

## CHAPTER 399

### REGULATING ALCOHOLIC BEVERAGES

[History: Ords 1999-4, 2000-6, 2003-4, 2007-2, 2007-7, 2011-8, 2011-14]

#### 399.01 STATE STATUTES ADOPTED.

The provisions of Chapter 125 of the Wisconsin Statutes and all acts amendatory thereof and supplementary thereto relating to the regulation of intoxicating liquor, fermented malt beverages, and wine are adopted as a portion of this chapter so far as applicable, except as otherwise lawfully provided by this chapter. A violation of any such provision shall constitute a violation of this chapter. Except as preempted by State law, this chapter shall supersede any contrary or conflicting provision of the Code of Ordinances of the City of Richland Center.

#### 399.02 DEFINITIONS

As used in this chapter, the term:

- (1) "Alcoholic beverages" means fermented malt beverages, wine and intoxicating liquor.
- (2) "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.
- (3) "Committee" means the "Police, Fire, Liquor Review, and Transportation Committee" of the Common Council of the City of Richland Center.
- (4) "Common Council" means the Common Council of the City of Richland Center.
- (5) "Fermented malt beverages" means any beverage made of the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.
- (6) "Foreign business entity" is any corporation or limited liability company not organized or incorporated under the laws of the State of Wisconsin.
- (7) "Hotel" means a hotel as defined in subsection 254.61(3), Wis. Stats., that is provided with a restaurant.
- (8) "Immediate supervision" means the supervising person must be physically present on the licensed premises and must be able to see at all times the activities of those persons serving alcohol beverages.
- (9) "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."

(10) "Legal drinking age" has the meaning prescribed in subsection 125.02(8m), Wis. Stats.

(11) "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.

(12) "Population" shall mean the number of habitants as determined in the previous year by the State Department of Administration under subsection 16.96(2), Wis. Stats., for purposes of revenue sharing distribution.

(13) "Premises" means the area described in a license or permit.

(14) "Public street" shall mean any portion of any platted street lying between the inner edges of the sidewalks, being the edges of the sidewalks farthest from the centerline of such platted street. Where no sidewalks exist, or in a location where there is a sidewalk on only one side of a street, the term "public street" shall include an area thirty-three (33) feet in width lying between the centerline of the improved or traveled portion of such street and a line thirty-three (33) feet from said centerline and parallel to said centerline on any side of said street which lacks a paved sidewalk.

(15) "Restaurant" means a restaurant as defined in subsection 254.61(5), Wis. Stats.

(16) "Sell", "sold", "sale", or "selling" means any transfer of alcoholic beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcoholic beverages or any shift, devise, scheme of transaction for obtaining alcohol beverages, including the solicitation or order for, or the sale for future delivery of, alcohol beverages.

(17) "State" means the State of Wisconsin.

(18) "Statutes" and "Wis. Stats." means the Wisconsin Statutes 1995-96, and all amendments thereof and supplements thereto.

(19) "Underage person" means a person who has not attained the legal drinking age.

(20) "City" means the City of Richland Center.

(21) "Wholesaler" means a person, other than the brewer, manufacturer, or rectifier, who sells alcoholic beverages to a licensed retailer or to another person who holds a permit to sell alcoholic beverages at wholesale.

(21) "Wine" means product obtained from the normal alcoholic fermentation of the juices 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 alcohol by volume.

(22) "Wine cooler" means beverages containing products obtained from the normal alcohol fermentation of the juices 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 beverages contain not more than 6% of alcohol by volume.

### **399.03 LICENSE REQUIRED.**

**(1) When Required.** No person, except as provided by section 125.06, Wis. Stats, shall distribute, vend, sell, offer, or keep for sale at retail or wholesale, deal or traffic in, or, for the purpose of evading any law or ordinance, give away or gift any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license, permit, or authorization as provided in this chapter, or without complying with all the provisions of this chapter and all statutes, ordinances and regulations of the State and City thereto.

**(2) Separate License Required for Each Place of Sale.** A license shall be required for each of those premises where intoxicating liquor or fermented malt beverages are kept, sold, or offered for sale.

### **399.04 CLASSES OF LICENSES; ISSUANCE AND EXPIRATION.**

**(1) Classes.** There shall be the following classes and denominations of licenses which, when issued by the City Clerk under the authority of the Common Council after payment of the fee herein specified, shall permit the holder to sell, deal, or traffic in intoxicating liquor, fermented malt beverages, or wine as provided in this section.

(a) Retail "Class A" Intoxicating Liquor License. A retail "Class A" intoxicating liquor license, when issued by the City Clerk under the authority of the Common Council, shall permit its holder to sell, deal, and traffic in intoxicating liquors only in original packages or containers which are to be consumed off the premises so licensed.

(b) Retail "Class B" Intoxicating Liquor License. A retail "Class B" intoxicating liquor license, when issued by the City Clerk under authority of the Common Council, shall permit its holder to sell, deal, and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed, and in the original package or container in multiples not to exceed four ( 4) liters at anyone time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the premises. The City of Richland Center hereby elects to come under the provisions of subsection 125.51(3)(b), Wis. Stats.

(c) Retail Class "A" Fermented Malt Beverage License. A retail Class "A" fermented malt beverage license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell, or offer for sale fermented malt beverages, solely for consumption away from the premises where sold and in the original packages, containers, or bottles.

(d) Retail Class "B" Fermented Malt Beverage License. A retail Class "B" fermented malt beverage retailer's license, when issued by the City Clerk Under the authority of the Common Council,

shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than 0.05% of alcohol by volume, without obtaining a special license to sell such beverages.

(e) Temporary Class "B" Fermented Malt Beverage License. As provided in subsections 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, or to churches, lodges, or societies that have been in existence for at least six (6) months before 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. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Common Council.

(f) Temporary "Class B" Wine License. Notwithstanding subsection 125.68(3) Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, or to churches, lodges or societies, that have been in existence for at least six (6) months before the date of application, and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle 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. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under subsection 125.26(6), Wis. Stats., for the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.

(g) Wholesaler's License. A wholesaler's fermented malt beverage license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell, or offer for sale fermented malt beverages only in original packages or containers to licensed dealers, not to be consumed in, on, or about the premises of said wholesaler.

(h) Retail "Class C" Licenses. In this subsection, "barroom" means a room that is primarily used for the sale or consumption of alcoholic beverages.

1. A retail "Class C" license, when issued by the City Clerk under the authority of the Common Council, authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

2. A retail "Class C" license may be issued to a person qualified under subsection 125.04(5), Wis. Stats., for a restaurant in which the sale of alcoholic beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the City's quota prohibits the City from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign business

entity or a person acting as agent for or in the employ of another.

3. A retail "Class C" license shall particularly described the premises for which it is issued.

(i) Pharmacist's License. A pharmacist's license, when issued by the City Clerk under the authority of the Common Council, authorizes the sale of intoxicating liquor in quantities of less than four liters for medicinal, mechanical or scientific purposes only, not to be consumed on the premises. Only a registered pharmacist may be issued a pharmacist's license.

(j) Reserve "Class B" License. Pursuant to the provisions of 1997 Wisconsin Act 27, there shall be a Reserve "Class B" license.

**(2) Issuance and Expiration Of Licenses.** All classes of licenses provided herein may be issued after July 1 of each year, and shall expire the following June 30th, except temporary licenses.

### **399.05 LICENSE FEES.**

**(1) Fees.** The following fees and costs shall be paid for licenses to sell, deal or traffic in intoxicating liquors, fermented malt beverages, or wine as provided in section 399.04 of this chapter of the Code of Ordinances and Chapter 125, Wis. Stats. In addition to all license fees required by this chapter, all applicants shall also pay a \$15.00 investigation fee, as required by subsection 399.06(3), below. All such fees are payable after approval of the application and prior to the release of the license to the licensee, with the exception of temporary Class "B" licenses, for which the fee shall be paid at the time the application is submitted.

(a) Retail Class " A" Fermented Malt Beverages License. The annual fee for this license shall be \$100.00.

(b) Retail Class "B" Fermented Malt Beverage License. The annual fee for this license shall be \$100.00.

(c) Temporary Class "B" Fermented Malt Beverage License. The fee for this license shall be \$10.00 per day.

(d) Temporary "Class B" Wine License. The fee for this license shall be \$10.00 per day. However, there shall not be a fee if the temporary wine license is obtained along with a temporary fermented malt beverage license.

(e) Fermented Malt Beverage Wholesaler's License. The annual fee for this license shall be \$25.00.

(f) Retail "Class A " Intoxicating Liquor License. The annual fee for this license shall be \$500.00.

(g) Retail "Class B" Intoxicating Liquor License. The annual fee for this license shall be \$500.00.

(h) Retail "Class C" Wine License. The annual fee for this license shall be \$100.00.

(i) Pharmacists License. The annual fee for this license shall be \$10.00.

**(j) Fee for Initial Issuance of Reserve "Class B" Intoxicating Liquor Licenses.** The fee for initial issuance of a reserve "Class B" intoxicating liquor license, as defined by sec. 125.51(4)(a)4 Wis. Stats., shall be \$10,000, except that the fee for an initial issuance of a reserve "Class B" intoxicating liquor license to a bona fide club or lodge situated and incorporated in the state for at least 6 years is \$500. The fee established in this subdivision is in addition to the annual fee for a "Class B" intoxicating liquor license and any other fee required under this ordinance. The annual fee for renewal of a reserve "Class B" intoxicating liquor license is \$500.00. **[Amended by Ord 2007-2]**

**(2) Proration.** The fee for any license issued for less than 12 months shall be prorated according to the number of months including any fractional month for which such license is issued. This provision does not apply to subsection (1)(i), the initial one-time fee in subsection (1)(j), or any temporary license under subsections (1)(c) and (d), above.

