

ORDINANCE NO. 27-2024

Alcoholic Beverages

The Town of Clearfield, Juneau County, Wisconsin, does hereby ordain as follows:

SECTION I: PURPOSE

The purpose of this ordinance is to replace in its entirety the Town of Clearfield Code pertaining to alcoholic beverages, and the issuance of said Operator's Licenses.

SECTION II: PROVISIONS AMENDED/CREATED

Chapter 14, Section 97, is hereby replaced in its entirety.

SECTION III: PROVISION AS AMENDED/CREATED

Chapter 14 ALCOHOLIC BEVERAGES

- 14.01 Statute adopted.
- 14.02 Definitions
- 14.03 License classifications
- 14.04 Licensing requirements
- 14.05 General provisions and hours
- 14.06 License revocation, suspension, or non-renewal
- 14.07 Nudity, rude entertainment banned.
- 14.08 Prohibited acts
- 14.09 Penalties

14.01 Statute Adopted

The statutory provisions of Chapter 125 of the Wisconsin Statutes are hereby adopted as printed and as amended in the future.

14.02 Definitions

The definitions in this ordinance shall be consistent with the definitions set forth in Chapter 125, Wisconsin Statutes.

14.03 License classifications

A. "Class A" Licenses.

The "Class A" license authorizes retail sales of fermented malt beverages within the Town of Clearfield, for consumption elsewhere than on the premises where sold. The yearly fee shall be set according to the fee schedule not to exceed \$500. A "Class A"

license authorizes retail sales of all alcohol beverages within the Town of Clearfield, for consumption elsewhere than on the premises where sold.

B. "Class B" Licenses.

The "Class B Combination" license authorizes retail sales of wine, fermented malt beverages and intoxicating liquor for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of wine, fermented malt beverages and intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine maybe sold in the original container or otherwise in any quantity to be consumed off the premises. The yearly fee shall be set according to the fee schedule not to exceed \$500.

C. "Class C" Licenses

The "Class C" license authorizes the retail sale of wine by the glass or in opened original containers for consumption on the premises when the quota limiting the number of "Class B" License's as set forth in §125.51 has been filled. The yearly fee shall be set according to the fee schedule not to exceed \$500.

D. Wholesaler's License

A Wholesaler's license shall permit its holder to sell and keep for sale, within the Town of Clearfield, alcohol beverages in their original packages or containers to dealers to be consumed elsewhere than on the premises where stored or sold. The yearly fee shall be set according to the fee schedule not to exceed \$500.

E. Operator's or Manager's License (Bartender's Licenses).

An Operator's or Manager's license shall permit its holder to serve or sell alcohol beverages. The yearly fee shall be set according to the fee schedule not to exceed \$20.

14.04 Licensing requirements

- A. License or permit, when required. No person may sell, manufacture, rectify, brew, or engage in any other activity for which § Chapter 125, provides a license, permit, or other type of authorization without holding the appropriate license, permit or authorization issued under this chapter.
- B. Licenses or permits issued in violation of this chapter, no license or permit may be issued to any person except as provided in this chapter. Any license or permit issued in violation of this chapter is void.
- C. Application for licenses.
 - 1. The Town clerk shall provide an application form prepared by the department for each kind of license issued under this chapter. Said application shall be completed by the applicant containing the information required by Wis Stats 125.04, other Wis. Stats., and any additional information the Town requests, signed by the

