

**INTOXICATING LIQUORS ALCOHOL BEVERAGES REGULATION
TOWN OF RICHFORD, WAUSHARA COUNTY, WISCONSIN**

The Town Board of the Town of Richford, Waushara County, State of Wisconsin, do ordain as follows:

SECTION I: STRICT COMPLIANCE REQUIRED

It shall be unlawful for any person, firm, association, corporation or limited liability company, 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 of Richford, any alcohol beverages except in strict accordance with the provisions of this ordinance and the State of Wisconsin Statutes

SECTION II: STATUTE ADOPTED

The Statutory provisions of Chapter 125 of the *State of Wisconsin Statutes*, describing and defining regulations with respect to alcoholic beverages are hereby adopted and by reference made a part of this Ordinance as if set forth in full herein; except for those provisions requiring imprisonment or provisions permitting the Town to enact standards different from that set forth by the legislature. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this ordinance unless there is specific provision to the contrary. Any future amendments, revisions or modifications of the statutes incorporated herein are made part of this Ordinance. In the event of a conflict between the provisions of this ordinance and any statute, the ordinance controls unless expressly forbidden by the statute. If the statute authorizes the Town to enact a provision in its sole discretion and the ordinance does not so provide, the Town shall be deemed to have declined to act.

SECTION III: DEFINITIONS

Whenever the following terms are used in this section, they shall be construed as follows:

"Alcohol beverages" means fermented malt beverages, wine and intoxicating liquor.

"Brewer" means any person who manufactures fermented malt beverages for sale or transportation.

"Brewery premises" means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.

"Club" means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.

"Department" means the State of Wisconsin Department of Revenue.

"Fast Food Restaurant" means a restaurant serving food primarily prepared in advance and sold to its customers at a counter, and/or a restaurant utilizing a drive through facility.

"Fermented malt beverages" 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 de-germinated grains or sugar containing 0.5% or more of alcohol by volume.

"Full-service Restaurant" means a restaurant where meals are primarily prepared individually for the customer and are served to customers at their table by wait staff. A restaurant which is a fast food restaurant, or which has drive-through facilities is not considered a full-service restaurant.

"Intoxicating liquor" means all ardent, spirituous, 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 twenty-one (21) years of age

"**License**" means an authorization to sell alcohol beverages issued by a municipal governing body under this chapter.

"**Permit**" means any permit issued by the department under this chapter.

"**Person**" means a natural person, sole proprietorship, partnership, limited liability company, corporation or association.

"**Premises**" means the area described in a license or permit.

"**Principal business**" means the primary activity as determined by analyzing the amount of capital, labor, time, attention, and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.

"**Restaurant**" has the meaning as defined in Wis. Stats. Sec. 254.61(5) and whose sale of alcohol beverages accounts for less than 50% of the establishment's gross receipts.

"**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.

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

"**Underage person**" means a person who has not attained the legal drinking age.

"**Wholesaler**" means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages 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, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

SECTION IV: LICENSE CLASSIFICATIONS AND FEES

A Qualifications for Licenses and Permits. Qualifications for licenses and permits issued under this ordinance are as set forth in this ordinance, the requirements of the State of Wisconsin Statutes, the Town of Richford's Comprehensive Plan, and the Town of Richford's Nudity Ordinance.

B Police Record and Report. Before any License, Manager's, or Operator's license shall be issued or granted under this section, the Waushara County Sheriff shall first file a complete written report with the Town Board showing the applicant's complete police record, if any, and likewise showing for the previous three (3) year period the complete police record, if any, of any licensee during such three (3) year period of the premises or business as to which application is being made, both reports to include arrests, complaints, prosecutions, and other proceedings. A license shall not be issued to any person with a felony conviction on their record.

C Discretionary authority of the Town Board. The fact that a particular premise or person meets the qualifications set forth in this ordinance does not entitle said premises to a license, the issuance of

which remains the sole discretion of the Town Board considering all factors relevant to the issuance of said license. If the Town Board decides not to issue a new premises license or permit under this chapter, such denial shall include a reason in writing. The Town Clerk shall transmit to the applicant by United States Post first class mail, the decision of the Town Board and shall state the reason thereof.

