

## CHAPTER 7

### REGULATION AND LICENSING

#### 7.01 ANIMALS:

(1) **TRESPASS PROHIBITED:** It shall be unlawful for any person owning or possessing an animal to permit such animal to do any of the following:

(a) Go upon any private property without the permission of the owner of such property or on any public highway or property unless the animal is leashed or otherwise under the control of a person.

(b) Damage any part of the property of another in any manner whatsoever or to defecate thereon.

(2) **CRIMES AGAINST ANIMALS:** The statutory provisions in Chapter 951 Wis. Stats. are hereby adopted and by reference made a part of this Section as if fully set forth herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this Section. Any future amendments, revisions or modifications of the statutory regulations in Chapter 951 incorporated herein are intended to be made part of this Section.

(3) **DOGS:** The statutory provisions in Chapters 172 and 174 Wis. Stats. are hereby adopted and by reference made a part of this Section as if fully set forth herein. Any act required to be performed or any act prohibited by any regulation incorporated herein by reference is required or prohibited by this Section. Any future amendments, revisions or modifications of the statutory regulations in Chapters 172 and 174 incorporated herein are intended to be made part of this Section.

(a) It shall be unlawful for any person to own, harbor or keep any dog more than five (5) months of age after July 1 of the license year without complying with the provisions of Wisconsin State Statutes and this Section.

(b) The owner or person having control or charge of any dog shall have the animal under restraint at all times. Under restraint, within the meaning of this section, shall mean to be controlled by a leash or by competent person and immediately obedient to that person's command or within a vehicle being driven or parked on the street or on the property of its owner.

(4) **ANIMAL FECES:** The owner or person in charge of any animal shall not permit solid fecal matter of such animal to be deposited on any public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This section shall not apply to a person who is visually handicapped.

(5) **BARKING DOGS OR CRYING CATS:** It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

## 7.02 FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR

(1) **STATE STATUTES ADOPTED:** Except as otherwise specifically provided, all provisions of Chapter 125 of the Wisconsin Statutes describing and defining regulations with respect to alcohol beverages are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. A violation of any such provisions shall constitute a violation of this Chapter.

(a) **Definitions:** As used in this Chapter the terms “Alcoholic Beverages,” “Intoxicating Liquors,” “Principal Business,” “Legal Drinking Age,” “Premises,” “Sell,” “Sold,” “Sale,” “Restaurant,” “Club,” “Retailer,” “Person,” “Fermented Malt Beverages,” “Wholesalers,” “Retailers,” “Operators,” and “Non-Intoxicating Beverages” shall have the meaning given them by Chapter 125, Wisconsin Statutes.

(2) **LICENSE REQUIRED:** No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatsoever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28, 125.51 of the Wisconsin Statutes.

(3) **CLASSES OF LICENSES; FEES:** There shall be the following classes and denominations of licenses which, when issued by the Town Clerk/Treasurer under the authority of the Town Board after payment of required fee, shall permit the holder to sell, deal or traffic intoxicating liquor or fermented malt beverages as provided in Sections 125.17, 125.25, 125.26, 125.28(1) and (2) or 125.51(2) and (3), Wis. Stats:

(a) **Class “A” Fermented Malt Beverages:** Pursuant to Sec. 125.25, Wis. Stats. a Class "A" license may be issued for the sale of fermented malt beverages for consumption off the premises where sold in original packages, containers and bottles.

(b) **Class "B" Fermented Malt Beverages:** Pursuant to Sec. 125.26, Wis. Stats. a Class "B" license may be issued for the sale of fermented malt beverages to be consumed on the premises where sold or off the premises.

(c) **“Class A” Intoxicating Liquor:** Pursuant to Sec. 125.51, Wis. Stats. a “Class A” intoxicating liquor license may be issued for the sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers.

(d) **“Class B” Intoxicating Liquor:** Pursuant to Sec. 125.51, Wis. Stats. a “Class B” intoxicating liquor license may be issued for the sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container.

(e) **Reserve “Class B” Intoxicating Liquor:** Pursuant to Sec. 125.51, Wis. Stats., persons seeking a reserve “Class B” license are required to pay an initial issuance fee. The initial issuance fee for a reserve Class "B" shall be Ten Thousand Dollars (\$10,000.00). Bona fide clubs or lodges situated and incorporated in the state for at least six (6) years are exempt from the initial issuance fee and need only pay the fee for a regular “Class B” license.

(f) **“Class C” Wine:** Pursuant to sec. 125.51(3m), Wis. Stats, a wine license may be granted to applicants meeting the requirements set forth in that statute for the sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(g) Provisional Retail Licenses: Pursuant to Sec. 125.185, Wis. Stats., the Town Administrator, after consultation with the Police Chief and the Town Clerk/Treasurer, is hereby authorized to approve issuance of provisional retail licenses. The fee for such a license shall be \$15. In determining whether to issue a provisional license, the Town Administrator shall follow the requirements set forth in said Sec. 125.185. Additionally, the Town Administrator shall not issue such a license unless he or she is satisfied that the standards set forth in Section 7.02(5) of this Ordinance are likely to be met. Upon approval, the Town Clerk/Treasurer may issue a provisional retail license for up to 60 days or until a retail license is issued to qualified persons. In the event that it is discovered that a material statement in the application was not truthful, the Town Clerk/Treasurer shall revoke the provisional license and notify the licensee of his or her right to appeal the revocation to the Town Board upon written application.

(h) Operator's License: Pursuant to Sec. 125.17, Wis. Stats., the Town Board shall issue an operator's license to any applicant who is qualified under Sec. 125.04(5), Wis. Stats., and who has complied with the training course requirements set forth in Sec. 125.17(6), Wis. Stats. The Police Chief shall conduct a background check on the applicant for the purpose of determining qualifications under Sec. 125.04 (5) and shall make a recommendation to the Town Board regarding whether said qualifications have been satisfied. For the purpose of determining whether an applicant's arrest and/or conviction record prohibits the issuance of an operator's license, the Police Chief and the Board shall rely on Section 111.335(1)(c) and (cs), Wis. Stats. and Sec. 7.02(7) of the Town Code of Ordinances. After receipt of the Police Chief's recommendation and other relevant information, the Board shall consider the application. The Town Board shall set the fee for an operator's license. An initial operator's license shall be valid for one (1) year and shall expire on June 30. A renewed operator's license shall be valid for two (2) years and shall expire on June 30. An application for renewal of an operator's license shall be filed between April 1 and June 30 of the expiration year. An operator's license that has expired may not be renewed; in that event, an application for an initial license must be filed.

(i) Provisional Operator's Licenses: Pursuant to Sec. 125.17(5) Wis. Stats., the Town Administrator, after consultation with the Police Chief and the Town Clerk/Treasurer, is hereby authorized to approve issuance of provisional operators' licenses. The fee for such a license shall be \$15. In determining whether to issue a provisional license, the Town Administrator shall follow the requirements set forth in said Sec. 125.17(5). Additionally, the Town Administrator shall not issue such a license unless he or she is satisfied that the standards set forth therein and in Section 7.02(5) of this Ordinance are satisfied. The Town Clerk/Treasurer may issue a provisional operator's license for up to 60 days, or upon the expiration of the operator's license issued by another municipality, whichever is sooner. In the event that it is discovered that a material statement in the application was not truthful, the Town Clerk/Treasurer shall revoke the provisional license and notify the licensee of his or her right to appeal the revocation to the Town Board upon written application.