- applicant and verified by oath of the applicant and filed with the Town clerk.
2. Publication of application for license. The Town clerk shall post a notice of such application as required by law.
 3. Time of filing and acting on applications. Applications for both "Class A" licenses and "Class B" licenses, which are to be acted upon at the first meeting in May of each year, must be filed on or before April 15 of each year. Applications for "Class B" and "Class C" licenses to be acted upon at the first meeting in June of each year, must be filed on or before May 15th of each year. The Town Clerk may conditionally accept renewal applications offered for filing notwithstanding the deadline provided in this subsection but shall not forward to the Town Board any application for which there is a deficiency or lack of compliance with any requirements in the application process.
 4. Training course. No licenses shall be issued unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical, and adult-education district and that conforms to curriculum guidelines specified by the board of vocational, technical, and adult education or a comparable training course that is approved by the department or the educational approval board or unless the applicant fulfills one of the following requirements.
 - a. The person is renewing an operator's license.
 - b. Within the past two (2) years, the person held a "Class A" or "Class B" license or permit or a manager's or operator's license.
 - c. Within the past two (2) years, the person has completed such a training course. Those who complete such program shall have an appropriate endorsement recorded and placed on their licenses. No operator's license shall be issued or renewed to any person who failed to complete the program during any previous period during that such person held an operator's license without first successfully completing the program. Where application is made for a license on behalf of a sole proprietorship, the sole proprietor shall have successfully completed the beverage server training course. When: such application is made on behalf of a partnership, all partners shall have successfully completed the beverage server training course. Where such application is made on behalf of a corporation or a limited liability company, the agent appointed shall have successfully completed the beverage server training course.
 5. Refusals to issue new license or permit or to renew an existing license. If the Town Board decides not to issue a new license or permit under this chapter, such denial shall include a reason. The Town clerk shall transmit to the applicant by first-class mail, the Town Board's decision and shall state the reason thereof.
 - a. In accordance with the regulations set forth by the Town of Clearfield, no license shall be issued to any applicant who maintains outstanding financial obligations to the municipality. It is a prerequisite that all such liabilities be settled with the Town of Clearfield prior to the renewal or issuance of any license application.
 6. Procedure on receiving an application.
 - a. No license shall be granted under this chapter unless a public hearing is

- held on such application.
- b. No such hearing shall be held except upon proper notice in the agenda for such hearing.
 - c. Such hearing shall be conducted and recorded with either a court reporter or a tape recording unless this condition is unanimously waived by Town board vote.
 - d. Qualifications for licenses and permits. Qualifications for licenses and permits issued under this chapter are as set forth in this chapter and the requirements of § Chapter 125.
 - e. Expiration dates. Except as otherwise provided in this chapter all licenses and permits issued under this chapter shall expire on June 30 of each year.
 - f. License framed and posted. Licenses for the sale of alcohol beverages shall be enclosed in a frame having a transparent front that allows the license to be clearly read. All licenses shall be conspicuously displayed for public inspection at all times in a room or place where the activity subject to licensure is carried on.

7. Transfer of licenses and permits.

- a. From place to place.

A license may only be transferred to another place or premises with the Town board's approval. The Town board may permit one transfer during the license year provided the licensee proves to the Town Board's satisfaction the new premises is in full and complete compliance with all state and Town law, regulations and ordinances; the owner and/or lien holder of the existing premises consents to the transfer in writing, and that such transfer is not detrimental to the public interest. Application to transfer shall be filed with the Town clerk along with payment of a transfer fee in the amount set by fee schedule not to exceed \$10. In the event the Town Board approves the transfer the Town Clerk shall promptly notify the department of all transfers.

- b. From person to person.

Licenses to sell alcohol beverages may not be transferred to persons other than the licensee without the Town board's approval. If the licensee, or an applicant for a subsequently granted license, dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application, then under such circumstances or others deemed sufficient by the Town board in its discretion., the Town board may, upon application, transfer the license to the licensee's designee provided such designee complies with all the requirements under this chapter applicable to original applicants, except that a surviving spouse shall be exempt from payment of the license fee for the year in which the transfer takes place.

- c. Upon the happening of any of the events under paragraph (a) above, the personal representative, the surviving spouse, if a personal representative is not appointed, the trustee, or thereceiver may continue or sell or assign the business.

- d. Businesses may be continued under paragraph (b) above only if the personal representative or surviving spouse is a U.S. citizen.

8. Limitations upon issuance of licenses.

A. "Class A" License.

- a. Issuance restricted. The number of "Class A" Fermented *Malt* Beverage and Intoxicating Liquor licenses that will be issued within the Town for operating liquor stores under duly licensed personnel, will be limited to one for every 500 of population and one license for each fraction thereof as determined by the last federal decennial census in the Town, being a present authorized maximum total of five (5) such licenses, or such lesser number thereof as the board in its discretion sees fit to authorize and issue.
- b. Authorized sales personnel. All sales in or on the premises for which a "Class A" Fermented Malt Beverage and Intoxicating Liquor license has been issued shall be made by the owner (licensee) or by licensed employees, each of whom shall be responsible for checking the ages of such customers so as to prevent sales to customers not authorized to purchase such beverages and liquors because of age, and who shall be deemed to be aware of all the laws governing the sale of fermented malt beverages and intoxicating liquors with respect to such licensed premises and the types of sales that may lawfully be made under such license.

