

## CHAPTER 1

### GENERAL PROVISIONS

**1.01 USE AND CONSTRUCTION: (1) TITLE OF CODE:** These collected Ordinances shall be known and referred to as the "Code of Ordinances, Town of Rome, Adams County, Wisconsin." References to the Code of Ordinances, Town of Rome, Wisconsin, shall be cited as follows: "Sec. 1.02, Code of Ordinances, Town of Rome, Wisconsin."

**(2) PRINCIPLES OF CONSTRUCTION:** The following rules or meanings shall be applied in the construction and interpretation of Ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the Ordinances:

**(a)** When an Ordinance requires action by a person, which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

**(b)** The words "Codes," "Code of Ordinances" and "Municipal Code" when used in any Section of this Code shall refer to this Code of Ordinances of the Town of Rome unless the context of the Section clearly indicates otherwise.

**(c)** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law.

**(d)** Every word in these ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa. The masculine gender is used herein solely in the interest of brevity.

**(e)** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.

**(f)** When any Ordinance having the effect of repealing a prior Ordinance is itself repealed, such repeal shall not be construed to revive the prior Ordinance or any part thereof, unless expressly so provided.

**(g)** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referred to the plural number shall also be construed to apply to one (1) person or thing.

**(h)** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

### **(3) CONFLICT OF PROVISIONS:**

**(a)** If the provisions of different Chapters conflict with each other, the provisions of each individual Chapter shall control all issues arising out of the events and persons intended to be governed by that Chapter.

**(b)** If the provisions of different Sections of the same Chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

**(4) SEPARABILITY OF PROVISIONS:** If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these Ordinances.

**(5) EFFECTIVE DATE OF ORDINANCES:**

**(a) Code:** The Code of Ordinances, Town of Rome, Wisconsin, shall take effect as provided by state law.

**(b) Subsequent Ordinances:** All Ordinances passed by the Town Board subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided shall take effect from and after their publication.

**(6) DOCUMENTS INCORPORATED BY REFERENCE:** Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Town Clerk shall maintain in his office a copy of any such material as adopted and as amended from time to time. Materials on file at the Town Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the Town Clerk subject to such restrictions on examination as the Clerk imposes for the preservation of the material.

**(7) AMENDMENTS:** The Town Board may amend the codified ordinances.

**1.02 ISSUANCE OF CITATIONS: (1) METHOD OF ENFORCEMENT:** The Town of Rome hereby elects to use the citation method of enforcement of Ordinances. Law enforcement officers of the Town of Rome, and other authorized officials, are permitted to use the Wisconsin Uniform Citation form for violations of all Town ordinances. Long-form complaints are not required.

**(2) CITATION:** The citation shall contain the following:

**(a)** The name and address of the alleged violator.

**(b)** Factual allegations describing the alleged violation.

**(c)** The date, time and place of the offense.

**(d)** The Section of the Ordinance and/or state statute violated.

**(e)** A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.

**(f)** The time at which the alleged violator may appear in court.

**(g)** A statement, which, in essence, informs the alleged violator:

1. That a cash deposit based on the schedule established by this Chapter may be made which shall be delivered or mailed to the Clerk of Court prior to the time of the scheduled court appearance.

2. That, if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.

3. That, if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.

4. An action might be commenced to collect the forfeiture if no cash deposit is made and the alleged violator does not appear in court at the time specified.

5. A direction that, if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed. Such statement shall be sent or brought with the cash deposit.

6. Such other information as the Town deems necessary.

**(3) SCHEDULE OF DEPOSITS:**

**(a)** The schedule of cash deposits shall be determined by the Deposit Schedule (Bond Book) published by the State of Wisconsin for all offenses falling under its scope. In non-traffic matters, the town attorney shall draft a bond schedule, which shall become effective upon approval by the municipal judge.

(b) Deposits shall be made in cash, money order or certified check to the Clerk of Court who shall provide a receipt therefore.

(4) **PROCEDURE:** Section 66.119(3), Wis. Stats. relating to violator's options and procedure on default is hereby adopted and incorporated herein by reference.

(5) **PENALTIES:**

(a) **General Penalty:** Except where a penalty is provided elsewhere in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows: The offender of the violation will be notified in writing of the violation. If the offender does not comply, a citation will be issued and an injunction is filed in court and the judge will order compliance.

1. **First Offense Penalty:** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) deposit, together with all applicable costs and fees and, when allowed by the court, attorney's fees.

2. **Second Offense Penalty:** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00) deposit, together with all applicable costs and fees and, when allowed by the court, attorney's fees.

(b) **Continued Violations:** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) **Other Remedies:** The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above. The Town may

bring an action in the Circuit Court for Adams County, WI for the abatement of the offense and an injunction prohibiting continued and/or future use of the premise, property, etc. in a manner, which would violate the requirements of the Ordinance.

(d) **Remedies Upon Failure to Pay Fine:** Upon failure of a defendant to pay a fine, the Town may exercise any remedy allowed by law, including, but not limited to, a jail term pursuant to Section 800.095(4)(b)(1) Wis. Stats.