(j) Temporary Class "B" (Picnic): Pursuant to secs. 126.26 (6) and 125.51 (10) Wis. Stats., temporary class "B" (picnic) licenses may be issued for the sale of fermented malt beverages or wine at a picnic, meeting or similar gathering of limited duration and may only be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months and to posts of veteran's organizations. An application shall include the fee set by the applicable statute for such a license and shall further include the following (except for posts of veteran organizations): confirmation that the organization has been in existence for at least six (6) months prior to the date of application, a list of officers, a copy of the organization's bylaws or a statement of its purpose, and information about the holding of regular meetings.

(4) APPLICATION FOR LICENSE:

(a) Contents: Application for a license to sell or deal in intoxicating liquor or fermented malt beverages 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 Town Clerk/Treasurer 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 or joined by connecting entrances. An addendum shall be attached to the application setting forth information satisfying the requirements of subsections (5) and (7).

(b) Corporations: Such application shall be filed and sworn to by the president and secretary, if a corporation, or by all members if an LLC.

(c) Publication: The application shall be published according to the Wisconsin Statutes in the official Town newspaper, and the applicant shall pay the costs of publication.

(d) Amending Application: Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof. Any amendment which constitutes a material change, as determined by the Town Clerk/Treasurer after consultation with the Town Attorney, shall be on file for 15 days from its filing and shall be published as provided for in paragraph (c) above.

(e) Material Falsifications: Any applicant who materially falsified an application for an alcohol beverage license will not be eligible to re-apply for an alcohol beverage license for a period of six (6) months from the date of denial of such application. The Town Board may waive the provision of this paragraph, allow the applicants to submit a corrected application, and grant an alcohol beverage license to the applicant, if it appears to the Town Board that any falsifications on the application were the result of inadvertence, excusable neglect, or mistake. Only convictions during the current licensing year for the individual shall be considered for denial of renewal applications unless the Police Chief demonstrates that convictions from previous license years were not considered in granting the current license.

(f) License Quotas: Retail intoxicating liquor and fermented malt beverage licenses issued by the Town Board shall be limited in number to the quota prescribed by state law.

(5) QUALIFICATIONS FOR APPLICANTS AND PREMISES:

(a) Applicant Restrictions: Subject to the additional guidelines for applicant screening under Subsection 7, licenses related to alcohol beverages issued to natural persons under this Section may be issued only to persons who meet the following requirements:

1. Residence Requirements: A Class "A", Class "B", "Class A" or "Class B" license 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 application.

2. Age of Applicant: Except as provided for in sec. 125.04(5)(d)2, Wis. Stats., no license under this section shall be granted to any underage person who has not attained the legal drinking age.

3. Arrest or Conviction Record; Habitual Offenders: No license or permit related to alcohol beverages may, subject to secs. 111.321, 111.322 and 111.335, Wis. Stats., be issued under this chapter to any person who has habitually been a law offender or has been convicted of a felony unless the person has been duly

pardoned. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses, charged as a crime, which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Any applicant who has been convicted of, released from incarceration in any Prison System, or a county jail for, or released from parole or probation status for any felony shall not be eligible for an alcohol beverage license, unless the person has been duly pardoned.

4. Operator's Licenses; Class "A", Class "B" or "Class C" Premises: Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a)10, Wis. Stats., no premises operated under a 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 license or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under §125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under §125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (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 in any place operated under a Class "A", Class "B" or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (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.

5. 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 lease or by deed.

6. Applicant to have Malt Beverage License: No "Class B" license shall be issued to any person who does not have a Class "B" license.

7. No license shall be granted to any applicant for operation on any premises, or for operation with any equipment, for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent.

8. No license or permit shall be granted to any applicant who has delinquent taxes for any real or personal property within the Town or who has delinquent assessments, forfeitures or other financial claims owed to the Town.

9. Paragraphs (7) and (8) shall not prevent the renewal of an existing license if real property taxes are delinquent for not more than one year. Personal property taxes, however, must be current at the time of renewal.

(b) Corporate Restrictions:

1. No license shall be granted to any corporation or limited liability company, which does not comply with the provisions of Sec. 125.04(5)(c) and (6), Wis. Stats.

2. Each corporate or limited liability company applicant shall file with its application for such license a statement by its officers or members showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within five (5) business days after such transfer of stock.

(c) Adequate Parking on Premises: Adequate parking shall be available on-site. The minimum number of parking stalls that will be required shall be determined by dividing the maximum capacity of the establishment, as determined by the Fire Chief, by the number three (3).

(d) Premises Distance from Certain Activities: The premises shall be located at least 300 feet from the following activities: church, chapel, synagogue or other regular place of religious worship; school, public or private; youth recreation center; licensed day care center; library; clinic or hospital. Measurement of the distance shall be determined according to the standard set forth in sec. 10.17 (5)(e) of the Town Code. In addition, premises must be located at least five hundred (500) feet from a sexually oriented business as defined in sec. 7.07(3) (w) of the Town Code of Ordinances

(e) Sexually Oriented Businesses: No license for the sale or consumption of alcohol shall be issued to any sexually oriented business, as that term is defined in Section 7.07 (3) (w) of the Town Code of Ordinances. The offering of sexually oriented entertainment shall serve as a basis for the revocation of a license issued under this section.

(f) No license shall be issued for a “Class B” or “Class C” license unless the premises conforms to the sanitary, safety and health requirements of the State Building Code, and the regulations of the Wis. Department of Health Services applicable to restaurants. 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.

(g) Ordinance Compliance: The applicant and the premises for which the application is made must be in compliance with all other Town ordinances, including but not limited to the zoning code.

(6) INVESTIGATION: The Town Clerk/Treasurer shall notify the Chief of Police, Fire Inspector and Building Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Town Clerk/Treasurer in writing, who shall then forward the same to the Town Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

(7) GUIDELINES FOR LICENSE APPLICATION SCREENING: It is the responsibility of the Town Board to screen applicants for alcohol beverage licenses within the Town of Rome under the licensing authority granted by Chapter 125 of the Wisconsin Statutes; the Town adopts the following guidelines in order to clarify the considerations taken into account when deciding whether to grant an alcohol beverage license. The Town Board retains broad discretionary authority in this area. However, if a decision is made to deny a license, the Board is required to provide that applicant with a written reason for the denial. A copy of these guidelines shall be provided to each applicant for a license.

(a) General Requirements: Consideration for the granting or denial of a license will be based on:

1. Arrest and Conviction Record: Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322, and 111.335, Wis. Stats.

2. Economic Impact: The applicant must demonstrate that the establishment will have a positive impact on the Town. The applicant shall provide estimates as to the assessed value of the establishment as proposed as well as the number of employees.

3. Location: The appropriateness of the location and the premises where the licensed business is to be conducted, including the traffic impact and the impact on the health, safety and welfare of the area.

4. Law Enforcement Impact: The impact the proposed establishment would have on the ability of current law enforcement resources to provide adequate enforcement services to the establishment as well as the impact on service to the rest of the Town shall be considered.

(b) Convictions: Pursuant to Sec. 111.35 Wis. Stats., the Town Board has determined that the nature of the following offenses substantially relates to the activity of selling intoxicating beverages and liquor. Any applicant who has been convicted of the following misdemeanor or ordinance violation within the applicable time frame set forth in the following subcategories will not be eligible for an alcohol beverage license:

5. Within the five (5) year period preceding the date of application:

a. Violent crimes against the person of another, including but not limited to homicide, aggravated battery, sexual assault, injury by negligent use of a weapon, injury by negligent use of a vehicle, or injury by intoxicated use of a vehicle.

b. Crimes involving children, including but not limited to, any abuse of children, contributing to the delinquency of a minor, receiving stolen property from children, selling drugs to children, or any crime involving child pornography.

c. Drug-related offenses involving the sale or manufacture of narcotics or other controlled substances.