B. "Class B" Fermented Malt Beverage License.

- a. No "Class B" Fermented Malt Beverage license shall be issued in the Town of Clearfield except
 - I. In restaurants where full-course meals are served, and where food is predominantly the major sales item, computed by gross sales, floor area and general use of the restaurant.
 - II. In restaurants or hotels, meeting the criteria specified in § 125.51(4)(v), This section does not apply to any existing licenses that were in existence as of January 13, 1965.
 - III. No "Class B" license shall be issued hereunder for the sale of alcohol beverages on any premises unless such premises complies with and conforms to all ordinances, health, sanitation, building and fire regulations of the Town and the state.
 - IV. Off-premises sale of liquor in original packages. Holders of "Class B" Fermented Malt Beverage and Intoxicating Liquor licenses may sell liquor in the original package for off-premises consumption not to exceed one-gallon per sale. Such sales shall be made either by the licensee or by a licensed bartender or employee licensed for such purposes.

C. "Class B" (Picnic).

- a. Original "Class B" licenses may be issued by the Town Board to bona fide clubs, to county fair associations or agricultural societies, to churches, to lodges or societies that have been in existence for at least (6) months prior to the application date and to posts of war organizations authorizing the sale of fermented malt beverages at a particular event or similar gathering, at a meeting of the post, or during a fair conducted by a fair association or

agricultural society. Such application will be filed with the Town Board at least (30) days prior to the granting of the license. The Town may issue a license for an application that is not timely filed provided it finds it has all the information necessary to make an informed decision. The license shall be issued upon written application, and for such time, not to exceed (4) days, as shall be designated by the Board, and shall be subject to such restrictions as imposed by the Board. The Town Clerk is authorized to issue a renewal "Class B" picnic licenses to previously approved applicants.

D. "Class C" License.

- a. A Retail "Class C" license may be issued to a person qualified under §125.04(5), for a restaurant operating under a restaurant license issued by the state of Wisconsin, in which the sale of alcohol beverages accounts for less than fifty percent (50 %) of gross receipts and which does not have a barroom.
- b. Each applicant for a "Class C" license shall disclose on the application the receipts for the sale of alcohol beverages and the percentage of such sales to the gross sales.

14.05 General provisions

- A. No license where pending violation. No license shall be issued, renewed or granted hereunder to any person, firm, corporation, limited liability company or organization for any premises as a result of the sale or transfer of the business, stock in trade or furnishings of said premises, to a new applicant while there is pending against the former licensee thereof any proceedings for the violation of any provisions of the Town of Clearfield's general ordinances, whichon conviction would result in automatic forfeiture of said license.
- B. Licensee, agent, or operator on premises at all times. There shall be at all times, upon the licensed premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person shall have an Operator's or Manager's license and who shall be responsible for the acts of all persons serving, as waiters or in any other manner, any alcohol beverages to customers. No person other than the licensee, or the agent named in the license if the licensee is a corporation or limited liability company, shall serve alcohol beverages in any place operated under a license unless he/she shall possess such Operator's or Manager's license, or unless he/she shall be under the immediate supervision of the licensee or a person holding an Operator's or Manager's license who shall be at the time of such service upon said premises. No person may manage premises operating under a license or permit, unless the person is the licensee or permittee, an agent of the corporation or limited liability company or the holder of a manager's License.
- C. Class A hours.
 1. Premises Hours. No premises for which a "Class A" Fermented Malt Beverage license has been issued shall sell fermented malt beverages between the hours of 12:00 am to 8:00 am. No premises for which has a "Class A" Intoxicating Liquor license has been issued shall sell intoxicating liquors between the

hours of 9:00 pm to 8:00 am.