**(3) Waiver of Fees in the Event of Annexation of Premises.** Notwithstanding other provisions of this chapter, and except as limited by state statute prohibiting the waiver of statutorily mandated minimum fees, any licensing fees imposed by this section pursuant to an application made for a premises licensed by an adjoining township immediately prior to annexation of said premises into the City may be waived by the Common Council for that portion of the licensing year of annexation remaining until the next succeeding June 30.

**(4) Cancellation for Failure to Pay Fee.** The City Clerk shall issue each license approved by the Common Council and shall make the same available at the Clerk's office in City Hall. Any license for which the license fee is not paid within fifteen ( 15) days of approval of the application by the Common Council shall be considered void and shall be returned to the Common Council for cancellation.

**(5) ECONOMIC DEVELOPMENT GRANTS TO GRANTEEES OF NEW RESERVE "CLASS B" INTOXICATING LIQUOR LICENSES. [Created by Ord 2007-2]**

(a) The City of Richland Center hereby finds that it is in the interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.

(b) Within one (1) year after the granting of any new reserve "Class B" intoxicating liquor license and payment of the \$10,000 initial issuance fee, the licensee may file an application for an economic development grant of up to \$10,000 with the City Clerk. The Clerk shall determine whether the licensee is operating in compliance with the approved license, and the Clerk may require the assistance of any other City agency including the Fire Chief of the Richland Fire District in making said determination. If the Clerk determines that the licensee is so operating, the Clerk shall deliver the finding to the City Council, who may then authorize approval of the economic development grant. If the Clerk determines that the licensee is not in compliance with the approved license, no economic development grant may be authorized and the Clerk shall make such finding in writing and cause to be delivered a copy of the findings to the licensee and to the City Council.

(c) If the licensee disagrees with the Clerk's determination, the licensee may file a written notice of appeal upon the Clerk within 10 (ten) calendar days of the personal delivery to the applicant or mailing to the applicant at the address shown on the application of the written notice of the Clerk's findings, which ever occurs first. Upon receiving such notice from the licensee, the Clerk shall relay said notice to the City Council, which shall hold a hearing thereon. The City Council may affirm or reverse the Clerk's determination. If the Clerk's determination is upheld, appeal thereof may be taken to the circuit court pursuant to Section 753.04, Wis. Stats. If the Clerk's determination is reversed, the City Council shall authorize the payment of the economic development grant.

### **399.06 LICENSE APPLICATION.**

**(1) Contents.** Application for a license to sell or deal in intoxicating liquor, fermented malt beverages, or wine shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by sections 887.01 to 887.04, Wis. Stats., and shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall and all rooms joined by connecting entrances.

**(2) Publication.** The City Clerk shall publish each application for fermented malt beverage and/or intoxicating liquor licenses or "Class C" wine licenses. There is no publication requirement for temporary Class "B" picnic beer licenses under section 125.26 Wis. Stats. or temporary "Class B" picnic wine licenses under subsection 125.51(10) Wis. Stats. The application shall be published once in the official City newspaper, and the cost of publication shall be paid by the applicant at the time the application is filed.

**(3) Publication Fees; Investigation Fee.** Upon the filing of the application, the applicant shall pay the City a sum for publication of the notice of the application for license as computed by the rate per folio for legal notices as established by section 985.08, Wis. Stats., together with a \$15.00 non-refundable investigation fee.

**(4) Amending Application.** Whenever anything occurs to change any fact set out in the application of any license applicant prior to the issue of such license, the license applicant shall file with the issuing authority a notice, in writing, of such change within ten (10) days after the occurrence thereof. Notice of such facts after issue of any license shall be grounds for reconsideration of the approval of any application, upon notice and public hearing.

### **399.07 QUALIFICATION OF APPLICATIONS AND PREMISES.**

**(1) Residence Requirements.** Licenses issued under this chapter shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application. This requirement shall not apply to any person applying for an operator's license.

**(2) Applicant to have Fermented Malt Beverage License.** No retail "Class B" intoxicating liquor

license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

**(3) Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by written lease or by recorded deed. The Common Council may demand written proof of such right of possession.

**(4) Issuance For Sales in Dwellings Prohibited.** No license shall be issued or transferred to any person for the purposes of possessing, selling, or offering for sale any alcohol beverages in any dwelling, house, or residential apartment.

**(5) Age of Applicant.** Licenses for sale of alcohol beverages shall only be granted to persons who have attained the legal drinking age. This requirement shall not apply to any person applying for an operator's license.

**(6) Completion of Training Course.** All applicants shall have successfully completed within the 2 years prior to the date of application a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the State of Wisconsin Department of Revenue or the educational approval board. This paragraph does not apply to an applicant ". who held, or who was an agent, appointed and approved under subsection 125.04(6), Wis. Stats. or this chapter, of a corporation or limited liability company that held within the past 2 years a Class" A ", "Class A", Class IIB", "Class B", or "Class C" license or permit, or a manager's or operator's license.

**(7) Corporation and Limited Liability Company Restrictions.**

(a) No license or permit may be issued to any corporation or limited liability company unless the corporation or limited liability company meets the qualifications under subsections 125.04(5)(a)1 and 125.04(5)(b), Wis. Stats.; unless the agent of the corporation or limited liability company appointed under subsection 125.04(6) and the officers and directors of the corporation, or the members of the limited liability company meet the qualifications of subsections 125.04(5)(a)1 and 3 and (b ) and unless the agent of the corporation or limited liability company appointed under subsection 125.04(6) meets the qualification under subsection 125.04(5)(a)2. The requirement that the corporation or limited liability company meet the qualifications under subsections 125.04(5)(a)1 and (b) does not apply if the corporation or limited liability company has terminated its relationship with all the individuals whose actions directly contributed to the conviction. The agent shall provide written evidence satisfactory to the Committee and Common Council that the agent has sufficient authority over the business affairs of the corporation or limited liability company to be held personally responsible for the conduct of business at the licensed premises, pursuant to subsection 125.04(6)(a)2, Wis. Stats.

(b ) Each corporate or limited liability company applicant may be requested to file with its application for such license a statement by its officers or managing members showing the names and addresses of the persons who are stockholders or members. The Committee or the Common Council, at its sole option, may also mandate the disclosure of each such person's percentage of stock or membership interest.

(c) A license application may be denied and any license issued to a corporation or limited



liability company may be revoked in the manner and under the procedure established in section 125.12 Wis. Stats., when more than fifty percent (50%) of the stock interest, or membership interest, legal or beneficial, in such corporation or limited liability company is held by any person or persons not eligible for a license under this chapter or under state law. A person shall be deemed beneficial owner of any stock or membership interest owned by a parent, sibling, child or spouse not directly involved with active management of the licensed premises, and of stock or membership interest held by any other person or persons in such circumstances that the Committee or the Common Council may determine places the management and control of the operation of the licensed premises in a person not eligible for a license.

**(8) Sales Tax Qualifications.** All applicants for retail licenses shall provide proof, as required by subsection 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e. hold a seller's permit) before they may be issued a license. This paragraph does not apply to applicants for temporary Class "B" or "Class B" licenses, who, pursuant to subsections 125.26(6) or 125.51(10), Wis. Stats., are not required to hold a seller's permit under subchapter III of Chapter 77, Wis. Stats.

**(9) Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

**(10) Limitation on Other Business; Class "B" Premises.** No Class "B" fermented malt beverage license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to the premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

(a) A hotel;

(b) A restaurant, whether or not it is a part of or located in any mercantile establishment;

(c) A bowling alley or recreation premises; and

(d) A club, society or lodge that has been in existence for six (6) months or more prior / to the date of filing application for the Class "B" license or permit.

**(11) Further Restrictions on Class "B" Premises.** No Class "B" fermented malt beverage license shall be issued for any premises which does not conform to all of the following:

(a) The premises shall have no bar, nor shall it have any booths or tables not part of, and within a dining room. This subsection shall not apply to a premises which also holds a "Class B" intoxicating liquor license.

(b) Fermented malt beverages may be dispensed by the glass, can, bottle, or pitcher for consumption, at booths or tables in the dining room by bona fide food customers of the licensed premises, as an adjunct to the consumption of food. This subsection shall not apply to a premises which also holds a "Class B" intoxicating liquor license.

(c) No pool tables shall be allowed or permitted in any room within the licensed premises. This subsection shall not apply to a premises which also holds a "Class B" intoxicating liquor license.

### **399.08 INVESTIGATION.**

Upon receipt of an application for any Retail Class " A", "Class A", Class "B", "Class B", or "Class C" license or combination thereof or Wholesale license, the City Clerk shall send copies thereof to the Fire Department, Building Inspector, and Police Department. The Police Department, Building Inspector and the Fire Department, either jointly or severally, shall make a written report to the Committee, as to whether the premises meet the requirements of this chapter and the Building, Zoning, Fire, and Health Codes. The Chief of Police shall report, in writing to the Committee Chairman as to any police record of an applicant, applicant's agent, stockholder, or member which may reflect habitual violation of law or conviction of a felony.

### **399.09 PROCESSING OF APPLICATION.**

**(1) No Outstanding Indebtedness to City.** No license shall be granted for operation on any premises, or with any equipment, for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.

**(2) Premises to Conform to Code.** No license shall be issued unless the premises conforms to the sanitary, safety and health requirements of the State Building Code, and the State Board of Health. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all requirements of the Code of Ordinances of the City of Richland Center.

**(3) Initial Review and Recommendation by Committee.** The Committee shall review the application, the reports of the departments, and all other information before it, and make a recommendation for approval, denial, or approval with conditions, to the Common Council.

**(4) Consideration of Applicant's Previous Arrest and Conviction Record.** In determining whether a new Class " A" "Class A" Class "B" "Class B" or "Class C" license or combination thereof should be granted, the Committee and the Common Council shall consider the following factors giving to each whatever weight is appropriate in the particular factual circumstances, subject to mandatory provisions of State law:

(a) Arrest and conviction record of the applicant, subject to the limitations imposed by sections 111.321,111.322,111.335, and subsection 125. 12(1)(b), Wis. Stats.;

(b) The financial responsibility of the applicant; and

(c) The location and the premises where the licensed business is to be conducted are appropriate, considering neighboring uses.

