previous violations within 30 months of the violation.
 - d) Five thousand dollars (\$5,000.00) if the person has committed 3 or more previous violations within 30 months of the violation.
- 2) The Town Board shall suspend any license or permit issued under this Ordinance to a person for:
- a) Not more than 30 days, if a Court finds that the person committed a violation under this Ordinance within 12 months after committing one previous violation; or
 - b) Not less than 30 days nor more than 60 days, if a Court finds that the person committed a violation under this Ordinance within 12 months after committing 2 other violations; or
 - c) Not less than 60 days nor more than 90 days, if a Court finds that person committed the violation within 12 months after committing 3 other violations.
- 3) For purposes of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.
- 4) Any person that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this Ordinance. In addition, the Town Board may seek injunctive relief from a Court of record to enjoin further violations.

2-1-14 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

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2-1-15 Adoption and Amendments

This ordinance shall be in full force and effect from its date of adoption and publication as provided by law.

- 1) **Adopted:** March 14, 2006
- 2) **Amended:** December 8, 2009
- 3) **Amended: September 9, 2014**

Attest: Sarah FitzGibbon, Town Clerk

Hope Oostdik, Chairperson

David Schroeder, Supervisor I

James Colegrove, Supervisor II