2. Within the four (4) year period preceding the date of application:

a. Operating a motor vehicle while under the influence of intoxicants or drugs as a second or subsequent offense.

b. Operating a motor vehicle with a blood alcohol concentration in excess of the legal limit as a second or subsequent offense.

c. An adjudication for refusing to take a blood, breath or urine test as requested by a law enforcement officer pursuant to Sec. 343.305 (9) Wis. Stats., as a second or subsequent offense.

6. Within the three (3) year period preceding the date of application:

a. Crimes involving cooperation with law enforcement officials including but not limited to any offense of filing a false police report, obstructing a police officer, resisting arrest, bribery of public officers or employees, misconduct in public office, perjury, false swearing, assault by prisoner, escape from custody, bail jumping, or bomb scares.

b. Crimes involving dishonesty, theft, or misappropriation of funds, including but not limited to any felony, misdemeanor or ordinance violation for burglary, entry into locked vehicle, theft, fraud on hotel or restaurant keeper, issue of more than one worthless check, receiving or transferring stolen property, loan-sharking, robbery, forgery and retail theft.

c. Alcohol Beverage Offenses, including but not limited to, sale of alcohol beverages without a license or permit, furnishing alcohol beverages to underage persons (furnishing alcohol beverages to underage

persons shall not be used as grounds for suspension, revocation, or non-renewal of an existing license unless the licensee has committed two (2) violations within a one (1) year period), furnishing alcohol beverages to intoxicated persons, or any other violation of Chapter 125 of the Wisconsin Statutes or a local ordinance enacted in conformity therewith. This does not include offenses for possession or consumption of alcohol by a minor.

d. Drug-related offenses not qualifying under 7.02(7)(b)1c, including but not limited to, any offense involving the possession of narcotics or other controlled substances.

7. Within the two (2) year period preceding the date of application:

a. Open intoxicants in public places or in a motor vehicle.

#### (8) LICENSE APPLICATION DECISION

(a) Granting of License: Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk/Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town.

1. 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.

(b) Denial of License: If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reconsidered. In addition, the notice shall inform the applicant that any evidentiary hearing or meeting at which final action will be taken on the reconsideration of the application shall be held in closed session, pursuant to Section 19.85(1) (b), Wis. Stats. unless the applicant requests such hearing and/or meeting be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least five (5) business days prior to the Town Board meeting at which the application is to be reconsidered.

1. Pursuant to sec. 125.12 (2) (b) Wis. Stats., upon denial, suspension, revocation or nonrenewal of a license by the Town Board, an applicant may seek Circuit Court review thereof by certiorari within 30 days of receipt of the final determination

(9) CONDITIONS OF LICENSE: All Class "A", Class "B", "Class A" and "Class B" licenses granted hereunder shall be granted subject to the following conditions and all other conditions of this Section, and subject to all other Ordinances and regulations of the Town applicable thereto:

(a) Posting Licenses; Defacement: Licenses shall be conspicuously displayed as required in sec. 125.04 (10) Wis. Stats. Any licensee who shall fail to post their license as therein required shall be presumed to be operating without a license. 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.

(b) Licensed Operator on Premises: As required in section 125.32 (2) and 125.68 (2) Wis. Stats., no licensed premises may be open for business unless there is present thereupon the licensee, agent (if the



licensee is a corporation or LLC) or some other person who holds an operator's license and is responsible for the acts of all persons serving or selling fermented beverages and/or intoxicating liquor.

(c) Consent to Entry: It is a condition of any license issued under this Section that the licensed premises, delivery vehicles, and any of the business books of account, bank statements, billings, invoices, and any other documents relating specifically to the licensed business may be entered and inspected at any reasonable hour by any law enforcement officer of the Town without any warrant, and application for a license under this section shall be deemed a consent to this provision.

(d) Sales to Underage Persons Prohibited: No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless he or she is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(e) 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.

(f) Health and Sanitation Regulations: As provided for in sec. 125.68 (5) Wis. Stats., the premises for all "Class B" and "Class C" licenses shall at all times be in compliance with the rules of the Wis. Dept. of Health Services governing restaurants.

(g) Gambling Prohibited: Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Section.

(h) Activities Permitted During Closed Hours: The licensee or permittee and employees shall be permitted to performed job- related activities during closed hours. Under no circumstances shall the consumption of alcohol beverages be permitted after closing time. Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning during closed hours. The premises shall be well-lighted during cleanup. Prior approval must be requested and granted by the Town board or its designee for any variance of the above circumstances.

(i) Licensee Responsible for Acts of Agent or Employee: A violation of this Section by a duly authorized agent or employee of a licensee under this Section shall constitute a violation by the licensee or permittee. Whenever any licensee under this Section shall violate any portion of this Section, proceedings for the suspension or revocation of the license of the holder thereof may be instituted in the manner prescribed in Section 12 of this Ordinance.

(j) Continuation of Business: As a condition of maintaining and keeping a license to sell alcohol beverages, a licensee must stay open for business and demonstrate business continuance. Issuance or retention of a license by a party not open for business and not demonstrating business continuation is declared by this ordinance to be against public policy of the Town. No license shall be maintained unless the premises to which it applies begins regular operation within six (6) months from the date of issuance of the license, or fails to be in operation for any consecutive six (6) month period in any calendar year while holding a license. Under this provision, the Town Board may postpone revocation or non-renewal of a license upon consideration of factors including:

1. The reasons why a licensed premises has not been in operation including but not limited to the degree of control the licensee has had over the circumstances leading to non-operation and efforts the licensee has undertaken in order to commence or resume operations; and

2. The likelihood that the premises will commence or resume operations within six (6) months.

(10) NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES:

(a) The licensee, or agent of a corporate licensee, shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed canceled no later than the date of expiration or revocation of the applicable retail Class "B" license.

(b) During the period of any non-alcohol event, a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. The Department shall make cards available to a requesting licensee.

(c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises. During the period of any non-alcohol event, all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be disconnected, disabled or made inoperable.

(11) ABANDONMENT, TRANSFER AND LAPSE OF LICENSE:

(a) Abandonment of Premises: Any licensee holding a license to sell alcohol beverages that abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Town Board. All persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town shall cause such business described in such license to be operated on the premises described in such license for at least two hundred (200) days during the term of such license, unless such license is issued for a term of less than two hundred (200) days, in which event this Subsection shall not apply.

(b) In accordance with the provisions of Sec. 125.04(12), Wis. Stats. a license shall be transferable from one premise to another if the Town Board first approves such transfer. An application for transfer shall be made on a form furnished by the Town Clerk/Treasurer. Proceedings for such transfer shall be in the same form and manner as the original application. The fee for such transfer shall be as set forth in sec. 125.04(12)(a), Wis. Stats. Whenever a license is transferred, the Town Clerk/Treasurer shall notify the Wisconsin Department of Revenue of such transfer within three (3) business days. In the event of the sale of a business or business premise of the licensee, the purchaser of such business or business premise must apply to the Town for re-issuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.

(c) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk/Treasurer written notice of said replacement, the reasons therefore and the new appointment. Until the next regular meeting or special meeting of the Town Board, 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 Town Clerk/Treasurer of notice of disapproval of the successor agent by the Police Chief.