2. No-carry-out law. Between 9:00 p.m. and 8:00 a.m., no seller shall permit, nor shall any person carry out or remove from the "Class A" licensed premises, any alcohol beverages in an original unopened package, container, or bottle or for consumption away from the premises.
 3. No on-premises consumption. It shall be unlawful for any person to possess or drink from any open container that contains alcohol beverages within a "Class A" licensed premises at any time unless said premises also holds a "Class B" license.
- D. Class B and Class B Hours.
1. No-carry-out law. Between 12:00 a.m. and 6:00 a.m., no seller shall permit, nor shall any person carry out or remove from the "Class B" licensed premises, any alcohol beverages in an original unopened package, container, or bottle for consumption away from the premises.
 2. Premises hours. No premises for which a "Class B" or "Class B" license has been issued shall be permitted to remain open between the hours of 2:00 a.m. and 6:00 a.m., on weekdays and 2:30 a.m. and 6:00 a.m., on Saturday and Sunday. On January 1 the premises are not required to close.
 3. Hotel and restaurant exemption. Hotels and restaurants the principal business of which is furnishing food and/or lodging to patrons, and bowling centers, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but shall not sell, serve, give away or in any way deal or traffic in alcohol beverages in violation of Subparagraphs (1) and (2) above.
 4. Regulation of closed retail space. Only the permittee, licensee, employees, salespersons, employees of wholesalers licensed under s. 125.28(1) or 125.54(1), Wis. Stats., or service personnel may be present on "Class on premises during hours when the premises are not open for business if those persons are performing job-related activities. No-carry-out law. Between 12:00 a.m. and 6:00a.m., no seller shall permit, nor shall any person carry out or remove from any "Class B" or "Class B" licensed premises, any alcohol beverages in an original unopened package, container, or bottle or for consumption away from the premises.
 5. No after-hours consumption. It shall be unlawful for any person to possess or drink from any open container that contains alcohol beverages within a "Class B" or "Class B" licensed premises between 2:00 a.m. and 6:00 a.m. on weekdays and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.
- E. It shall be unlawful for the licensee or any employee of a licensed 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 premises.
- F. Licenses for less than one year. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license may be prorated according to the number of months or fractions thereof remaining until the following June 30 at the discretion of the Board.

- G. A Retail "Class A" and "Class B" license shall not both be issued for the same premises or connecting premises.
- H. No retail license shall be issued to any person who has not attained the legal drinking age.
- I. Place-to-place deliveries. No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.
- J. Restrictions applicable to "Class A" and Class "A" licenses. No person shall sell or keep for sale or permit to be sold or kept for sale in or about any premises for which a "Class A" or a Class "A" license has been issued any fermented malt beverage except in original unopened packages, containers, or bottles, not to be consumed in or about the premises where sold.
- K. Restrictions applicable to wholesaler's license. No person, corporation or limited liability company holding a wholesaler's license and no *person as* an agent or employee of such licensee shall sell or keep for sale any fermented malt beverage except in original packages or containers and in quantities of not less than four and one-half (4 1/2) gallons at any one time, and it shall be unlawful for any such licensee or any agent or employee of such licensee to sell or dispense any fermented malt beverage for consumption on the premises of such licensee.

14.06 License revocation, suspension, or non-renewal

The following provisions shall apply to the revocation, suspension or non-renewal of any license issued pursuant to this chapter.

- A. Complaint. Any Town resident may file a sworn written complaint to the Town clerk alleging one or more of the following about any person or other entity licensed pursuant to this chapter:
 - 1. The person has violated any provision of this chapter.
 - 2. The person keeps or maintains a disorderly or riotous, indecent, or improper house.
 - 3. The person has sold or given away any intoxicant to any underage person, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards.
 - 4. The person has failed to maintain the premises according to standards prescribed for sanitation by the state division of public health, or in whose premises persons are permitted to loiter for purposes of prostitution.
 - 5. The person has not observed and obeyed any lawful order of the Town board or Town police officers.
 - 6. The person does not possess the qualifications required under this chapter to hold the license.
 - 7. The person has been convicted of manufacturing or delivering a controlled substance under § 161.41(1); of possessing, with intent to manufacture or deliver, a controlled substance under § 161.41(1); or of possessing, with intent to manufacture or deliver, or of manufacturing or delivering a controlled substance under a substantially similar federal law or a substantially similar law of another state.

8. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver a controlled substance.
- B. Notice of hearing on complaint. Upon the filing of the complaint, the Town board shall issue a notice of hearing on complaint, signed by the clerk, and directed to any peace officer in the municipality who shall serve said notice upon the licensee in the manner provided under § Ch.801, for service in civil actions in circuit court. The notice shall set forth the nature and content of the complaint filed with the Town and shall command the licensee complained of to appear before the Town board on a day and time and at a place named in the notice, not less than three (3) days and not more than ten (10) days from the date of issuance and show cause why the license should not be revoked or suspended. The notice and a copy of the complaint shall be served to the licensee at least three (3) days before the time at which the licensee is commanded to appear.
- C. Hearing procedure.
1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the Town board finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.
 2. The president of the Town board, or his designee, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in §227.45, shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.
 3. If the licensee appears as required by the notice and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses, and be represented by counsel. The licensee shall be provided with a written transcript of the hearing at his or her expense. All proceedings and testimony shall be recorded on tape and transcribed *unless* waived by both the complainant and licensee. If either party requests a stenographic recording and transcription, Town staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The Town clerk shall mark and receive all exhibits admitted into the record.
- D. Town board decision.
1. Within twenty (20) days of the hearing's completion, the Town board shall submit its findings of fact, conclusions of law and decision. The committee shall provide the complainant and the licensee with a copy of the decision.
 2. The Town board decision shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the Town the actual cost of the proceedings.
 3. If the Town board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Town board finds the complaint is true, it shall determine the sanctions to be imposed against the licensee. Sanctions include a warning, a fine not to exceed the amount set by fee schedule, suspension of license or revocation of license.
 4. The Town clerk shall give notice of the sanctions imposed to the licensee.
- E. Nude, semi-nude, or exhibitions entertainment. The Town prohibits certain forms of nude

and semi-nude acts, exhibitions, entertainment at commercial establishments at which alcoholic beverages are, or are available, to be sold or consumed.

1. The particular combination of liquor, nudity and sex could be construed as a subliminal endorsement for unlawful sexual harassment.
2. There are significant secondary effects of adult entertainment establishments including prostitution, sexual assault, and other criminal activity.

14.06 Prohibited Acts

- A. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the license(e) to permit any employee, entertainer, or patron to engage in any live act, demonstration, dance, or exhibition on the licensed premises that:
 1. Expose his or her genitals, pubic hair, perineum, anal region, or pubic hair region; or
 2. Expose any device, costume or covering that gives the appearance of or simulates genitals, pubic hair, perineum, anal region, or pubic hair region; or
 3. Exposes any portion of the female breast at or below the areola thereof; or
 4. To engage in or simulate sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.
- B. It shall be unlawful for any licensee or manager or agent of the licensee knowingly to permit any exhibition prohibited by subparagraph (A) to be exposed for viewing by persons within the licensed premises.

14.08 Penalties

- A. Any person violating any provision of this chapter or any condition included on a license application or on the license itself or who provides any false or inaccurate information on a written application shall be subject to a penalty subject to the fee schedule, unless a greater maximum penalty is specifically provided for in this chapter, except that where a lower maximum penalty shall be provided by Chapter 125 of the Wisconsin Statutes for any specific offense such maximum penalty shall prevail for the same offense committed in violation of this chapter.
- B. Nothing in this subsection shall in any way diminish the Town board's authority to suspend, revoke or not renew any license issued pursuant to this chapter for any violation of this chapter or other Town ordinance or state law.
- C. Any person, partnership or corporation who violates any of the provisions of the above sections shall be subject to license suspension, revocation or non-renewal as provided by section 14.06 of this chapter and §125.12 (1), and a forfeiture of not less than \$500.00 and not more than \$1,000.00; and in default of payment thereof, imprisonment in the Juneau County Jail for not more than ninety (90) days. A separate offense shall be deemed committed on each day on that a violation occurs or continues.

SECTION IV: VALIDITY

Should any section, clause or provision of the ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof,

other than the part so declared to be invalid.

SECTION V: CONFLICTING PROVISIONS REPEALED

All ordinances in conflict with any provisions of this ordinance are hereby repealed.

SECTION VI: EFFECTIVE DATE

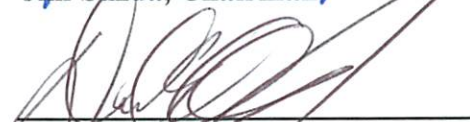
This ordinance shall be in force from and after its introduction and publication as provided by statute.

SECTION VII:


This ordinance becomes a part of Chapter 14 of the Town of Clearfield Code.
This ordinance shall be in force from and after its introduction and publication as provided by statute.



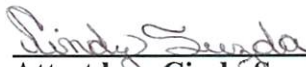
Jim Suzda, Chairman



David Anderson, Supervisor



Art LaBerge, Supervisor



Attest by: Cindy Suzda, Clerk

<u>INTRODUCED:</u>	<u>6/15/2011</u>
<u>PUBLISHED:</u>	<u>6/16/2011</u>
<u>PASSED</u>	<u>6/15/2011</u>
<u>AMENDED:</u>	<u>4/09/2024</u>
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