**(5) Denial Based Upon Applicant's Previous Arrest and Conviction Record.** In regard to new

license applications, an application may be denied based upon the applicant's arrest and conviction record if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be:

(a) An arrest or conviction which, had the applicant been subject to the provisions of this chapter of the Code of Ordinances, would have resulted in the accrual of 50 or more demerit points over the previous two (2) years; or

(b) Any applicant that has been arrested for or convicted of being an habitual law offender under any provision of the Wisconsin Statutes.

**(6) Procedure.** All license applications, except operator's licenses, shall be granted or denied by the Common Council, either at a regular meeting or at a special meeting convened to consider license applications. Each applicant shall be notified of the date and time of such meeting. Each applicant making application for the issuance of a new license shall be required to appear in person at such meeting. An applicant applying for the renewal of a previously issued license shall not be required to appear in person at such meeting unless the applicant has been notified by the City Clerk that said personal appearance has been mandated by the Common Council. The applicant may be represented by legal counsel at any meeting before the Common Council. The applicant shall be given an opportunity to be heard and may present evidence in support of his or her application to the Common Council. Upon the approval of the application by the Common Council, the City Clerk shall issue the applicant a license, upon payment by the applicant of the license fee and required costs to the City.

**(7) Denial of License Application.** In the event the Common Council denies the license, the applicant shall be notified in writing, by certified or registered mail, or by personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to subsection 19.85(1)(b), Wis. Stats. unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed to the applicant via certified or registered delivery, or personally served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered. In the event the Common Council does not reverse said denial, the applicant shall be notified in writing, by certified or registered mail, or by personal service, of the reasons for the denial.

**(8) Previously Denied Application.** No application for any license which has been denied by the Common Council for any reason shall again be considered by the Common Council for a period of one (1) year from the date of such denial.

**(9) License Review Upon Renewal Application.** Any license which is the subject of renewal shall, prior to license expiration, be reviewed in accordance with the procedure for license investigation contained in section 399.08, and in accordance with such additional procedures as the Committee or the Common Council may require.

**(10) Conditions Precedent for Issuance or Renewal.** The Common Council, may, in voting to grant or renew any license, place reasonable conditions precedent on the issuance or renewal of such license.

**(11) Numbering of License.** 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.

### **399.10 GRANT OF A LICENSE CONDITIONAL UPON COMPLETION OF CONSTRUCTION.**

**(1) Common Council May Grant License Conditionally.** Notwithstanding the time limits set forth herein, whenever the proposed licensed premises is a building to be newly constructed or an existing building upon which major alteration, addition, renovation or other similar work is required in order to bring the premises in conformity with the representations made to the Common Council as part of the application and consideration of the application, or a petition is pending for annexation of the premises to the City , the Common Council may grant a license conditional upon the satisfactory completion of such construction, alteration, addition, renovation or other work, or such annexation.

**(2) Time Allotment.** The Common Council, in making such a conditional grant of a license, may direct the City Clerk to withhold the issuance of the license for such time, not to exceed nine (9) months, as the Common Council deems a reasonable period for completion of such work in conformity with all such representations made to the Common Council, and/or completion of the annexation. Upon request of the applicant, this period may be extended for an additional period not to exceed six (6) months, and the license may be renewed one time with issuance withheld, but no such extension shall be granted unless the applicant has already completed a substantial portion of the construction or renovation of the premises with the original time set by the Common Council for withholding of the issuance of the license pending completion of the work. The Common Council may further require the applicant to notify the City Clerk upon completion of the work, after which the Common Council shall cause such inspection of the premises as it deems appropriate to ascertain that the premises is in conformity with all material representations made to the Common Council at the time of the granting of the license. Upon satisfactory completion of the work, the Common Council may direct the City Clerk to issue the license.

**(3) Failure to Complete Within Time Allotted.** Any material failure to conform with all such representations made to the Common Council as to the proposed licensed premises within the time set for completion of such work and any extensions of such time shall render the decision to grant the license void, and shall be deemed a denial of the application by the Common Council as of the expiration of the time or extended time for completion of construction.

**(4) License Fee Non-Refundable.** In any case where there is a conditional grant of license, and the license is ordered withheld for a time period or periods to allow for construction, and the applicant subsequently fails to satisfy the conditions of the grant of the license by satisfactory completion of such construction within the allotted time, the entirety of the license fee shall be non-refundable

### **399.11 TRANSFER AND LAPSE OF LICENSES.**

**(1) As to Place.** In accordance with the provisions of subsection 125.04(12) Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk. Proceedings for such

transfer shall be had in the same form and manner as the original application. The fee for such transfer is \$10.00. Whenever a license is transferred, the City Clerk shall notify the Wisconsin Department of Revenue of such transfer. No licensee or permittee shall be entitled to more than one transfer during the license or permit year. This paragraph does not apply to a license issued j) under subsection 125.51(4)(v), Wis. Stats., or to a reserve "Class B" license.

## **(2) As to Person.**

(a) In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the City for re-issuance of said license and the City, as the licensing authority, shall in no way be bound to reissue the license to said subsequent purchaser.

(b) If the licensee becomes disabled, the City may, upon application, transfer the license to the licensee's spouse if that spouse may hold that type of license under the Wisconsin Statutes and complies with all requirements under this chapter applicable to original applicants, except that the spouse is exempt from payment of the license fee for the year in which the transfer takes place.

(c) In the event the licensee dies, becomes bankrupt, or makes an assignment for the benefit of creditors during the license year or after the filing of an application, 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. Business may be continued under this subsection only if the personal representative or surviving spouse is a citizen of the United States, and only for a period of one year from the licensee's date of death, unless said operator shall qualify for a new license. Provided, however, the spouse or personal representative or a personal agent authorized in writing to supervise and control the actual operation of the licensed premises shall be an individual qualified to hold the appropriate license under Sec. 125.04(5), Wis. Stats.

(d) Whenever the agent of a corporation or limited liability company that is the holder of a license is for any reason replaced, the licensee shall give the City Clerk written notice of said replacement, the reasons therefor and the name and address of the newly appointed agent. Until the next regular meeting or special meeting of the Common Council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the City Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or by the Chief of Police of the City. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City.

## **(3) Transfers Where Revocation or Suspension Proceedings Threatened or Commenced.**

(a) A license granted under this chapter may not be transferred when any proceeding has been commenced by any authorized person or party or when any proceeding is authorized by the Committee or Common Council to revoke or suspend such license except as provided below.

(b) A license granted under this chapter which is in jeopardy due to a pending license revocation proceeding may be transferred to the owner of the licensed premises where the license holder leases the premises or holds the premises under a land contract, subject to the following terms and conditions:

1. The license has not been revoked following a lawful revocation hearing;

2. The licensee surrenders the license and the owner of the premises applies for said license;
3. License fees will not be prorated;
4. The license has not been transferred under threat of revocation within the past ten (10) years;

and

5. The license holder does not receive any compensation or profit from the license transfer, and does not continue to be active in the management and control of the premises.

### **399.12 POSTING LICENSES; DEFACEMENT,**

**(1) License to be Posted in Conspicuous Place.** Every person licensed in accordance with the provisions of this chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.

**(2) Defacement Prohibited.** It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

### **399.13 GENERAL CONDITIONS AND RESTRICTIONS.**

**(1) License Subject to Conditions.** Any licenses granted pursuant to this chapter shall be granted subject to the following conditions, and all other conditions of this section, and subject to all other ordinances, statutes and regulations of the City and State applicable thereto. Any license granted pursuant to this chapter shall be subject to further regulations and restrictions as may be imposed by the Common Council of the City of Richland Center by amendment to the Code of Ordinances 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 the license may be revoked in accordance with this chapter, and no refund of the license fee shall be made.

#### **(2) Consent to Entry; Search Warrants.**

(a) Every applicant procuring a license thereby consents to the entry of police or any other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles found in violation of City ordinances or state laws. Every applicant further consents to the introduction of such things and articles as evidence in any prosecution that maybe brought for such offenses.

(b) When any complaint shall be made to the judge of the Circuit Court that fermented malt beverage, intoxicating liquor, or wine is being sold or kept for sale in any particular building or premises in the City of Richland Center in violation of this chapter or chapter 125, Wis. Stats., said judge, if satisfied there is reasonable cause for such belief, shall issue a warrant to search for such fermented malt beverage, intoxicating liquor, or wine.

(c) Such warrant(s) shall be directed to any police officer of the City of Richland Center commanding such officer to search the building or premises designated and described therein, and to bring before the said judge of the Circuit Court any such fermented malt beverage, intoxicating liquor, or

wine, found being kept, sold, or kept for sale in violation of the provisions of this chapter, and the person in whose possession the same are found.

(d) When any officer, in the execution of a search warrant shall seize any fermented malt beverage, intoxicating liquor, or wine for which a search is authorized by this subsection, all such property or things shall be safely kept by the direction of the court so long as shall be necessary for the purpose of being produced as evidence on any trial and as soon as may be afterward returned to the owner, destroyed, or otherwise disposed of as the judge of said court may direct.

**(3) Minors.** No retail "Class B" or Class "B" licensee shall permit any underage person, as defined in the Wisconsin Statutes, upon licensed premises except for the purpose of the transactions of business as an employee of the licensee or licensee's agent, or sell, dispense or give away alcoholic beverages to such person, unless accompanied by a parent, spouse or legal guardian who has attained the legal drinking age, except as provided at section 125.07, Wis. Stats.

(a) Family members of the licensee who are minors under the age of 18 years may work in the licensed premises but are not permitted to sell or dispense alcoholic beverages.