D Expiration Dates. Except as otherwise provided in this chapter all licenses and permits issued under this ordinance shall expire on June 30 of each year. License and application fees are non-proratable and non-refundable.

E Premise License Framed and Posted. Licenses for the sale of alcohol beverages shall be enclosed in a frame having a transparent front which 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.

F Town Board to establish fees. The fees for licenses issued pursuant to this ordinance shall be established by the Town Board annually.

G Class "A" License

1. A "Class A" license authorizes retail sales of all alcohol beverages within the Town of Richford, for consumption elsewhere than on the premises where sold.
2. No Class "A" 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 of the State.
3. Issuance restricted. The number of "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses that will be issued within the Town for the operation of 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 5 such licenses, or such lesser number thereof as the Board in its discretion sees fit to authorize and issue.
4. 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.
5. A "Class A" license shall not be issued to anyone convicted of a felony.

H Class B License

1. A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises, provided that only fermented malt beverages in original packages or containers may be removed from the premises where sold.
2. A "Class B" 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 may be sold in the original container or otherwise in any quantity to be consumed off the premises.
3. A "Class B site" license authorizes the 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 may be sold in the original container or otherwise in any quantity to be consumed off the premises. All provisions of Chapter 125 Wisconsin Statutes and this ordinance regulating "Class A" licenses shall apply to "Class B site" licensed premises unless otherwise expressly provided.

4. Class "B" License (Picnic). Original Class "B" licenses may be issued by the Town Board to bona fide clubs, to fair associations, agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months prior to the date of application and to posts of veterans' organizations, authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. Such application shall be filed with the Town Board at least thirty (30) days prior to the granting of the license. The Town Board may issue a license for an application that is not timely filed provided that it finds that it has all of the information necessary to make an informed decision. The license shall be issued upon written application, and for such time, not to exceed four (4) days, as shall be designated by the board and shall be subject to such restrictions as
 - a. imposed by the board. The Town Clerk is authorized to issue renewal Class "B" picnic licenses to previously approved applicants.
 - b. Authorized sales personnel. All sales in or on the premises for which a "Class B" 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 trained under the requirements of this ordinance and deemed to be aware of all the laws governing the sale of alcohol with respect to such licensed premises and the types of sales that may lawfully be made under such license.
5. A "Class B" license shall not be issued to anyone convicted of a felony.

I Class C License.

1. A Retail Class C license may be issued to a person qualified under s.125.04 (5) Wisconsin Statutes 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 50% of gross receipts and which does not have a barroom.
2. 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.
3. No Class "C" 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 of the State.
 - a. A "Class C" license shall not be issued to anyone convicted of a felony.

J Manager's License

1. The Town of Richford may issue a Manager's license if the applicant applies, in writing, meets the requirements of Chapter 125, Wis. Stats., any applicable Town of Richford or Waushara County requirements, and after payment of a non-proratable fee determined by the Town of Richford Board annually for a one-year period to end on June 30. An applicant denied a manager's license shall not be eligible for a refund of the non-proratable fee. A manager's license will not be issued to any person who has been denied a manager's or operator's license by the Town of Richford, any other Municipality, the State of Wisconsin or who has had a manager's or operator's license

revoked or suspended within the preceding twelve (12) months by any of the previously listed entities. The Town of Richford will revoke a manager's license if it is determined that the holder of the license made a false statement on his/her application. A manager's license shall not be issued to anyone convicted of a felony.

K Operators' License

1. The Town of Richford may issue an operators' license if the applicant applies, in writing, meets the requirements of Chapter 125, Wis. Stats., any applicable Town of Richford or Waushara County requirements, and after payment of a non-proratable fee determined by the Town of Richford Board annually for a one-year period to end on June 30. An applicant denied an operators' license shall not be eligible for a refund of the non-proratable fee. An operator's license will not be issued to any person who has been denied an operator's license by the Town of Richford, any other Municipality, the State of Wisconsin or who has had an operator's license revoked or suspended within the preceding twelve (12) months by any of the previously listed entities. The Town of Richford will revoke an operator's license if it is determined that the holder of the license made a false statement on his/her application. An operators' license shall not be issued to anyone convicted of a felony.