(12) REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL:

(a) Procedure: Whenever the holder of any license under this Section violates any portion of this Section, proceedings for the revocation, suspension or non-renewal of such license may be instituted in the manner and under the procedure established by Chapter 125, Wis. Stats.

(b) Point Values for Alcohol Beverage Violation Revocations and Suspensions:

1. Purpose and Definitions: The purpose of this Subsection is to administratively interpret those portions of this Section relating to establishing an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.

2. Point Schedule: The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and Town Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

Type of Violation	Point Value
Sale of Alcohol Beverages Without License or Permit	100
Sale of Controlled Substances on Licensed Premises	100
Sale of Alcohol Beverages to an Underaged Person	50
Sale of Alcohol Beverages to Intoxicated Person	50
Underaged Person on Premises	50
Intoxicated Bartender; Disorderly Conduct on Premises	50
After Hours Consumption	50
Refusal to Allow Police to Search Premises or Refusal to Cooperate with Lawful Police Investigation	50
Licensee, Agent or Licensed Operator Not on Premises at all Times	25
Persons on Premises After Closing Hours	25
Violation of Carry-out Hours	25
Licensee Permitting Person to Leave Licensed Premises with Open Alcohol Beverage	25
All Other Violations of this Section	25

3. Demerit Points, How Calculated: In determining the accumulated demerit points against a licensee within twelve (12) months, the Town shall use the date each violation was committed as the basis for the determination.

4. Determination of Violations: The Police Chief is authorized to determine if a violation has occurred for which demerit points may be assessed pursuant to this subsection.

5. Notice of Violations: Upon determination that a violation has occurred for which demerit points may be assessed pursuant to this subsection, the Police Chief shall send a letter by regular mail to the

licensee or its agent noting the violation(s), the associated number of points, and the possibility of initiation of suspension or revocation proceedings if the point levels in sub. par. 6. are reached. A licensee may appeal the Police Chief's assessment of points to the Town Board by filing a written appeal with the Town Clerk/Treasurer within thirty (30) days of the Police Chief's letter. Chapter 68 of the Wisconsin Statutes shall govern the appeal process.

(c) Demerit Point Accumulation: The Town Board shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated the point values noted in the following paragraph or who have had referred to it reports from the Town Attorney or Police Chief which, if believed, would result in two hundred (200) demerit points in twelve (12) months.

6. If the demerit point accumulation, calculated from the date of violation, exceeds two hundred (200) points in a twelve (12) month period, two hundred fifty (250) points in a twenty-four (24) month period or three hundred (300) points in a thirty-six (36) month period, the Town Board shall either suspend the license for not less than ten (10) days nor more than ninety (90) days or revoke the license. If the licensee fails to appear for the hearing, the license shall be revoked.

(d) Effect of Revocation of License: If the license(s) is revoked, no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.

7.03 CIGARETTE LICENSE: Pursuant to sec. 134.65, Wis. Stats. no person shall in any manner, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products therefore, without first obtaining a license from the Town Clerk

7.04 DIRECT SELLERS: REGISTRATION REQUIRED: Pursuant to sec. 66.0423, Wis. Stats., it shall be unlawful for any direct seller to engage in direct sales within the Town of Rome without being licensed for that purpose as provided herein.

(1) EXEMPTIONS: The following may be exempt from the provisions of this Section:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling goods at wholesale to dealers in such goods;
- (c) Any person selling agricultural products which such person has grown;
- (d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant and who delivers such goods in their regular course of business;
- (e) Any person who has an established place of business within the School District where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person;
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (h) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Chief of Police proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. or which is exempt from that statute's registration requirements.

(2) REGISTRATION: Applicants must complete and return to the Chief of Police an application form furnished by the Chief of Police, which shall require the following information:

- a. Name, permanent address and telephone number and temporary address, if any;
- b. Height, weight, color of hair and eyes, and date of birth;
- c. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
- d. Temporary address and telephone number from which business will be conducted, if any;
- e. Nature of business to be conducted and a brief description of the goods offered and any services offered;
- f. Proposed method of delivery of goods, if applicable;
- g. Make, model and license number of any vehicle to be used by the applicant or employees in the conduct of the business;

- h. The names of the three (3) municipalities in which the applicant most recently conducted similar business;
- i. Place where applicant can be contacted for at least seven (7) days after leaving this Town;
- j. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offense and the place of conviction.
- k. Documentation: Applicants shall present to the Chief of Police for examination:
  - a. A driver's license or some other proof of identity as may be reasonably required.
  - b. A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities.
  - c. A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
  - d. Any vehicle licensed hereunder shall be insured for liability for property damage and personal injury. A permit shall be issued only upon the condition that the applicant submit to the Town Clerk satisfactory written evidence that the applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than Five Hundred Thousand Dollars (\$500,000.00) per one (1) person, Five Hundred Thousand Dollars (\$500,000.00) per one (1) accident and property damage coverage of not less than Five Hundred Thousand Dollars (\$500,000.00). such vehicles shall comply with Ch. 347, Wis. Stats. relating to equipment of vehicles. The licensee shall comply with such other conditions, including location of sales activities, as may be imposed by the Town Board. The Town Board may refuse to issue a license if the proposed activity is deemed to be unsafe, hazardous or inappropriate for the location.
- l. License Fee:
  - a. At the time the application is filed, a fee shall be paid to the Chief of Police to cover the cost of processing said application. Each and every member of a group must file a separate registration form. The Town Board shall set the fee for a direct seller's, solicitors or canvasser's license. Annual licenses issued on or after July 1 shall be issued for one half (1/2) the required fee. Transient merchants/direct sellers may employ two (2) assistants without payment of an additional license fee, but such persons must comply with the other provisions of this Section.
  - b. The applicant shall sign a statement appointing the Chief of Police his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

c. Subject to sub, (4) herein, upon payment of said fee and the signing of said statement, the Chief of Police shall license the applicant as a direct seller and date the entry. Said license shall be valid for a period of one (1) year from the date of entry, subject to subsequent revocation.

(3) INVESTIGATION:

(a) Upon receipt of each application, the Chief of Police shall make and complete an investigation of the statements made in such application.

(b) The Chief of Police shall refuse to license the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last three (3) municipalities in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7.05 herein.

(4) APPEAL: Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Town Board or, if none has been adopted, under the provisions of Chapter 68, Wis. Stats.

(5) REGULATION OF DIRECT SELLERS:

(a) Prohibited Practices:

1. A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

3. No direct seller shall impede the free use of sidewalks or streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

4. No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) Disclosure Requirements:



1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

2. If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty- five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats. The seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

3. If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof,

(6) REVOCATION OF LICENSE:

(a) The license may be revoked by the Chief of Police if the registrant made any material omission or materially inaccurate statement in the application for a license, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Section or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling The registrant may appeal such revocation pursuant the procedure set forth in Section 7.10 (1 l) herein.

## 7.05 MOBILE FOOD VENDING

(1) **DEFINITIONS:** The following words, phrases and terms wherever they occur in this Ordinance section, shall be interpreted as herein defined:

(a) **Fixed Food Establishment:** shall mean a restaurant or food establishment where food is prepared or served that is a permanent fixed location.

(b) **Mobile Food Vehicle:** shall mean a self-contained, moveable food unit, including vehicles, carts and trailers, where food is prepared, processed, served or sold from, and which periodically or continuously changes location. A Mobile Food Vehicle does not include vehicles that are used solely to transport or deliver food.