(b) It is not a violation of this subsection if an underage person enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcoholic beverages are sold or served if no alcoholic beverages are furnished or consumed by any person in the room where the underage person is present and the Chief of Police of the City of Richland Center, or his designee, issues to the Class "B" or "Class B" licensee a written authorization for non-alcoholic activities or uses, permitting underage persons to be present under this subsection on the date specified in the authorization. Before issuing the authorization, the Chief of Police of the City of Richland Center or his designee shall make a determination all alcoholic beverages on the premises are adequately secured and that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(c) Restaurants. The presence of underage persons in restaurants which are operated under both a Class "B" or "Class B" license or permit and a restaurant permit shall be regulated as provided in subsection 125.07(3)(a)6., Wis. Stats. The presence of underage persons in restaurants which are operated under both a "Class C" license and a restaurant permit shall be regulated as provided in subsection 125.07(3)(a)6m., Wis. Stats.

**(4) Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

**(5) Licensed Operator Required on Premises.** Except as provided in Chapter 125, Wis. Stats., no premises operated under a "Class A", "Class B", Class "A", Class "B", or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages, intoxicating liquors, or wine to customers. For purposes of this paragraph, any member of the licensee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family,

other than the licensee, permittee or agent may serve fermented malt beverages, intoxicating liquors, or wine unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

**(6) Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all premises for which licenses are issued under this chapter.

**(7) Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point on the main entrance of such school, church or hospital to the main entrance to such premises. This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

**(8) Clubs.** No club shall sell or give away any fermented malt beverages, intoxicating liquors, or wine except to bona fide members and guests invited by members.

**(9) Parking Lots.** Parking lots owned or operated by a licensee for customers and patrons of the licensed premises shall be deemed to be a part of the licensed premises, and the licensee shall take reasonable means to prevent, avoid or terminate all fights, unlawful, disorderly, riotous or indecent conduct within or upon such parking lots. The licensee shall also be responsible for the clean up of any litter, trash or debris deposited by any customer or patron onto any lands adjacent to the licensed premises.

## **399.14 HOURS OF OPERATION FOR THE SALE OF ALCOHOLIC BEVERAGES.**

**(1) In General.** Hours of operation whereby the licensed establishment shall be allowed to sell alcoholic beverages shall be in conformity with subsection 125.32(3) Wis. Stats., and shall be further restricted, as allowed by subsection 125.32(3)(d), Wis. Stats., as follows:

### **(2) Sales for On-Premise Consumption.**

(a) No premises for which a retail "Class B" intoxicating liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of intoxicating liquor, fermented malt beverage, or wine to be consumed on-premise or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.

(b) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, golf courses, and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of subsection 399.



14(2)(a), above.

(c) Wholesale licensees shall not remain open for sale between the hours of 5:00 p.m. and the following 8:00 a.m.

**(3) Sales for Off-Premise Consumption (Carryout)**

(a) "Class A" Intoxicating Liquor. Between 9:00 p.m. and the following 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" license, intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

(b) Class "A" Fermented Malt Beverage. Between 10:00 p.m. and the following 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a Class "A" license, fermented malt beverages in original unopened packages, containers or bottles or for consumption away from the premises.

(c) Fermented Malt Beverages to be Secured. All premises having a Class "A" license shall keep said fermented malt beverages maintained in an area which is secured and locked between the hours of 10:00 p.m. and the following 8:00 a.m. If the licensed premises is closed to the public for all purposes between the hours of 10:00 p.m. and the following 7:00 a.m. it is not required that fermented malt beverages be maintained in such secured and locked area.

(d) "Class B" Intoxicating Liquor. Between 12:00 midnight and 8:00 a.m., no person may sell intoxicating liquor on "Class B" licensed premises in an original unopened package, container or ( bottle or for consumption away from the premises.

(e) Class "B" Fermented Malt Beverage. Between 12:00 midnight and 8:00 a.m., no person may sell fermented malt beverage on Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.

**(4) Limitations on Conducting Other Business.** No business under a "Class A" intoxicating liquor license, or under a combination of a "Class A" intoxicating liquor license and a Class "A" fermented malt beverage license, shall be conducted in conjunction with any other business on the same premises unless the area in which the liquor and/or beer is sold shall be arranged and constructed in a manner as to permit and facilitate its closing during the hours and days stipulated by the Wisconsin Statutes and this chapter.

**(5) Business to be Open Within 90 Days.** Within ninety (90) days from the issuance of a license permitted under this chapter, the licensee shall be opened for business with stock and equipment. In the event of his failure to do business within such time, such license shall be subject to revocation by the Common Council after a public hearing. The Common Council may, for good cause shown, extend said ninety (90) day period.

**(6) Revocation for Discontinuation of Business.** If any licensee shall fail to remain open for business for a period of ninety (90) consecutive days or more, such license shall be subject to revocation by the Common Council after a public hearing.

**(7) Prohibition on Carrying Out and Consumption in Certain Areas.** Intoxicating liquor, fermented malt beverages, or wine sold on "Class B", Class "B", or "Class C" licensed premises shall not be carried outside of the licensed premises in open containers, or be consumed by patrons or others immediately outside of the licensed premises, as said premises are described in the relevant license application, and it shall be unlawful for a license holder to permit said carrying out or consumption contrary to the terms of this paragraph. Notwithstanding subsection 399.13(10), this paragraph shall not be interpreted to allow consumption of alcoholic beverages in or on any parking lot owned or operated by the licensee which is used for customers and patrons of the licensed premises. This paragraph shall not be interpreted to prohibit the lawful carrying away from the premises of otherwise legally purchased alcoholic beverages in unopened containers, and any subsequent consumption of such alcoholic beverages away from the premises.

### **399.15 LICENSE QUOTAS.**

**(1) Number of Licenses Allowed.** The number of persons and places that may be granted liquor licenses under this section is limited as provided in the Wisconsin Statutes, except as provided herein.

(a) "Class A" Intoxicating Liquor. No more than four (4) "Class A" intoxicating liquor licenses may be issued.

(b) "Class B" Intoxicating Liquor: No more than six (6) "Class B" intoxicating liquor licenses may be issued. **[Amended Ord 2011-14]**

(c) Class "A" Fermented Malt Beverage. The Common Council may issue at their discretion. **[Amended by Ord 2000-6]**

(d) Class "B" Fermented Malt Beverage: No more than eleven (11) Class "B" fermented malt beverage licenses may be issued. No more than six (6) such licenses may be issued to persons who do not possess a "Class B" intoxicating liquor license for the same premises. **[Amended by Ord 2011-14]**

**(2) Convenience Store Limitation.** The Common Council shall not issue any license other than a Class "A" fermented malt beverage license for premises upon which the principal business is that commonly referred to as a "convenience store", where motor fuels are dispensed to the retail public in conjunction with the sale of such other items such as, but without limitation to, groceries, soft drinks, or other sundries.

### **399.16 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.**

**(1) License Required.** It shall be unlawful for any person or organization, on a temporary basis, to sell or offer to sell any alcoholic beverage upon any City-owned property or privately-owned property within the City of Richland Center, except through the issuance of a temporary Class "B" fermented malt beverage license or temporary "Class B" wine license issued by the Common Council in accordance with Wisconsin Statutes and as set forth in this chapter. A temporary Class "B" fermented malt beverage license or temporary "Class B" wine license authorizing the sale and consumption of beer and/or wine on

City owned property or privately-owned property may be authorized by the Common Council provided the following requirements are met.

**(2) Compliance with eligibility standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in subsection 125.26(6), Wis. Stats., and shall fully comply with the requirements of this chapter.

**(3) Posting of signs and licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage or wine shall be served to any under-age person without proper identification.

**(4) Fencing.** If necessary due to the physical characteristics of the site, the Common Council may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.

**(5) Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

**(6) Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.

**(7) Waiver.** The Common Council may waive or modify the requirements of this section due to the physical characteristics of the licensed site.

**(8) Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims arising from injury to or the death of any person, or any damage to property, caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance or a performance bond prior to being granted the license.

**(9) Intoxication Liquor, Fermented Malt Beverages and Wine Not to be Carried In or Out.** No person shall bring intoxicating liquor, fermented malt beverages, or wine in any form of container with him to any public function within the City of Richland Center for his own consumption or for the consumption of others, except with permission of the Common Council granted for such function. The term "public function" shall be construed to mean any function that is open to the general public with or without admission charge upon any premises in the City. The carry-out of any alcoholic beverage from any such public function at which Common Council permission has been granted is prohibited and such prohibition shall be strictly enforced by the organization.

**(10) Regulation of Types of Containers Allowed on Public Grounds.** It shall be unlawful for any

person, firm, association or corporation to sell, dispense or serve alcoholic or soft drink beverages to any person or persons, at any concession stand or otherwise, upon any public grounds in the City of Richland Center, except in plastic or paper cups, plastic or paper containers, or in an original metal can. Bottled beverages or other glass containers are prohibited.

**(11) Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. In the case of applications for events scheduled to last three (3) or more consecutive days, the application shall be filed a minimum of fifteen (15) days prior to the meeting of the Common Council at which the application will be considered. If the application is for a license to be used in a City Park, the applicant shall specify the main point of sale facility.

**(12) Action by Common Council.** Temporary Class "B" fermented malt beverage and "Class B" wine licenses will be reviewed by the Committee prior to Common Council action thereon. Common Council agendas shall have a general heading of "temporary Liquor License", and such license applications approved by the City Clerk as being in compliance with subsection 125.26(6) Wis. Stats. and this ordinance will be submitted to the Common Council for approval as a matter of course. However, in the case of any applicant desires to appeal a decision made by the City Clerk under this subsection, such appeal may be acted upon by the Common Council under the general heading on the Common Council agenda relative to temporary licenses.