L Provisional Operator's License

1. The Town of Richford may issue a provisional operators' license in accordance with the requirements of Chapter 125, Wis. Stats., any applicable Town of Richford or Waushara County requirements, for a nonrefundable fee determined by the Town of Richford Board annually per license issued. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. A provisional operator's license will not be issued to any person who has been denied an operator's license by the Town of Richford, any other Municipality, the State of Wisconsin or who has had an operator's license revoked or suspended within the preceding twelve (12) months by any of the previously listed entities. The Town of Richford will revoke a provisional operator's license if it is determined that the holder of the license made a false statement on his/her application. A provisional operators' license shall not be issued to anyone convicted of a felony.

M Minors holding Licenses

1. A person under the age of twenty one (21) may hold a license only under the provisions of the State of Wisconsin Statutes and the following conditions:
2. No record of alcohol use in Police/Sheriff's background check.
3. No record of drug use in Police/Sheriff's background check.
4. No felony convictions.
5. No license will be issued to a person under the age of twenty one (21) with any of these convictions on their Police/Sheriff's background check for a period of one (1) year or until the age of twenty one (21) whichever is longer.
6. No person with a felony conviction can hold any alcohol licenses in the Town of Richford.

SECTION V: TRAINING REQUIREMENTS FOR LICENSING

- A Training Course.** A license shall not be issued to any applicant unless the applicant has successfully completed a responsible beverage server training course at a location that is offered by a vocational, technical, and/or adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical, and adult education of the State of Wisconsin or a comparable training course that is approved by the State of Wisconsin or unless the applicant fulfills one of the following requirements;

1. The person is renewing a manager's or operator's license.
2. Within the past 2 years, the person held a Class "A", Class "B", "Class A", or "Class B" license or a manager's or operator's license.
3. Within the past 2 years, the person has completed such a training course.
4. Those that have completed 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 which such person held an operator's license without first successfully completing the program.
5. 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. Where 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.

SECTION VI: APPLICATION PROCEDURE FOR LICENSING

A Manager's and Operator's Licenses

1. Application from Town of Richford Clerk to be filled out and returned with application fee attached by April 1st of each year or the closest business day following April 1st.
2. Any application filed with the Town of Richford Clerk at any other time will not be pro-rated and full application fee will accompany the application.
3. The application will be presented by the Town Clerk to the Town Board the month following the application submission so that the background check can be accomplished in a timely fashion.
4. If a background check cannot be completed in the time allotted the application will be presented at the first Town of Richford Board meeting after completion of the background check and action on the license request delayed until that time.

B Initial Licensing Procedure – Class “A”, “B”, and “C”

1. No initial license shall be granted under this chapter unless a public hearing is held on such application.
2. No such hearing shall be held except upon proper notice in the agenda for such hearing and notice to the public by a Class I Notice in the Waushara Argus, together with the posting of such notice in three public places in the Town, including the public posting area of the Town Municipal Building. Such notice may be given by publication and posting of the agenda showing such hearing.
3. Such hearing shall be conducted and recorded with either a Court Reporter or a tape recording, unless this condition is unanimously waived by vote of the Town Board.
4. The order of procedure shall be that the persons appearing in favor of the granting of the license shall appear first and make their presentation; the persons appearing in objection shall then make their presentations, and the persons appearing in favor shall then have an opportunity to present rebuttal. The Town Board shall have the right to limit the amount of time for each presentation, to receive petitions for or against, to request that persons signing such petitions sign either a form or a sheet stating who they are, who they represent, whether they are electors or otherwise, their address and whether or not they are for, against or have no position on the matter.
 - a. After the conduct of the hearing, which shall follow regular rules of order, the Board may meet in open or closed session. Closed sessions shall be held only if properly noticed in the agenda. They shall then act upon the application at such time or later, as the Board feels

sufficient information has been received on which to act properly, and either grant, deny or table the application for a period of time.