(c) **Mobile Food Vendor:** shall mean the owner of a Mobile Food Vehicle, hereinafter referred to as "Vendor."

(2) **MOBILE FOOD VENDING LICENSE REQUIRED:**

(a) It shall be unlawful for any person to operate a Mobile Food Vehicle within a public right-of-way, on public property, or from private property open to the public in the Town of Rome, without first having obtained a valid Mobile Food Vending License as prescribed in this Ordinance.

(b) No Mobile Food Vending License shall be required and no license fee shall be charged for any person or organization vending within an event location area upon which a public event licensed or sanctioned by the Town is occurring.

(3) **MOBILE FOOD VENDING LICENSE APPLICATION:** Any person desiring to operate a Mobile Food Vehicle will make written application for a Mobile Food Vending License to the Town Clerk/Treasurer. The application for such license shall be provided by the Town Clerk/Treasurer's office.

(a) Upon receipt of an application for a Mobile Food Vending License, the Town Clerk/Treasurer may conduct a background check of an applicant and any proposed operator of a Mobile Food Vehicle, and may refer to the Chief of Police or his or her designee who may make and complete an investigation of the statements made in such application. Any such investigation will be completed as soon as practicable. The Town Clerk/Treasurer may refuse to register the applicant if any of the following is determined:

1. The application contains any material omission or materially inaccurate statement.
2. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct sales of food.
3. The applicant failed to comply with any requirements of local or state agencies directly related to establishment as a Mobile Food Vendor.

(b) In review of the application, the Town of Rome may request additional information of an applicant to determine if issuance of a Mobile Food Vending license to a particular applicant would be in the best interest of the public.

(c) Any person denied a Mobile Vending License may appeal the denial to the Town Board by filing a written statement within fourteen (14) days after the date registration was denied, setting forth the grounds for appeal. The Town Clerk/Treasurer will notify the applicant, at least 48 hours prior to the hearing date, time and place of such hearing. Notice will be personally served on the appellant.

#### (4) MOBILE FOOD LICENSE FEES AND CONDITIONS

(a) All Mobile Food Vendors shall pay an annual license fee. The annual license fee for Mobile Food Vendors shall be set by the Town Board and must be paid to the Town at the time of application. This fee shall not be prorated and is non-refundable.

(b) Each Mobile Food Vending License shall expire on December 31 of each year.

(c) A Mobile Food Vendor shall maintain and provide proof of liability insurance, issued by an insurance company licensed to do business in Wisconsin, for any single accident and for any property damage in the amount not less than one million dollars (\$1,000,000.00) per occurrence. Such liability insurance shall be in effect at all times during the duration of the Mobile Food License. Proof of current liability insurance, protecting the food truck vendor, the public and the Town from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the License shall be delivered to the Town Clerk/Treasurer prior to the issuance of the License. If such insurance is cancelled, not renewed, or changed during the duration of the Mobile Food Vending License, the licensee shall immediately provide notice to the Town. Failure to maintain such insurance may result in the suspension or revocation of the License.

(d) A Mobile Food Vending License is not transferrable from person to person.

(e) The Mobile Food Vending License must be permanently and prominently affixed to the Mobile Food Vehicle. A Mobile Food Vending License is not transferrable between Mobile Food Vehicles.

(f) A Mobile Food Vending License acquired under this ordinance may be suspended or revoked by the Town Board upon its finding, after notice to the license holder of the meeting at which suspension or revocation will be considered, that the terms of this ordinance or a permit issued thereunder have been violated. The appeal process under 7.05(3)(c) of this ordinance is available for license holders who have been suspended or revoked under this subsection.

#### (5) MOBILE FOOD VENDING LOCATION AND OPERATIONS REGULATIONS

(a) Mobile Food Vehicle vending locations shall be allowed in all areas of the Town. All Vendors will maintain the appropriate distances from crosswalks and curbs. A Mobile Food Vehicle shall be arranged for waiting on customers and have customers line up in a way that avoids conflict between customers and the traveling public, including pedestrians, parked vehicles and moving vehicles. Mobile Food Vehicles are not permitted on any public sidewalk. Mobile Food Vehicle locations are not restricted on private property.

(b) A person with a valid driver's license of such a classification to allow the operation of the Mobile Food Vehicle shall be with the vehicle at all times that any food service or sales activity is taking place from the Mobile Food Vehicle. Operators shall abide by all parking and traffic laws, ordinances, statutes, rules and regulations at all times, except that a Mobile Food Vehicle that is of such a length that it occupies all or a

portion of two marked parking spaces may park in said spaces as long as it abides by all other parking restrictions, when applicable. The Vendor is liable for any violation of this subsection.

(c) No person shall park or operate a Mobile Food Vehicle in a location adjacent to or within a two-hundred (200) foot radius of the nearest edge of any building or section of a building comprising a licensed Fixed Food Establishment, excluding any patio, awning, or temporary enclosure attached thereto. This requirement may be waived if the most recent application for a Mobile Food Vending License was submitted together with the written consent of the owner of the adjacent licensed fixed food establishment.

(d) Mobile Food Vehicles are allowed adjacent to or within parks within the Town, but shall not be parked or operate in a location adjacent to or within a two-hundred (200) foot radius of the nearest edge of any building or section of a building located in a Town park that sells food or beverages when such sales are occurring. The Town may regulate the location where Mobile Food Vehicles may locate within Town parks.

(e) Mobile Food Vehicles shall be prohibited from connecting to light poles, utility poles, or any public source of electricity, water or sewer, or to any tree or other public amenity. Where applicable, authorization to use any utilities in Town parks may be granted by the Public Works Superintendent. The Vendor is liable for any violation of this subsection.

(f) Mobile Food Vehicle vending hours on public property and in public right-of-way are from 8:00 a.m. to 9:00 p.m. (Sunday through Thursday) and from 8:00 a.m. to 10:00 p.m. (Friday and Saturday). Mobile food vehicles must be closed, the area cleaned and the Mobile Food Vehicle removed by the later of the time specified or the end of an event. For multi-day events, the end of the event shall be the last day of the event. Mobile Food Vehicle vending hours are not restricted on private property locations.

(g) Nothing in this article shall be deemed to supersede or repeal any ordinance relating to noise, park closing hours, or parking, except as specifically provided in the Ordinance. Vendors will take every precaution to ensure that their operations do not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing and unnecessary noise or any noise of such character, intensity or duration as to be detrimental to the life or health of any individual or which is in the disturbance of public peace and welfare.

## 7.06 STREET USE EVENTS:

(1) **PURPOSE:** The streets in possession of the Town are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Police Chief may grant a permit for street use, subject to reasonable municipal regulation and control\* Therefore, this Section is enacted to regulate and control the use of streets pursuant to a Special Event Permit to the end that the health, safety and general welfare of the public and the good order of the Town can be protected and maintained.

### (2) **APPLICATION:**

(a) A written application for a Street Use Event Permit by persons or groups desiring the same shall be made on a form provided by the Town. The application shall set forth the following information regarding the proposed street use:

1. The name, address and telephone number of the applicant or applicants.
2. If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
3. The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
4. The date and duration of time for which the requested use of the street is proposed to occur.
5. An accurate description of that portion of the street proposed to be used.
6. The approximate number of persons for who use of the proposed street area is requested.
7. The proposed use described in detail, for which the Street Use Permit is requested.

(b) The person or representative of the group making application for a Special Event Permit shall be available to provide any additional information, which is reasonably necessary to make a fair determination as to whether a permit shall be granted.