### **399.17 POLICY AND PROCEDURE FOR DISCIPLINARY ACTION, REVOCATION, SUSPENSION, OR NON-RENEWAL OF LICENSE.**

The following provisions shall apply to the revocation, suspension, or non-renewal of any license issued pursuant to this chapter, except those providing for revocation or suspension of any license by the court.

**(1) Complaints for License Investigations.** The following may initiate complaints for license investigations by the Committee, which may result in orders, suspensions, non-renewals, delay in license issuance, or revocation:

- (a) The Mayor;
- (b) The Common Council;
- (c) The Committee;
- (d) The State of Wisconsin;
- (e) An Alderman of the City of Richland Center;

- (f) The Police Chief;
- (g) The Fire Chief;
- (h) The Building Inspector;
- (i) The City Attorney; or
- (j) Any Resident of the City.

**(2) Requirements of Complaint; Summons.**

(a) Complaints for license investigations shall be in writing, shall contain a brief statement of the alleged misconduct, and shall be forwarded by the requesting party to the City Clerk. Upon the filing of the complaint, the Common Council shall issue a summons, signed by the Clerk and directed to any peace officer in the City. The summons shall command the licensee complained of to appear before the Committee on a day and time and at a place named in the summons, 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 summons 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. Service shall be in the manner provided under chapter 801, Wis. Stats., for service in civil actions in circuit court.

(b) The complaint must allege:

1. Conduct by the licensee or any employee or agent thereof that is in violation of section 125.12(2)(ag), Wis. Stats.; or,
2. The licensee has accumulated a total number of assessed demerit points so as to trigger the provisions of subsection 399.17(7).

**(3) Procedure on Hearing.**

(a) If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the Committee finds the allegations sufficient, the license shall be revoked. The City Clerk shall give notice of the revocation to the person whose license is revoked.

(b) The Committee shall serve as the hearing agency for the Common Council. The chair of the Committee, or the chair's designee shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practical, the rules of evidence, provided in section 227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.

(c) If the licensee appears as required by the summons 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. Either party may request a stenographic recording and transcription, and the requesting party shall be solely responsible for all arrangements and expenses of said recording and

transcription. The secretary to the Committee shall mark and receive all exhibits admitted into the record.

(d) Within twenty (20) days of the completion of the hearing, the Committee shall submit a report to the Common Council, including findings of fact, conclusions of law and shall recommend to the Common Council:

1. that no action be taken;
2. that the license be suspended or revoked;
3. that an order be issued and served upon the licensee requiring that certain action be taken as a condition of maintaining said license and providing notice that revocation may be the penalty for failure to strictly comply with the letter and spirit thereof; or
4. that where the licensee leases or holds the licensed premises under a land contract, the license be transferred to the owner of the licensed premises in accordance with subsection 399.11(3), above.

(e) The Committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Common Council. The Common Council shall determine whether the arguments shall be represented orally or in writing or both. If the Common Council, after considering the Committee's report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided below. If the Common Council rejects or modifies the report, the Common Council shall adopt appropriate findings of fact and conclusions of law. If the recommendation of the committee is based upon a stipulation of the parties, the Common Council may accept or reject the recommendation by a simple majority vote. If the Common Council rejects the recommendation, the matter shall be referred back to the Committee for a full fact-finding hearing. If the recommendation is based upon a full fact-finding hearing, the recommendation shall become the decision of the Common Council unless reversed or modified by a simple majority vote. No further evidence shall be allowed before the Common Council.

(f) If the Common Council, after considering the Committee's report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to the report recommending suspension or revocation, the license shall be suspended for not less than one (1) day, nor more than ninety (90) days, or revoked.

(g) If the Common Council finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The Common Council or Committee may require the complainant to provide security for such costs before issuing the summons under this V) section.

**(4) Effect of Revocation.** When a license is revoked under this section, the revocation shall be recorded by the City Clerk and no other license issued under this chapter may be granted within 12 months of the date of revocation to the person whose license was revoked. No part of any fee paid for any license so revoked may be refunded.

**(5) Judicial Review.** The action of the Common Council in granting or failing to grant, suspending or revoking any license, or the failure of the Common Council to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the license was issued, upon application by any applicant, licensee or resident of the City, pursuant to the provisions of section

125.12, Wis. Stats.

**(6) Non-renewal of License.** The City Attorney may, after investigation, commence an action before the Committee to hear evidence and make a recommendation to the Common Council that a license issued pursuant to this chapter not be renewed. The Chairperson of the Committee 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 subsection 399.17(3) shall apply. The commencement of this action shall stay action by the Common Council on the licensee's application until the Committee makes its recommendation.

**(7) Demerit Point Criteria for License Revocation, Suspension, or Non-renewal.** Demerit points shall be assessed against any licensee for all prohibited conduct, violations, acts or omissions committed by the licensee or by any employee or agent thereof, whether or not charged or convicted. Absent compelling mitigating factors as determined solely by the Common Council, any licensee who accumulates 100 or more assessed demerit points within two (2) consecutive license terms shall have their license subject to revocation, suspension, or non-renewal, as a matter-of-course within the discretion of the Common Council.

(a) Fifteen (15) Demerit Points. Fifteen Demerit Points shall be assessed for each occurrence of the following:

1. Violation of Chapter 125 Wisconsin Statutes and/or Chapter 399 of this ordinance governing hours or permitted operation.
2. Violation of Chapter 125 Wisconsin Statutes, and/or Chapter 399 of this ordinance with respect to the required posting and display of license.
3. Violation of Chapter 125 Wisconsin Statutes, and/or Chapter 399 of this ordinance with respect to the quantity of liquor permitted to be sold.

(b) Thirty (30) Demerit Points. Thirty Demerit Points shall be assessed for each occurrence of the following (except as provided in subsection (4)(a),above):

1. Violation of Chapter 125 Wis. Stats.
2. Violation of Chapter 399 of the Code of Ordinances of the City of Richland Center.
3. Filing of a false, misleading, incorrect or incomplete application in violation of the Code of Ordinances of the City of Richland Center.
4. Violation of a State or Federal misdemeanor criminal gambling law or knowingly permitting any such violation.
5. Violation of any State misdemeanor criminal law or City Ordinance prohibiting the use of marijuana or possession thereof without intent to sell or knowingly permitting any person to commit such violation.
6. A conviction for a criminal violation of section 346.63, Wis. Stats., relating to operating a motor vehicle while under the influence of an intoxicant or controlled substance, or with a blood alcohol concentration greater than or equal to 0.10%.
7. Demerit points for violation of subsection 399.13(3), above, and State Statutes related to service of minors and minors on business premises may be reduced to fifteen (15) demerit points, upon

evidence of adequate good faith measures intended to prevent such violations. The defenses to such violation provided at section 125.07 Wis. Stats. shall apply to alleged violations under this section.

(c) Fifty (50) Demerit Points. Fifty Demerit Points shall be assessed for each occurrence 1 of the following:

1. Failure to obey any order, or obstruction of any law enforcement officer or knowingly permitting any person to engage in such conduct.
2. Failure to obey or violation of an Order of the Common Council.
3. Failure to appear before the Committee or Common Council when ordered to do so by either such body.

(d) One Hundred (100) Demerit Points. One hundred Demerit Points shall be assessed for each occurrence of the following:

1. A conviction for a violation of any State or Federal criminal law prohibiting the manufacture, delivery, sale, trafficking in, or possession with intent to sell, of marijuana or any controlled substance, or knowingly permitting any person to commit such violation.
2. A conviction for a violation of state or Federal criminal law which is a felony, lithe circumstances of the charge substantially relate to the circumstances of the licensed activity. (e) Discretionary Demerit Points. Non-scheduled offenses shall be the subject of such number of demerit points as designated by the Common Council, within its discretion.

**(8) Survival of Dismissed Matters.** A dismissal without trial of a criminal charge or civil forfeiture case on a violation which is also the subject of demerit points, shall not, as a matter of law, nullify said charge for the purpose of review herein due to the differing burdens of proof and procedural requirements.

**(9) Delay in License Issuance.** Any person or party who performs a licensed activity without first having obtained a proper license, or who, during a period of license suspension, or who, after license revocation or non-renewal, unlawfully engages in a licensed activity, shall be barred from applying for the required license for a period of six (6) months from the date of such offense.

**(10) New Licenses Granted Subject to Demerit Points.** New licenses may be granted subject to such number of demerit points or other conditions as the Common Council, in its discretion, may deem appropriate, irrespective of the nature of the offense, where the Common Council has concern as to the arrest and conviction record, moral character and business responsibility of the applicant, which is insufficient for license denial.

**(11) Time for Action.** Disciplinary action need not be commenced and completed in the same license year as the offense occurred. Where disciplinary actions are not commenced and completed within a license term, a license shall be granted subject to a "Non-renewal Revocation Hearing", to be held as soon as practical.

**(12) Judgment of Conviction, as Prima Facie Proof of Violation.** The judgment of conviction of any licensee, or employee or agent thereof, in any Municipal, State or Federal Court, irrespective of whether obtained following a plea agreement, or bond forfeiture, shall be prima facie proof of said violation for purposes of this chapter. However, in the instance of any judgment of conviction entered



pursuant to a no contest plea, or considered in law to be rendered pursuant to a no contest plea, said judgment of conviction as a prima facie case may be rebutted.

**(13) Application for Determination of Demerit Points.** Any licensee or party entitled to initiate a request for an investigation under subsection 399.17 ( 1) may at any time request the Committee or the Common Council to determine whether or not conduct which has occurred constitutes a basis for demerit points and a report of outstanding demerit points.

**(14) Violations by agents or employees.** A violation of this section by an authorized agent or employee of a licensee acting in the course of his or her employment shall constitute a violation by the licensee.

**(15) Commencement of Penalties.** Penalties shall commence the day after they have been imposed by the Common Council. Days of suspension shall run consecutively.