SECTION VII: CRITERIA FOR GRANTING THE LICENSE

A Certain questions shall be answered by the Town Board in the affirmative before it shall be proper to grant a license. Among the questions, but not limited thereto, shall be those questions following, and it is mandatory for the said Board to consider these conditions on any request for a Class A Beer or Class B Malt Beverage and Liquor License, or combination thereof or Class B Fermented Malt Beverage Licenses, and the Board shall not issue such a license until it finds the answers to the following questions to be in the affirmative:

1. Are the premises and the building in which the licensee is to be conducting business in accord with the Zoning and Building Codes of the State of Wisconsin, Waushara County, and Town of Richford, and in compliance with other regulating bodies?
2. Is the building sitely and/or will its construction and operation be in such a manner that it will not create, add to, or aggravate any chance of bringing about a honky-tonk atmosphere?
3. Is it in the commercial and general welfare of the Town of Richford, Waushara County, Wisconsin?
4. Does the granting of the license have a valid purpose?
5. Will the aesthetic propensities of the building and the operation generally, including fencing, grounds, parking and otherwise, contribute to the general attractiveness of the community?
6. Is the sign copy to be used with such business, on and off premises, such that it will not confuse the local public or the tourist public, both of which are part of the economic lifeblood of the Town?
7. Will the effect of granting this license have any socially redeeming values effectuated for the benefit of the people of the community of the Town of Richford?
8. Is the building, business and entire set-up constructed, located and operated so that it is not a vengeance, spite or other type of operation based on contrariness or based on the destruction of some other business?
9. Has the traffic situation been reviewed by a proper traffic reviewing authority such as the Waushara County Sheriff's Department, and is such report on file for the benefit of the Town Board's consideration?
10. Has the Town Board considered the availability of the sale of the product that will be sold under this license in its total quantum capacity available to the residents, tourists, passers-through and others that will be affected and have access to same and is it the decision of the Town Board that the addition of this license will not create an over supply that would be adverse to the health, safety, general welfare and public peace, safety and order of the community?
11. Has the Town Board carefully considered the application in its entirety, including such background material as shall be lawful as it may require within the scope of proper investigation in this respect, and also the personnel involved in the operation, and is the Town Board satisfied that there is no one operating who is a convicted felon or who is not a person of good character and that every applicant and all employees and/or agents etc. are people of good character and that the application itself meets with all of the legal requirements of the laws of the State of Wisconsin and the ordinances of the Town of Richford.
12. Has the Town Board and/or a majority of those members voting, made a personal inspection of the premises, or if a proposed structure, the plans and specifications for same, and if necessary, has it consulted with engineers?
13. Has the Board consulted, should it deem necessary to do so, with special experts such as engineers, legal counsel, or otherwise, to check out the validity of assertions made by way of the

application, the plans and specifications or other documents that the Board shall, in its reasonable judgment, require in order that it may be properly advised as to the entire structure of the organization, its principal, the type and nature of the building and operation, and has the Board satisfied itself that it has met the legal requirements and the ethical requirements that would go with an operation so that it will not be a detriment to the health, safety and general welfare of the people of the Town of Richford.

a. Will the Town of Richford have the business sign a memorandum of agreement relating to the conduct of the business?

B Issuance of a "Class B site" license: The Town Board may in its sole discretion issue "Class B site" licenses to qualified applicants. In reviewing an application for a "Class B site" license the Town Board shall, in addition to other requirements of this ordinance, and of *Wisconsin Statutes Chapter 125*, investigate and determine whether or not the premises meets the qualifications for a "Class B site" license. In making its determination of whether or not a particular application qualifies for a "Class B site" license the Town Board shall consider the following factors in making its determination:

1. Whether or not the premises defined in the application constitutes a full-service restaurant that has a seating capacity of 300 or more persons; or
2. Whether the premises are a hotel with 100 or more rooms of sleeping accommodations and either of the following:
 - a. An attached restaurant with a capacity of 150 or more persons
 - b. A banquet room with a capacity of 400 persons.
 - c. Whether issuance of the site license is in the public interest.
3. For purposes of this paragraph seating capacity means the indoor seating capacity of the restaurant.
4. The banquet room capacity shall be the maximum number of persons permitted under State, County, or Town building and occupancy regulations, whichever is more restrictive.
5. Whether the Town of Richford shall have the business sign a memorandum of agreement relating to the conduct of the business.