(c) The application for a permit shall be filed with the Police Chief at least thirty (30) days before the proposed date of the special event.

### (3) **STANDARDS:**

(a) The Chief of Police shall review the application and shall grant the permit if he determines that the:

1. Use will not unduly disrupt traffic.
2. Use will not unduly interfere with firefighting and rescue equipment.
3. Use will not require such police supervision as to impair normal police protection for the Town.
4. Use will not be held purely for private profit or promotion.

5. Permit does not conflict with any other permit issued for the same date.
  6. Litter along the route is to be removed within twenty-four (24) hours.
    - a. The Chief of Police, in denying an application for a Special Event permit, may authorize a special event at a time or over a route different from that named by the applicant. An applicant desiring to accept the alternate permit shall, within two (2) business days after the action of the Chief, file a written notice of acceptance with the Police Chief.
    - b. No person shall interfere with, participate in without authority, or drive through a special event.
- (4) **INSURANCE:** The applicant for a Special Event Permit may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town on account of any injury to or 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 permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Town of Rome. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (5) **TERMINATION OF A STREET USE EVENT:** A Special Event Permit for an event in progress may be terminated by the Chief of Police if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or Ordinances of the Town of Rome. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

## 7.07 LICENSEES TO PAY LOCAL CLAIMS; APPELLATE PROCEDURES:

(1) Nonpayment of Taxes or Forfeitures: The Town shall not issue or renew any license to transact any business within the Town of Rome:

- (a) For any purposes for which taxes, assessments or other claims of the Town are delinquent and unpaid.
- (b) For any person who is delinquent in payment of any forfeiture resulting from a violation of any Town Ordinance.

(2) Applicability: This Section shall apply to licenses issued pursuant to the provisions of this Code of Ordinances.

(3) Hearing: With respect to licenses other than those described in sections 7.02 and 7.08 herein, the Town Board or its assignee shall notify the applicant in writing of the Town's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than twenty (20) days after the date of the notice on which the applicant shall appear before the Town Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for non-renewal exist, the Town Board shall conduct a hearing with respect to the matter. At the hearing, both the Town and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Town Board determines the applicant shall not be entitled to renewal, the application for renewal shall be denied. Counsel may represent all parties. The Board shall consider all relevant information and shall render a decision, which shall be binding.

## 7.08 SEXUALLY ORIENTED BUSINESSES:

(1) INTENT: It is the intent of this ordinance to regulate Sexually Oriented Businesses and related activities to promote the health, safety, and general welfare of the citizens of the Town of Rome, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses within the Town of Rome. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

(2) FINDINGS: Based on evidence concerning the adverse secondary effects of Sexually Oriented Businesses on the community in reports made available to the Town Board, and on the holdings and findings in the cases of City of Erie v. Pay's A. M., 120 S. Ct. 1382 (2000); Cit of Renton v. Pla time Theatres. Inc., 475U.s. 41(1986); Young v. American Mini Theatres. 426 U.s. 50, (1976); and Barnes v. Glen Theatre. Inc., 501 U.S. 560 (1991); City of Newport. KY v. Iacobucci, 479 U.s. 92 (1986); United States v. O' Brien, 391 U.s. 367 (19""); Schultz City of Cumberland, case Nos. 984 126 and 98-4209 (7th Cir., September 26, 2000)(2000 U.S. App. LEXIS 23773); DLS, Inc. v. City of Chattanooga, 107 F3d 403 (6ti- Cir. 1997); Key. Inc. v. Kitsap County, 793 F. 2d 1053(9th Cir. 1986); Hang On. Inc\* v. City of Arlington, 6SF. 3d 1248 (5th Cir. 1955); East of the River Enter rises 11 v. Cit of Hudson, 2000 WI. App. Lexis 734 (Ct. App. Aug. 1,2000); and Urmanski v. Town of Bradley, 2000 WI App. 141,613 N.W.2d 905

(Ct. App. 2000), as well as studies and summaries of studies conducted in other cities, including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland. Ohio; and Beaumont, Texas; and findings reported in the Regulation of Adult Entertainment Establishments in St. Croix County, Wisconsin', and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the Town Board finds that:

- (a) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.
- (b) Studies of the relationship between sexually oriented businesses and neighborhood property values have found a negative impact on both residential and commercial property values.
- (c) Sexually oriented businesses may contribute to an increased public health risk through the spread of sexually transmitted diseases.
- (d) There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.
- (e) The consumption of alcoholic beverages on the premises of a Sexually Oriented Businesses exacerbates the deleterious secondary effects of such businesses on the community.

(3) DEFINITIONS: The following terms shall have the following meanings:



(a) Adult arcade means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities or 'specified anatomical areas.

(b) Adult bookstore or adult video store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or 'specified anatomical areas"; or

2. instruments, devices, or paraphernalia that are designed for use in connection with 'specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing 'specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(c) Adult cabaret means a nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of Nudity or Semi- nudity; or

2. Live performances that are characterized by "specified sexual activities"; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or Nudity or 'specified anatomical areas".

(d) Adult motel means a hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions, which are characterized by the depiction of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3 Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours,

(e) Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(f) Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(g) Breast means the human female mammary gland.

(h) Buttocks means the area at the rear of the human body referred to as the gluteus maximus, the fleshy part of the body at the back of the hips upon which a person sits.

(i) Employee means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

(j) Entertainer means

1. Any person who appears in a state of Semi-nudity in a Sexually Oriented Business; or
2. Any person who engages in live performances that are characterized by "specified sexual activities.

(k) Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(l) Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration,

(m) Establishment means and includes any of the following:

1. The opening or commencement of any Sexually Oriented Business as a new business;
2. The conversion of an existing business, whether or not a Sexually Oriented Business to any Sexually Oriented Business;
3. The additions of any Sexually Oriented Business to any other existing Sexually Oriented Business; or
4. The relocation of any Sexually Oriented Business; or
5. A Sexually Oriented Business or premises on which the Sexually Oriented Business is located.

- (n) Licensed day-care center means a facility licensed by the State of Wisconsin, under sec. 48.65, Stats, whether situated within the Town or not, that provides care, training, education, custody, treatment or supervision for more than four (4) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for profit or charges for the services it offers.
- (o) Nudity or state of nudity means the appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or the showing of the covered male genitals in a discernibly turgid state;
- (p) Operator means the person on the premises who is responsible for the control and management of the Sexually Oriented Business.
- (q) Patron means a customer on the premises of a Sexually Oriented Business,
- (r) Person means an individual, proprietorship, partnership, corporation, association, or other legal entity,
- (s) Premises means the real property upon which the Sexually Oriented Business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the Sexually Oriented Business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the owner or operator of the business.
- (t) Regularly means recurring on a basis which is frequently, customarily or typically.
- (u) Semi-nude or semi-nudity means the exposure of a bare male or female buttocks or the female breast below a horizontal line across the top of the areola at its highest point with less than a complete and opaque covering.
- (v) Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
- (w) Sexually Oriented Business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or sexual encounter center.
- (x) Specified anatomical areas means:
1. The human male genitals in a discernibly turgid state, even if fully and opaquely covered;
  2. Less than completely and opaquely covered human anus, anal cleft or cleavage, genitals, pubic region, or the nipple or areola of the female breast.
- (y) Specified sexual activity means:

1. The fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts, whether covered or uncovered;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated, or;
4. Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

(4) REGULATION OF SEXUALLY ORIENTED BUSINESSES:

- (a) It shall be a violation of this ordinance for any Person to knowingly and intentionally appear in a state of Nudity in a Sexually Oriented Business.
- (b) No person shall perform specified sexual activities on the licensed premises.
- (c) The use of simulated sexual organs is prohibited on the licensed premises.
- (d) The sale use, or consumption of alcoholic beverages on the Premises of a Sexually Oriented Business is prohibited,
- (e) No Person, Employee or Patron shall be permitted to have any physical contact with any Entertainer on the Premises during any performance. All performances shall only occur on a stage or table that is elevated at least eighteen (18) inches above the immediate floor level. To prevent actual physical contact between an Entertainer and any other Person, Employee, or Patron, all performances shall not be less than five (5) feet from any area occupied by any Patron. Persons, Employees and Patrons shall not have any physical contact with, and shall not be less than five (5) feet from, any Entertainer during the payment of a tip or gratuity.
- (f) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the Premises of a Sexually Oriented Business at any time the Sexually Oriented Business is open for business.
- (g) It shall be the duty of the Operator of each Sexually Oriented Business to ensure that an attendant is stationed at each public entrance to the Sexually Oriented Business at all times during such Sexually Oriented Businesses regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the Sexually Oriented Business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid:
  1. Operator's, commercial operator's, or chauffeur's driver's license; or
  2. Personal identification card issued by the state of residence of the individual seeking entry reflecting that such person is eighteen (18) years of age or older; or
  3. Passport or official identity card issued by the government of the nation of which the individual seeking entry is a citizen.
- (h) No Person shall cause another to commit a violation of this ordinance, nor shall any Person permit such violation to occur on any Premises under his/her control, tenancy, management or ownership.

(i) No Sexually Oriented Business regulated by this Section may remain open between the hours of 2:00 a.m. and 8:00 a.m., except on Saturday and Sunday, when the closed hours shall be between 2:30 a.m. and 8:00 a.m.

(j) All Premises governed by this Section shall be required to post signs provided by the Town of Rome, which state: By Town of Rome Ordinance: The use or consumption of alcoholic beverages on these premises is prohibited. No person shall be permitted to have any physical contact with any entertainer. No person shall be less than five (5) feet from any entertainer, including during the payment of tips\* Violators may be subject to a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500) per violation.

(k) Each entryway to a Sexually Oriented Business featuring live entertainment shall through use of a vestibule, screening, or double doors, and with window coverings, eliminate any direct line of sight from the exterior of the building to any Entertainer on the Premises. There shall be no interior entrance to or exit from a Sexually Oriented Business from or into an adjoining premise which is not a Sexually Oriented Business. The interior premises of a Sexually Oriented Business shall not be visible by any means from another premise, whether adjoining or separate, which, is not a Sexually Oriented Business,

(l) Law enforcement access: Law enforcement shall be allowed access to the Premises at all times.

(m) Manager: A manager shall be on the Premises at all times the Business is open. The manager shall be responsible for controlling the behavior of customers and Entertainers.

(n) Monitoring: The business shall be equipped with video cameras sufficient to monitor and record the parking lot and entire exterior of the building for a minimum distance of ten (10) feet from the exterior walls. Tapes of the monitoring shall be kept for a minimum of seven (7) days and shall be provided to law enforcement upon request.

(o) Exterior Lighting: The entire parking lot shall be illuminated sufficiently for patrons to safely walk to and from their vehicles. A ten (10) foot perimeter of the exterior of the building shall be illuminated sufficiently to allow the adequate performance of the video surveillance required in paragraph (n).

(p) Physical Layout of Premises: No Sexually Oriented Business shall have available for customers, patrons, or members, any booth, room or cubicle for the private viewing of any adult entertainment unless the following requirements are complied with:

1. Access. Each booth, room, or cubicle shall:

a. Be separated from adjacent booths, rooms, or cubicles and any non-public areas by a wall;

b. Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room, or cubicle;

c. Have solid, non-breakable, walls without any openings, extended from the floor to a height of not less than six (6) feet and shall be light colored, with a nonabsorbent, smooth textured and easily cleanable surface;

d. Have a light colored, nonabsorbent, smooth textured and easily cleanable floor;

- e. Have at all times when not in use a minimum lighting level of ten (10) foot candles as measured three (3) feet above the floor.
2. Only one (1) individual shall occupy a booth, room, or cubicle at any time.
3. The Operator shall ensure there is conspicuously posted inside each booth, stall, partitioned portion of a room, or individual room an un-mutilated and un-defaced sign or poster supplied by the Health Department which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
4. The Operator shall ensure that there is conspicuously displayed at a place near the main entrance of the Establishment, or portion thereof, any information, brochures, or pamphlets supplied by the Health Department pertaining to sexually transmitted diseases.
5. The Operator shall ensure there is posted regulations concerning booth occupancy on signs with lettering at least one (1) inch high that are placed in conspicuous areas of the establishment and in each of the viewing enclosures.
6. Public Display: The public display, through windows, doors, signs or otherwise, of explicit materials, depictions and performances are prohibited.

#### (5) ANNUAL SEXUALLY ORIENTED BUSINESS LICENSE REQUIRED

(a) Application: Application for an annual Sexually Oriented Business license shall be made to the Town Clerk. The Clerk shall notify the Police Department and Fire Chief of the license application, publish a Class I notice of such application and have the license application submitted to the Town Board within thirty (30) days of application. Investigating officials shall submit written reports and recommendations to the Town Board. A public hearing shall be held on the application, preceded by a Class II notice. The Town Board may take any testimony regarding the granting or denial of such license. The application shall include the following:

1. Name, including all aliases, address and date of birth of applicant;
2. Written proof that the individual is at least eighteen (18) years of age;
3. All residential addresses of the applicant for the past ten (10) years;
4. The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;
5. The exact nature of the entertainment to be conducted;
6. Whether the applicant previously operated in this or any other state, county or municipality under a Sexually Oriented Business license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation (the applicant shall provide the name of the municipality/state where such license was suspended or revoked);

7. All criminal and traffic convictions, whether Federal or State, or municipal Ordinance violation convictions and forfeiture of bond on all charges, except traffic offenses;
8. Fingerprints made by a law enforcement agency and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;
9. The address of the sexually oriented business to be operated by the applicant;
10. Proof of right to occupy the premises; and
11. If the applicant is a corporation, the application shall specify the name of the corporation, the date and State of incorporation, and the name and address of the registered agent of the corporation.

(b) General Standards: To receive a license to operate a sexually oriented business, an applicant must meet the following standards:

1. If the applicant is an individual:
  - a. The applicant shall be at least eighteen (18) years of age;
  - b. Subject to Chapter 111, Wis. Stats., the applicant shall not have been convicted of or pleaded nolo contendere, or have charges pending or deferred prosecution to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
  - c. The applicant shall not have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.
2. If the applicant is a corporation:
  - a. All officers, directors, and others required to be named under paragraph (a) above shall be at least eighteen (18) years of age;
  - b. Subject to Chapter 111, Wis. Stats., no officer, director, or other person required to be named under paragraph (a) above shall have been convicted of a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
  - c. No officer, director or other person required to be named under paragraph (a) above shall have been found to have previously violated this section within five (5) years immediately preceding the date of the application.
3. If the applicant is a partnership, joint venture, limited liability company or any other type of organization where two (2) or more persons have a financial interest:
  - a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;

b. Subject to Chapter 111, Wis. Stats., no person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and

c. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Section within five (5) years immediately preceding the date of the application.