**(16) Periodic Reports by Police Chief.** The Chief of Police shall file periodic reports with the Committee advising said Committee of conduct by any licensee, or employees thereof, which may constitute a basis for disciplinary action. The Committee, at license-renewal time, or at any earlier time deemed appropriate may bring such matters to the attention of the City Attorney and make a request for a recommendation on disciplinary action.

**(17) Applicability to Operator's License.** Section 399.17 shall apply to revocation or non-renewal of Operators Licenses, except accrual of fifty or more assessed demerit points shall constitute grounds for revocation or non-renewal of an Operators License. Notwithstanding any provision contained in this chapter, here shall be no "suspended" status for Operator's Licenses.

**(18) State Preemption.** Notwithstanding any provision herein to the contrary, pursuant to 1997 Wisconsin Act 27, no violation of any State law (or local ordinance in conformity therewith) prohibiting sales to underage persons may be considered as the sole basis for suspending, revoking or non-renewing a license unless the licensee has committed another violation within one year preceding the violation. If a licensee or permittee has committed two (2) or more violations within one year, all violations committed within one year of a previous violation may be considered.

**(19) Number of Violations.** Violations of subsection 399.13(3) of this chapter or any State Statute related to service of minors and minors on licensed premises arising from a single or a closely related incident shall not be charged as multiple violations. It is intended by this provision that violations I by two or more persons in the same party or group, or two or more violations at the same time and place by one individual shall be considered a single incident, but multiple violations by individual or unconnected individuals at the same time and place may be considered as separate violations;

**(20) Uncorroborated Testimony by Minor.** Uncorroborated testimony by a minor accused of a violation of the provisions of section 399.26 of this chapter, or the equivalent State Statutes, shall not be deemed sufficient evidence of a violation of subsection 399.13(3) or subsection 399.16(5) of this chapter.

## **399.18 OPERATOR'S LICENSE REQUIRED.**

**(1) Operator's Licenses.** Except as provided in Chapter 125, Wis. Stats., no premises operated under a "Class A", "Class B", Class "A", Class "B", or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages, intoxicating liquors, or wine to customers. For purposes of this paragraph, any member of the licensee's immediate family who has attained the age of 18 years shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve fermented malt beverages, intoxicating liquors, or wine unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

**(2) Use by Another Prohibited.**

(a) No person may allow another to use his or her operator's license or permit to sell alcoholic beverages.

(b) The license or permit of a person who violates subsection (2)(a) shall be revoked.

**399.19 PROCEDURE UPON APPLICATION.**

**(1) Committee To Issue.** The Committee may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk and only to a person eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the City.

**(2) Time of Application; Investigation.** All full-term operator's license renewals must be applied for no later than the First Tuesday of June of each year, to allow sufficient time for conducting proper investigative background checks prior to the June meeting of the Committee. The investigative fee required by this chapter must accompany the application. All applications are subject to an investigation by the Chief of Police and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. The Chief of Police or his designee shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided, concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police or his designee shall provide a written recommendation for approval or denial of the application.

**399.20 DURATION OF OPERATOR'S LICENSE.**

Standard operator's licenses issued under the provisions of this chapter shall be valid for a period of two (2) calendar years and shall expire on the thirtieth (30th) day of June of the second calendar year, including partial term licenses.

## **399.21 OPERATOR'S LICENSE FEE; PROVISIONAL LICENSES.**

### **(1) Fee.**

(a) The fee for a standard operator's license shall be Twenty Dollars (\$20.00) for the two (2) year term, plus a non-refundable Five Dollars (\$5.00) investigation fee.

(b ) Partial year licenses may be issued under this section with the license fee prorated ( according to the following schedule:

1. License granted between July 2nd and December 31st, Twenty Dollars (\$20.00).
2. Licenses granted between January 1st and June 30<sup>th</sup> Fifteen Dollars (\$15.00).

(c) Temporary Operator's License. The City Clerk may issue a temporary operator's license in accordance with subsection 125.17(4) Wis. Stats. The fee for such license shall be \$10.00.

**(2) Provisional Operator's License.** The City Clerk may issue provisional operator's licenses in accordance with subsection 125.17(5) Wis. Stats. The fee for such license shall be \$25.00. The provisional operator's licenses shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The City Clerk may, upon receipt of an application for a provisional operator's license, issue such license without requiring the successful completion of the approved responsible beverage server training course as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his or her successful completion of the approved program. A provisional operator's license shall not be issued to any person who has been denied an operator's license by the Common Councilor who has had his operator's license revoked or suspended within the preceding twelve (12) months. The City shall provide an appropriate application form to be completed in full by the applicant. The City Clerk may revoke the provisional operator's license issued if he or she discovers that the holder of the license made a false statement on the application. Following completion of the approved responsible beverage server training course and subsequent notification from the school, the license application will be presented to the Committee for action. If approved by the Committee, the regular operator's license shall be issued as provided above.

## **399.22 ISSUANCE OR DENIAL OF OPERATOR'S LICENSE.**

**(1) Common Council Grant of Authority to Police, Fire, Liquor Review, and Transportation Committee.** The Common Council hereby authorizes and delegates responsibility to the Committee to review and act upon all initial applications and applications of renewal for operator's licenses required under this chapter. The Committee's actions shall be subject to appeal to the Common Council as provided in subsection (4), below.

**(2) Committee To Act Upon License Application; Personal Appearance Mandated.** A license applications shall be granted or denied by the Committee, either at a regular meeting or at a special meeting convened to consider license applications. Each applicant shall be notified of the date and time of such meeting, and shall appear personally at such meeting. The applicant may be represented by legal counsel at such meeting. The applicant shall be given an opportunity to be heard and may present

evidence in support of his or her application to the Committee. Upon the approval of the applicant by the Committee, the City Clerk shall issue the applicant a license, upon payment by the applicant of the license fee and required costs to the City.

**(3) Waiver of Appearance.** Notwithstanding any provision herein, the Committee may waive the personal appearance of an applicant for a Temporary Operator's License

**(4) Approval of License.** If the Committee approves the granting of an operator's license, the City Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and date of the expiration of such licenses.

**(5) Denial of License and Appeal to Common Council.** In the event the Committee denies the license, the applicant shall be notified in writing, by certified or registered mail, or by personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appeal the denial to the Common Council and the right to appear before the Common Council to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session pursuant to subsection 19.85(1)(b), Wis. Stats. unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed to the applicant via certified or registered delivery, or personally served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered.

**(6) Common Council Action.** If, after reconsideration, the Common Council upholds the Committee's denial of the application, the City Clerk shall notify the applicant in writing, by certified or registered mail, or by personal service, for the reasons for the denial. In the event the Common Council reverses the Committee's denial, the City Clerk shall issue the applicant a license, upon payment by the applicant of the license fee and required costs to the City.

**(7) Consideration of Applicant's Arrest and Conviction Record.** Consideration for the granting or denial of a license will be based on:

(a) Arrest and conviction record of the applicant, subject to the limitations imposed by sections 111.321, 111.322, 111.335, and subsection 125.12(1)(b), Wis. Stats.; and

(b) Whether licensee has been convicted of or committed offenses substantially related to the licensed activity pursuant to subsection 399.18(17) of this chapter.

**(8) Denial Based Upon Applicant's Arrest and Conviction Record.** An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest to conviction of at least two (2) offenses which are substantially related to the licensed activity within the year immediately preceding the license application or activities or violations which would result in 50 demerit points under the provisions of section 399.17, above. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council or its designated Committee, the Common Council and the Committee reserve the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license.

**(9) Application Must Be Complete and Truthful.** An application shall be denied if deemed incomplete. An application shall be denied if the applicant withholds requested information, or makes false or misleading statements on the application.

### **399.23 TRAINING COURSE.**

**(1) Requirement.** Except as provided in subsection 399.23(2), below, the Committee shall not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the State of Wisconsin Department of Revenue 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", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license within the State of Wisconsin; or
- (c) within the past two (2) years, the person has completed such a training course.

**(2) Provisional License.** The Committee may issue a provisional operator's license to a person who shall enroll in a training course under subsection (1), above, and meets all other qualifications of this " chapter. The Committee shall revoke the provisional operator's license if the applicant fails to complete the course in which he or she enrolls.

**(3) Limitations; Additional Materials.** The Committee may not require that applicants for operator's licenses undergo training in addition to that under subsection (1), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection (1).

### **399.24 DISPLAY OF LICENSE.**

Each license issued under the provision of this chapter shall be posted on the premises whenever the operator dispenses beverages.

### **399.25 REVOCATION OR NON-RENEWAL OF OPERATOR'S LICENSE.**

Violation of any of the terms or provisions of chapter 125, Wis. Stats, or of this chapter of the Code of Ordinances of the City of Richland Center by any person holding such operator's license shall be cause for revocation or non-renewal of the license pursuant to the provisions of section 399.17, above.

## **399.26 REGULATION OF UNDERAGE PERSONS.**

**(1) State Statutes Adopted and Incorporated.** As provided for in Wisconsin Statutes section 125.10, the provisions of Wisconsin Statutes subsections 125.07(4)(a), (b), and (bill), 125.085(3)(b) and 125.09(2) regulating the conduct of underage persons are expressly adopted and incorporated into this chapter by reference.

### **(2) Underage Persons; Prohibitions; Penalties.**

(a) Any underage person who does any of the following is guilty of a violation:

1. Procures or attempts to procure alcoholic beverages from a licensee or permittee;
2. Unless accompanied by a parent, guardian, or spouse who has attained the legal drinking age, possesses or consumes alcoholic beverages on licensed premises;
3. Enters, knowingly attempts to enter, or is on licensed premises in violation V) .of subsection 125.07(4) Wisconsin Statutes;
4. Falsely represents his or her age for the purpose of receiving alcoholic beverages from a licensee or permittee; or
5. Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to show that the person has attained the legal drinking age.