SECTION VIII: TRANSFER OF LICENSES AND PERMITS

A. From Place to Place.

1. With the exception of a "Class B site" license which is nontransferable, a license may only be transferred to another place or premises with the approval of the Town Board. The Town Board may permit one transfer during the license year provided that the licensee proves to the satisfaction of the Town Board that the new premises is in full and complete compliance with all state, county, and Town law, regulations and ordinances; that 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 application fee in the amount determined by the Town of Richford Board annually. In the event of approval of the transfer by the Town Board the Town Clerk shall promptly notify the department of all transfers. Transfer application fees are non-pro-ratable and non-refundable.

B. From Person to Person.

1. Licenses to sell alcohol beverages may not be transferred to persons other than the licensee without the approval of the Town Board. 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 that such designee complies with all of 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.

2. Upon the happening of any of the events under paragraph 1 above, the personal representative, the surviving spouse, if a personal representative is not appointed, the trustee, or the receiver may continue or sell or assign the business.
3. Businesses may be continued under paragraph 2 above only if the personal representative or surviving spouse is an U.S. citizen and qualified to hold said license.

SECTION IX: GENERAL PROVISIONS AND HOURS

A. No License Where Pending Violation.

1. No initial or renewal 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 general ordinances of the Town, County, State, or Federal Government which on conviction would result in automatic forfeiture of said license.
2. No initial or renewal license shall be granted for any premises for which taxes, assessments, utility bills or other claims of the Town, County, State, or Federal Government are delinquent and unpaid.

B. Licensee, Agent, or Operator on Premises at All Times.

1. 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 who 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. **Sign to be posted.** A sign bearing the words "Bar closed after 2:00 a.m., 2:30 a.m. on Saturday and Sunday" shall be conspicuously displayed over the bar in all premises for which a Class "B" or "Class B" license shall have been issued.

D. "Class A" and 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 midnight and 8:00 a.m. No premises for which a Class "A" Intoxicating Liquor license has been issued shall sell intoxicating liquors between the hours of 9 p.m. and 8:00 a.m.
2. **No-Carryout 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 which contains alcohol beverages within a Class A licensed premises at any time unless said premises also holds a Class B license.
- E. **"Class B" and Class "B" Hours.**
1. **No-Carryout Law.** Between 12:00 Midnight 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 or 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 the furnishing of 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 (a) and (b) above.
 4. **Regulation of Closed Retail Space.** Only the permittee, licensee, employees, salespersons, employees of wholesalers licensed under Sec. 125.28(l) or 125.54(l), Wis. Stats., or service personnel may be present on Class B premises during hours when the premises are not open for business if those persons are performing job-related activities.
 5. **No-Carryout Law.** Between 12:00 Midnight and 6:00 a.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.
 6. **No After-Hours Consumption.** It shall be unlawful for any person to possess or drink from any open container which 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.
- F. **"Class C" Hours**
1. Except as provided in paragraph two (2) of this subsection, no premises for which a Class C license has been issued may be open between the hours of 2:00 a.m. and 6:00 a.m. on week days and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.
 2. Hotels and restaurants, the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, horseshoe-pitching facilities, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell alcohol beverages between the hours of 2:00 a.m. and 6:00 a.m.
- G. **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
- H. **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.
- I. **A Retail "Class A" and "Class B" license** shall not both be issued for the same premises and/or connecting premises.
- J. **No person may hold** both a "Class U license and either a "Class A" or "Class 13" license for the same premises or for connecting premises. No person may allow another to use his or her "Class C" license or permit to sell alcohol beverages.
- K. **No retail license** shall be issued to any person who has not attained the legal drinking age.

- L. **Place-to-Place Deliveries.** No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.
- M. **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.
- N. **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.
- O. **Sanitation.** Sanitation, health, and safety for businesses shall be regulated and inspected by the Waushara County Health Department. Only businesses deemed safe by the Waushara County Health Department will be issued a license. Any business in violation of the sanitation, health, and safety ordinances of the Waushara County Health Department will be closed and their license revoked at the request of the Waushara County Health Department.