(6) **NONEXCLUSIVITY:** Adoption of this Chapter does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter. The issuance of a citation hereunder shall not preclude the Town or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

**1.03 MUNICIPAL COURT: (1) MUNICIPAL COURT ESTABLISHED:** There is hereby created and established in and for the Town of Rome a municipal court which will be designated "Municipal Court for the Town of Rome".

(2) **JURISDICTION:**

(a) The municipal court shall have jurisdiction as provided in Wisconsin Statutes 755.045 and 800.01, and exclusive jurisdiction of violations of town ordinances, except as provided by Wisconsin Statutes Section 755.045(1) (a) and (b).

(b) The municipal court may, in addition to any fine or penalty that may be imposed by law for any violation or a town ordinance, impose a forfeiture for contempt as provided in Wisconsin Statutes 800.12. This forfeiture shall not exceed fifty dollars, or upon default in payment of the forfeiture, a jail sentence of not to exceed seven days.

(c) The municipal court shall have jurisdiction over juvenile's ages twelve through sixteen years of age for violation of non-traffic ordinance violations.

1. Pursuant to Wisconsin Statutes Section 938.17 (2)(cm) and (d), the town adopts provisions of Chapter 938 of the Wisconsin statutes, specifically Sections 938.02(1), 938.02(10m), and all of Section 938.17, including any amendments and/or revisions thereto.

2. Subject to the provisions and limitations of Chapter 938, and as amended and/or revised, complaints alleging a violation of any provision of this code against persons twelve, thirteen, fourteen, fifteen and sixteen years of age may be brought in the municipal court for the town.

**(3) DISPOSITIONS AND SANCTIONS IN JUVENILE CASES:**

(a) The dispositions contained in Wisconsin Statutes Chapter 938, specifically Sections 938.343 and 938.344 are incorporated by reference as permitted by Section 938.17(2)(cm) and (d) of the Wis. Stats.

(b) The municipal court shall not impose incarceration as a penalty or sanction in a juvenile case. The sanctions contained in Wis. Stats. Chapter 938, specifically Sections 938.17 and 938.355(6), as permitted by Section 938.57(2)(cm) and (d) of the Wis. Stats., are incorporated by reference.

(c) Section 125.07 of the Wis. Stats. is adopted by reference and incorporated herein, including all of the penalty provisions under Chapter 343 of the Wisconsin Statutes as incorporated by Section 125.07.

**(4) PROCEDURE:**

(a) The court shall be open not less than one nor more than four days per month, as the Town Board may direct.

(b) The procedures of the municipal court shall be in accord with the applicable Wis. Stats. and town ordinances. The court shall abide by the Wisconsin Rules of Evidence and the Uniform State Traffic Deposit Schedule. In non-traffic matters, the town attorney shall draft a bond schedule, which shall become effective upon approval by the municipal judge. No bond shall exceed

the maximum penalty, which could be imposed for the ordinance violation. The Police Chief shall be furnished a copy of all bond schedules and amendments thereto.

(c) The municipal court shall collect all forfeitures, fines and costs in any action or proceeding made in the court, and shall pay over such moneys to the town treasurer at such times and in such a manner as the town treasurer directs.

(5) **BAILIFF:** A court officer selected by the Chief of Police shall be assigned as bailiff to the municipal court.

(6) **EMPLOYEES:** Such clerical personnel as are authorized by the Town Board shall staff the court. Such employees will be selected as are other town employees holding similar positions.

(7) **SUBSTITUTE AND INTERIM MUNICIPAL JUDGES:** In the event the municipal judge is ill, absent or unable to perform the duties of the office, the provisions of Section 800.06(1), Wis. Stats. shall apply. In the event of death or resignation, the town board shall appoint an interim municipal judge who shall serve until the next available election date for the office; substitute and interim municipal judges are subject to this chapter in the same manner as is the municipal judge. Substitute municipal judges are not required to, but may be licensed or admitted to practice law in the state. Substitute and interim municipal judges shall receive the same daily fee, as does the municipal judge.

**(8) CASE SCHEDULE:**

(a) Where possible, the following time frames are to be used in the municipal court:

1. Law enforcement officers and others chargeable with the responsibility of writing citations or other legal processes, which provide a court date shall, at the time of issuance of the citation, provide a court date, which is within thirty days of the date of issuance. The failure of an issuing officer or official to provide the opportunity for a hearing within thirty days of the date of issuance shall not,

in any manner, constitute a defense to the violation charged.

2. The court, when granting an adjournment upon request, shall set the adjourned date within thirty days of the date of the request for an adjournment.

3. The municipal judge shall, where a case has been submitted to him in final form, issue a determination of guilt or innocence within thirty days thereafter.

(9) **SALARY:** The salary of the municipal judge shall not be decreased during the term of office.

(10) **FEES AND COSTS:** The Town Board shall set the fees and costs chargeable in this court including a reasonable fee for the processing of a warrant issued under section 800.095 (2) Wis. Stats. Such a warrant fee shall be added to the amount of the unpaid forfeiture and shall be collected at the time of payment of such forfeiture.

(11) **SEVERABILITY:** The provisions of any part of this chapter are severable. If any provision or subsection hereof or the application thereof to any person or circumstances, is held invalid, the other provisions, subsections and applications of this chapter to other persons or circumstances shall not be affected thereby. It is the intent of this chapter that the same would have been adopted had such invalid provisions, if any, not been included herein.