(b) Confiscation of Card. A law enforcement officer investigating an alleged violation of subsection 125.085(3)(a) or (b) Wis. Stats. and/or subsection 399.26(2)(a)5., above shall confiscate any identification card or other documentation that constitutes evidence of the violation.

(c) Civil Liability Exemption for Retaining Proofs of Age. No person who holds a license or permit and no employee of such a person is civilly liable for retaining a document presented as proof of age for a reasonable length of time in a good faith effort to determine whether the person who presented the document is an underage person or to notify a law enforcement authority of a suspected violation of either subsections 125.085(3)(a) or (b), Wis. Stats., or of this chapter.

**(3) Certain Possession and Consumption Prohibited.** Any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age, and who knowingly possesses or consumes alcoholic beverages is guilty of a violation of this chapter.

### **(4) Penalties applying to underage persons.**

(a) Any person violating subsection 399.26(2)(a) 1., 2., 4. or 5., is subject to the following penalties:

1. For a first violation, a forfeiture of not less than \$250.00 not more than \$500.00, suspension of the person's operating privilege as provided under subsection 343.30(6)(b)1. Wis. Stats., participation

in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

2. For a violation committed within 12 months of a previous violation, either a forfeiture of not less than \$300.00 not more than \$500.00, suspension of the persons operating privilege as V provided under subsection 343.30(6)(b)2. Wis. Stats., participation in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$500.00 nor more than \$750.00, suspension of the person's operating privilege under subsection 343.30(6)(b)3. Wis. Stats., participation in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$750.00 nor more than \$1,000.00, suspension of the persons operating privilege under subsection 343.30(6)(b)3. Wis. Stats., participation in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

(b) When a court revokes or suspends a person's operating privilege under subsection 399.26(4), the Department Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other persons or agency.

(c) Any underage person violating subsection 399.26(2)(a)3., is subject to a forfeiture of not less than \$100.00 nor more than \$500.00, suspension of the person's operating privileges or any combination of these penalties, as provided at section 125.085 Wis. Stats..

(d) Any person violating subsection 399.26(3) is subject to the following penalties:

1. For a first violation, a forfeiture of not less than \$100.00 nor more than \$200.00, participation in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

2. For a violation committed within 12 months of a previous violation, either a forfeiture of not less than \$200.00 nor more than \$300.00, suspension of the person's operating privilege as provided under subsection 343.30(6)(b)2. Wis. Stats., participate in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

3. For a violation committed within 12 months of 2 previous violations, either a forfeiture of not less than \$300.00 nor more than \$500.00, suspension of the person's operating privilege under subsection 343.30(6)(b)3. Wis. Stats., participation in a supervised work program under subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

4. For a violation committed within 12 months of 3 or more previous violations, either a forfeiture of not less than \$500.00 nor more than \$1,000.00, suspension of the person's operating privilege under subsection 343.30(6)(b)3. Wis. Stats., participation in a supervised work program under

subsection 125.07(4)(cg) Wis. Stats., or any combination of these penalties.

## **399.265 ALCOHOLIC BEVERAGE RESTRICTIONS RELATING TO UNDERAGE PERSONS [Added by Ord 2003-4]**

### **(1) Restrictions.**

(a) No person may procure for, sell, dispense or give away an alcoholic beverages to any underage person not accompanied by his or her parent, guardian or adult spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any alcoholic beverages to any underage person.

(b) No licensee or permittee may sell, vend, deal or traffic in alcoholic beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or sell, vend, deal in or traffic in alcoholic beverages to or with any underage person.

(c) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcoholic beverages used exclusively as a part of a religious service.

(d) No adult may intentionally encourage or contribute to a violation of s. 399.26 (2) (a) of the Ordinances of the City of Richland Center.

### **(2) Penalties and License Suspension for Violation.**

(a) Penalties: A person who violates this section is subject to a forfeiture of:

1. Not more than \$500.00, if the person has not committed a previous violation or ordinance violation within 12 months of the violation; or

2. Not less than \$200.00, nor more than \$500.00, if the person has committed a previous violation within 12 months of the violation.

(b) License Suspension: A Court may suspend any license or permit issued under Chapter 125 of the Wisconsin Statutes to a person and may revoke the person's right to purchase stamps from the Department of Revenue for:

1. Not more than three (3) days, nor more than Ten (10) days, if the Court finds that the person committed a violation within Twelve (12) months after committing One (1) previous violation.

2. Not less than Three (3) days nor more than Ten (10) days, if the court finds that the person committed a violation within Twelve (12) months after committing Two (2) other violations.

3. Not less than Fifteen (15) days nor more than Thirty (30) days, if the court finds that the person committed a violation within twelve (12) months after committing Three (3) other violations.

4. A Court shall promptly mail notice of a suspension under this paragraph to the Department of



Revenue and to the Clerk of each municipality which has issued a license or permit to the person.

### **399.27 POSSESSION OR CONSUMPTION OF INTOXICATING LIQUOR, WINE, OR FERMENTED MALT BEVERAGES IN PUBLIC PLACES AND SCHOOL GROUNDS PROHIBITED.**

**(1) Selling and Serving Alcoholic Beverages on Streets Prohibited.** It shall be unlawful for any person to sell or serve, or offer to sell or serve any intoxicating liquor, wine, or fermented malt beverage upon any public street, or within or upon any vehicle located on a public street within the City of Richland Center.

**(2) Consumption or Possession of Alcoholic Beverages Prohibited in Certain Places.** It shall be unlawful for any person to have in his or her possession any open can, bottle or other container containing fermented malt beverages, wine, or intoxicating liquor, or to drink from the same in the following places:

(a) on any public street, sidewalk, boulevard, parkway, safety zone, alley, or public parking lot owned or maintained by the City of Richland Center;

(b) on any City owned property, except City Parks under authorization from, and pursuant to the terms of any valid permit issued by, the City Park Board;

(c) on the Campus of the University of Wisconsin Richland Center;

(d) within or upon any motor vehicle parked on a public street, alley, or public parking lot owned or maintained by the City of Richland Center-

(e) upon any private parking lot within the City of Richland Center without the express permission of the owner of such private parking lot;

(f) within or upon any vehicle parked upon any private parking lot within the City of Richland Center without the express permission of the owner of such private parking lot; and

(g) in any place where food or soft drinks are sold, or in any place of entertainment or amusement, unless such place be licensed to sell or dispense such intoxicating liquor, wine, or fermented malt beverage, pursuant to Chapter 125, Wis. Stats.

**(3) Permitting Alcoholic Beverages In Certain Places Prohibited.** It shall be unlawful for the owner, operator, or any person employed in any place within the City of Richland Center where food or soft drinks are sold, or any place of entertainment or amusement, to permit any person to drink or to possess or to carry into or onto such premises any intoxicating liquor, wine, or fermented malt beverage unless such place be licensed to sell or dispense such intoxicating liquor, wine, or fermented malt beverage, pursuant to Chapter 125, Wis. Stats.

**(4) Possession of Alcohol Beverages on School Grounds Prohibited.**

(a) In this subsection:

1. "Motor vehicle" means a motor vehicle owned, rented, or consigned to a school.
2. "School" means a public, parochial, or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
3. "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
4. "School premises" means premises owned, rented, or under the control of a school.

(b) Except as provided by subsection (c), below, no person may possess or consume alcohol beverages:

1. On school premises;
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable law, ordinances and school board policies.

#### **(5) Penalties.**

(a) Except as provided in subsection (c), any person who shall violate subsection 399.27(1), 399.27(2), or 399.27(4), shall, upon conviction thereof, forfeit to the City of Richland Center not less than Twenty-five dollars (\$25.00), nor more than Two hundred dollars (\$200.00), as adjudged by the Court, together with the costs of prosecution and any applicable penalty assessment as taxed and assessed by the Court, and in default of payment of such forfeiture and cost shall be imprisoned in the County Jail of Richland County, Wisconsin, for such period of time, but not to exceed ninety (90) days, as shall be adjudged by the Court, unless such forfeiture and costs are sooner paid.

(b) Any person who shall violate subsection 399.27(3) shall forfeit to the City of Richland Center not less than Two hundred fifty dollars (\$250.00), nor more than Five hundred dollars (\$500.00), as adjudged by the Court, together with the costs of prosecution and any applicable penalty assessment as taxed and assessed by the Court, and in default of payment of such forfeiture and cost shall be imprisoned in the County Jail of Richland County, Wisconsin, for such period of time, but not to exceed ninety (90) days, as shall be adjudged by the Court, unless such forfeiture and costs are sooner paid.

(c) Any underage person who violates subsection 399.27(4) shall be penalized as provided in subsections 125.07(4)(c) and (d) and 938.344, Wis. Stats.

**(6) Exceptions.** The Common Council may at its discretion, permit exceptions to the provision of subsection 399.27(1) and subsection 399.27(2), above, by resolution specifying the time, place and any limitations on the described conduct.

### **399.28 PENALTIES.**

**(1) Conformity.** Forfeitures for violations of section 125.07, or 125.085 of the Wisconsin Statutes, adopted by reference by this chapter of the Code of Ordinances of the City of Richland Center shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.

**(2) General Penalty Forfeiture.** Any person who shall violate any provision of this chapter of the Code of Ordinances of the City of Richland Center or any provision of chapter 125, Wis. Stats, for which a specific penalty is not provided, shall, upon conviction, forfeit to the City of Richland Center not less than \$100.00 nor more than \$1,000.00 together with costs and any applicable penalty assessments, and in default of payment of such forfeiture shall be imprisoned in the Richland County Jail for such time as the court imposing such forfeiture shall order, but not to exceed 90 days, unless such forfeiture, costs and assessments are sooner paid.

**(3) Penalties Cumulative.** The imposition of a forfeiture shall not affect the right of the City Council to revoke, suspend, or refuse to renew any license issued under the chapter based in whole or in part upon the act or omission which led to imposition of the forfeiture.