SECTION X: FORFEITURE, REVOCATION, SUSPENSION OR NONRENEWAL OF LICENSE

- A The following provisions shall apply to the revocation, suspension or non-renewal of any license issued pursuant to this Ordinance.
 - 1. **Complaint.** A complaint may be filed by any person by issuing a sworn written complaint with the Town Clerk alleging one or more of the following about any person or other entity licensed pursuant to this chapter:
 - a. The person has violated any provision of this ordinance.
 - b. The person keeps or maintains a disorderly or riotous, indecent or improper house.
 - c. 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.
 - d. The person has failed to maintain the premises according to standards prescribed for sanitation by the State Division of Public Health and/or the Waushara County Department of Health, or in whose premises persons are permitted to loiter for purposes of prostitution.
 - e. The person has not observed and obeyed any lawful order of the Town Board, police officers of the Town, Waushara County Board, Sheriff's Deputies of the County, or State Police.
 - f. The person does not possess the qualifications required under this chapter to hold the license.
 - g. The person has been convicted of manufacturing or delivering a controlled substance under Sec. 161.41 (1), Wis. Stats.; of possessing, with intent to manufacture or deliver, a controlled substance under Sec. 161.41 (1m), Wis. Stats.; 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.
 - h. 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 with the Town of Richford Clerk, the Town Board shall issue a Notice of Hearing on Complaint, signed by the Clerk and directed to a peace officer in the State, County, or Town who shall serve said Notice upon the licensee in the manner provided under Ch. 801, Wis. Stats., 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 on the licensee at least three (3) days before the time at which the licensee is commanded to appear.

C Procedure on Hearing.

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 Chairman of the Town Board, or his designee, shall conduct the hearing and may issue subpoenas. The Town of Richford Clerk shall administer oaths to all witnesses. So far as practicable, the rules of evidence provided in Sec. 227.45, Wis. Stats., 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 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 Decision of the Town Board.

1. Within twenty (20) days of the completion of the hearing, 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 decision of the Town Board 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 \$1000, suspension of license for a stated time, or revocation of license.
4. The Town Clerk shall give written notice of the sanctions imposed to the licensee.

E Effect of Revocation. When a license is revoked under this subsection, the revocation shall be recorded by the Town Clerk and no other license issued under this chapter shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation.

F Judicial Review. The action of the Town Board in granting or failing to grant, suspending or revoking any license, or the failure of the Town Board to revoke or suspend any license for good cause, may be reviewed by the circuit court of Waushara county in which the application for the license was issued, upon application by any applicant, licensee or resident of the Town.

G Non-renewal of License. The Town Attorney, or special counsel appointed for such purposes may, after investigation, commence an action before the Town Board to hear evidence that a license issued pursuant to this chapter should not be renewed. The Town Board shall, in writing, notify the licensee of the consideration of non-renewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the non-renewal of the license in the same specificity required for a summons and complaint for

revocation or suspension. If the license is recommended for non-renewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of Subdivisions (a) and (b) shall apply. The commencement of this action shall stay action by the Town Board on the licensee's application until the decision of the Town Board is final.

- H **Other Provisions.** Any license issued pursuant to this order shall be subject to such further regulations and restrictions as may be imposed by the Town Board of the Town of Richford by amendment to this section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations her/his license may be revoked in accordance with this section. In case of revocation of any license or any violation of any provision of this ordinance in accordance with this section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

SECTION XI. 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 of not more than One Thousand dollars (\$1000.00), 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 ordinance.
- B Nothing in this subsection shall in any way diminish the authority of the Town Board to suspend, revoke or non-renew any license issued pursuant to this chapter for any violation of this chapter or other Town Ordinance, State, or Federal Law.

SECTION XII: SEVERABILITY

The provisions of this ordinance are severable. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION XIII: REPEAL OF ORDINANCES

All ordinances adopted by the Town Board of Richford prior to the adoption of these Ordinances, which are in conflict, are hereby repealed.

SECTION XIV: EFFECTIVE DATE

This ordinance shall take effect from and after passage and publication.

Dated April 12, 2010.