**(4) Additional Court Authority.** Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

### **399.29 SAVINGS CLAUSE.**

If any provision of this chapter of the Code of Ordinances of the City of Richland Center shall be less restrictive than applicable State Statute or in conflict with such statutes, as they exist at passage hereof, or as they may hereafter be amended, then in such case the State Statute shall supersede the provisions hereof, to the extent applicable.

### **399.30 SEVERABILITY**

If any provision of this chapter of the Code of Ordinances of the City of Richland Center is found to be unconstitutional or otherwise contrary to law, then such provision shall be deemed void and severed from such section and the remainder of this section shall continue in full force and effect.

This ordinance shall take effect and be in full force from and after the date of its passage and publication, except those provisions related to retail alcoholic beverage licenses, which shall apply to those licenses issued July 1, 1999, and thereafter.

#####  
2000-06 LIQUOR LICENSE: Amends Chap re: Class A beer licenses AMENDS 399.15 (c)

Class "A" Fermented Malt Beverage. The Common Council may issue at their discretion. **[Amended by Ord 2000-6]**

2001-13 LIQUOR LICENSE: Increases number of Class B licenses AMENDS 399.15 (1)(d)  
8 Class B Beer - no more than 4 issued to persons without Class B liquor  
*Superseded by later ordinances*

2003-04 ALCOHOLIC BEVERAGES: Creates new provisions relating to  
furnishing, selling to underage persons CREATES 399.265

**ORDINANCE 2003- 4**

**ALCOHOLIC BEVERAGES: RESTRICTIONS RELATING TO  
UNDERAGE PERSONS**

**Section I:**

A new Chapter 399.265 of the Code of Ordinances of the City of Richland Center shall be enacted, as follows:

**Chapter 399.265: Alcoholic Beverages: Restrictions Relating to Underage Persons**

## **1. Restrictions.**

(a) No person may procure for, sell, dispense or give away an alcoholic beverages to any underage person not accompanied by his or her parent, guardian or adult spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any alcoholic beverages to any underage person.

(b) No licensee or permittee may sell, vend, deal or traffic in alcoholic beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or sell, vend, deal in or traffic in alcoholic beverages to or with any underage person.

(c) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcoholic beverages used exclusively as a part of a religious service.

(d) No adult may intentionally encourage or contribute to a violation of s. 399.26 (2) (a) of the Ordinances of the City of Richland Center.

## **2. Penalties and License Suspension for Violation.**

A person who violates this section is subject to a forfeiture of:

(a) Penalties: A person who violates this section is subject to a forfeiture of:

(1) Not more than \$500.00, if the person has not committed a previous violation or ordinance violation within 12 months of the violation; or

(2) Not less than \$200.00, nor more than \$500.00, if the person has committed a previous violation within 12 months of the violation.

(b) License Suspension: A Court may suspend any license or permit issued under Chapter 125 of the Wisconsin Statutes to a person and may revoke the person's right to purchase stamps from the Department of Revenue for:

(1) Not more than three (3) days, nor more than Ten (10) days, if the Court finds that the person committed a violation within Twelve (12) months after committing One (1) previous violation.

(2) Not less than Three (3) days nor more than Ten (10) days, if the court finds that the person committed a violation within Twelve (12) months after committing Two (2) other violations.

(3) Not less than Fifteen (15) days nor more than Thirty (30) days, if the court finds that the person committed a violation within twelve (12) months after committing Three (3) other violations.

(4) A Court shall promptly mail notice of a suspension under this paragraph to the Department of Revenue and to the Clerk of each municipality which has issued a license or permit to the person.

This ordinance shall be in full force and effect from and after its passage and publication.

Date Passed:,2003.  
Date Published: 2003

Mayor Rita K Kidd

Jude Elliott, City Clerk/Treasurer

2007-02 LIQUOR: Economic development grant to reserve Class B Licensee  
AMENDS 399.04(1)(j) and  
AMENDS 399.05(1)(j)  
CREATES 399.05(5)

## **ORDINANCE 2007- 2**

**DONE**

### **AN ORDINANCE AMENDING CHAPTER 399 OF THE CODE OF ORDINANCES RELATING TO RESERVE “CLASS B” LICENSES, SETTING FEES AND ESTABLISHING AN ECONOMIC DEVELOPMENT GRANT PROGRAM FOR RESERVE “CLASS B” LIQUOR LICENSEES**

The Common Council of the City of Richland Center, Wisconsin, does ordain as follows:

#### **SECTION 1:**

Section 399.04(1)(j) of the Code of Ordinances is amended to read as follows:

**(j) Reserve “Class B” license.** Pursuant to sec. 125.51 (4)(a)4, Wis. Stats., there is recognized to be a class of licenses known as Reserve “Class B” licenses, which means a license that is not granted or issued by the City on December 1, 1997, but is counted under the City’s quota of “Class B” licenses as computed under sec. 125.51(4)(br) Wis. Stats. **[Amended by Ord 2007-2]**

#### **SECTION 2:**

Section 399.05(1)(j) of the Code of Ordinances is amended to read as follows:

**(j) Fee for Initial Issuance of Reserve "Class B" Intoxicating Liquor Licenses.** The fee for initial issuance of a reserve "Class B" intoxicating liquor license, as defined by sec. 125.51(4)(a)4 Wis. Stats., shall be \$10,000, except that the fee for an initial issuance of a reserve "Class B" intoxicating liquor license to a bona fide club or lodge situated and incorporated in the state for at least 6 years is \$500. The fee established in this subdivision is in addition to the annual fee for a “Class B” intoxicating liquor license and any other fee required under this ordinance. The annual fee for renewal of a reserve “Class B” intoxicating liquor license is \$500.00. **[Amended by Ord 2007-2]**

#### **SECTION 3:**

Section 399.05 (5) of the Code of Ordinances is created to read as follows:

**(5) ECONOMIC DEVELOPMENT GRANTS TO GRANTEEES OF NEW RESERVE  
“CLASS B” INTOXICATING LIQUOR LICENSES. [Created by Ord 2007-2]**

a. The City of Richland Center hereby finds that it is in the interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.

b. Within one (1) year after the granting of any new reserve "Class B" intoxicating liquor license and payment of the \$10,000 initial issuance fee, the licensee may file an application for an economic development grant of up to \$10,000 with the City Clerk. The Clerk shall determine whether the licensee is operating in compliance with the approved license, and the Clerk may require the assistance of any other City agency including the Fire Chief of the Richland Fire District in making said determination. If the Clerk determines that the licensee is so operating, the Clerk shall deliver the finding to the City Council, who may then authorize approval of the economic development grant. If the Clerk determines that the licensee is not in compliance with the approved license, no economic development grant may be authorized and the Clerk shall make such finding in writing and cause to be delivered a copy of the findings to the licensee and to the City Council.

c. If the licensee disagrees with the Clerk's determination, the licensee may file a written notice of appeal upon the Clerk within 10 (ten) calendar days of the personal delivery to the applicant or mailing to the applicant at the address shown on the application of the written notice of the Clerk's findings, which ever occurs first. Upon receiving such notice from the licensee, the Clerk shall relay said notice to the City Council, which shall hold a hearing thereon. The City Council may affirm or reverse the Clerk's determination. If the Clerk's determination is upheld, appeal thereof may be taken to the circuit court pursuant to Section 753.04, Wis. Stats. If the Clerk's determination is reversed, the City Council shall authorize the payment of the economic development grant.

**SECTION 4:**

This ordinance shall be in effect upon its passage and publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2007

2007-07 LIQUOR: Increases number of Class B liquor licenses authorized AMENDS 399.15(1)b)&(d)

**ORDINANCE 2007 - 7**

**DONE**

**AN ORDINANCE AMENDING CHAPTER 399 OF THE CODE OF  
ORDINANCES OF THE CITY OF RICHLAND CENTER RELATING TO  
THE NUMBER OF “CLASS B” INTOXICATING LIQUOR AND CLASS  
“B” FERMENTED MALT BEVERAGE LICENSES AUTHORIZED FOR  
ISSUANCE**

The Common Council of the City of Richland Center, Wisconsin, does ordain as follows:

**SECTION 1:**

Subparagraphs **399.15(1)(b) and (d)** of the Code of Ordinances of the City of Richland Center are amended to read:

(b) “Class B” Intoxicating Liquor: No more than five (5) “Class B” intoxicating liquor licenses may be issued. [**Amended by Ord 2007-7**]

~~(d) Class “B” Fermented Malt Beverage: No more than nine (9) Class “B” fermented malt beverage licenses may be issued. No more than four (4) such licenses may be issued to persons who do not possess a “Class B” intoxicating liquor license for the same premises.—[Ord 2007-7]~~  
**Superseded by 2011-8**

**SECTION 2: EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after its passage and publication.

Enacted the \_\_\_\_\_ day of July, 2007

2011-8 LIQUOR: Adds one additional Class B beer license

AMENDS 399.15(1)(d)

**ORDINANCE 2011 - 8**

**DONE**

**AN ORDINANCE AMENDING CHAPTER 399 OF THE CODE OF ORDINANCES OF THE CITY OF RICHLAND CENTER RELATING TO THE NUMBER OF CLASS “B” FERMENTED MALT BEVERAGE LICENSES AUTHORIZED FOR ISSUANCE**

The Common Council of the City of Richland Center, Wisconsin, does ordain as follows:

**SECTION 1:**

Subparagraph **399.15(1)(d)** of the Code of Ordinances of the City of Richland Center is amended to read:

(d) Class “B” Fermented Malt Beverage: No more than ten (10) Class “B” fermented malt beverage licenses may be issued. No more than five (5) such licenses may be issued to persons who do not possess a “Class B” intoxicating liquor license for the same premises. [**Amended by Ord 2011-8**]

**SECTION 2: EFFECTIVE DATE.**

This ordinance shall be in full force and effect from and after its passage and publication.



Enacted the 5th day of July, 2011