(c) Investigation. No license shall be issued unless the Town of Rome Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Town Clerk no later than thirty (30) days after the application.

(d) Inspection: The Fire Chief and/or Police Chief shall inspect the Premises proposed to be licensed to verify compliance with the Town Code of Ordinances, and shall report compliance findings to the Town Clerk within thirty (30) days of the date of application,

(e) Proof: No license shall be issued unless the applicant provides proof of one (1) of the following:

1. Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible non-conforming use status.

2. A lease on a building which is properly zoned to house the Establishment. Proper zoning includes permissible non-conforming use status.

3. An option to purchase property which is properly zoned for the Establishment.

4. An option to lease property which is properly zoned for the Establishment. Proper zoning includes permissible use status.

(f) Action: The Town Board shall approve, modify or reject the application based on the factors set forth in this Section. The reasons for the action taken shall be specified in the written record of the Town Board.

(g) Probationary Period: If a license issuance is approved by a majority of the Town Board, an initial applicant shall be granted a probationary license by the Clerk. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations under this Section occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied by the Town Board, the Town Board shall specify the findings made that support that denial.

(h) License term: The license granted under this Section shall expire on June 30<sup>th</sup> of each year and each license shall be subject to revocation as hereinafter provided.

(i) Form of License: The Town Clerk shall be responsible for, following Town Board action, issuing licenses under this section. All such licenses shall specify the nature of the holder of the license and the date for which it is applicable, as well as any conditions that may be imposed by the Town. All such licenses shall be open to public inspection and posted in public view on the Premises for which issued.



- (j) Fee: All license applications shall be accompanied by a fee set by the Town Board by resolution,
- (k) Number of Licenses Limited: No more than two (2) sexually oriented business licenses, issued under this Section, shall be issued within the Town of Rome at one (1) time, and no more than one (1) license shall be issued to any one (1) individual, partnership or corporation,
- (l) Renewals: The holder of an annual license granted under this section shall submit an application for renewal at least sixty (60) days before the expiration of the license; failure to comply with this application schedule shall mean that the license shall lapse and any new application shall be reviewed as a new application. Such license may be renewed pursuant to the provisions of this section that apply as to notice being given by the Town Clerk and provisions for publication and action by the Town Board.
- (m) Penalty: In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation or non-renewal, anyone who violates any of the provisions of this section shall be subject to forfeiture for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law. Citations may be issued to the license holder or to his/her employees, operators or agents.
- (n) License Suspension, Revocation or Non- Renewal: In General: Any sexually oriented business license granted herein may be revoked, suspended or not be renewed by the Town Board as follows:
1. If the applicant has made or recorded any statement required by this section knowing it to be false or fraudulent or intentionally deceptive.
  2. For the violation of any provision of this section; in such case the license shall be revoked after the second (2) conviction thereof in any license year.
  3. After one (1) conviction of any Establishment personnel of an offense under Ch. 944 Wis. Stats., or of an offense against the person or property of a patron of the Establishment or of an offense involving substance scheduled in Subchapter II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
- (o) Notice of Hearing: No license shall be revoked, suspended, or not renewed by the Town Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
- (p) Hearing: The licensee shall be entitled to be heard, to be represented by counsel, to cross examine opposing witnesses, to present witnesses on his or her own behalf under subpoena by the Town Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions of law as to what, if any, action the Town Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.
- (q) License Transfer: Any license granted under the provisions of this section shall not be transferable. All license applications shall be original or for a renewal.

(6) EXEMPTIONS: The provisions of this Section do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this Ordinance seeks only to minimize and prevent the secondary effects of Sexually Oriented Businesses on the community. Negative secondary effects have not been associated with these establishments.

(7) PENALTIES:

(a) Violations of this section or the Town Zoning Ordinance are declared to be a public nuisance per se, which shall be abated by the Town Attorney by way of civil abatement procedures.

(b) Any person, partnership, or corporation who violates any of the provisions of this section shall be subject to the forfeiture and penalty specified in Section 1.02(5) (a) of the Code of Ordinances of the Town of Rome. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues.

(8) SEVERABILITY: If any portion, subsection, sentence, clause, phrase, word or provision of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and any such holdings shall not affect the validity of the remaining portions of this Section. It is the legislative intent of the Town Board that this Section would have been adopted if such illegal provision had not been included or any illegal application had not been made.

## 7.09 LARGE PUBLIC EVENTS:

### (1) PURPOSE:

(a) It is the purpose of the Town to regulate the assemblage of large numbers of people in excess of those normally needing the health, sanitary, fire, police, transportation, and utility services regularly provided in the Town in order that the health, safety, and welfare of all persons in the Town of Rome, residents and visitors alike, may be protected.

(b) It is the intent of this Board that all sections and provisions of this Section should have an independent existence and, should any section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of this Board that any section or provisions so declared shall be severable from and shall not affect the validity of the remainder of the Section.

### (2) LICENSE REQUIRED:

(a) No person other than the Town of Rome shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, or sell or give tickets to an actual or reasonably anticipated assembly of one thousand five hundred (1500) or more people which continues or can reasonably be expected to continue for four (4) or more consecutive hours, whether on public or private property, unless license to hold the assembly has first been issued by the Chief of Police, application for which must be made at least twenty (20) days in advance of the assembly. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

(b) A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to, nor permit to assemble at the license location, more than the maximum permissible number of people.

(c) Only one (1) event shall be permitted for each license issued.

(d) The licensee shall take all necessary reasonable precautions to ensure that the sound of the event shall not carry beyond the boundaries of the event.

(e) This Section shall not apply to any regularly established permanent place of worship, stadiums, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(f) This Section shall not apply to government- sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other ordinances and regulations of the Town.

### (3) CONDITIONS OF APPLICATION/ISSUANCE OF LICENSE:

(a) The application shall contain a statement made upon oath or affirmation that the statements contained therein is true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making the application in the case of an individual, by all officers in the case of a corporation, by all partners in the case of a partnership, or by all officers of an unincorporated association, society or group or, if there be no officers, by all members of such association, society, or group.

(b) Before an applicant may be issued a license, the applicant shall first provide:

1. A determination of the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly and provided that where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the County and Town.
2. The name, age, residence, and mailing address of all persons required to sign the application and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence, and mailing address of each person holding 10% or more of the stock of said corporation.
3. The address and legal description of all property upon which the assembly is to be held together with the name, residence, and mailing address of the owner(s) of record of all such property.
4. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the owner(s) of record of all such property that the applicant has permission to use such property for an assembly of one thousand five hundred (1500) or more persons.
5. The nature or purpose of the assembly.
6. The total number of days and/or hours during which the assembly is to last.
7. The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the County and Town, if the assembly is to continue overnight.
8. The maximum number of tickets to be sold, if any.
9. The plans of the applicant to limit the maximum number of people permitted to assemble.
10. A fence completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass. The plans for fencing the location of the assembly and the gates contained in such fence.
11. Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one (1) gallon per person per day and water for bathing at the rate of at least ten (10) gallons per person per day. The plans for supplying potable water including the source, amount available, and location of outlets.
12. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every two hundred (200) females and

at least one (1) toilet for every three hundred (300) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet. The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited,

13. A sanitary method of disposing of solid waste, in compliance with the state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) lbs. of solid waste per person per day together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight-fitting lids and personnel to perform the task, The plans for holding, collecting and disposing of solid waste material

14. If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly. The plans, if any to illuminate the location of the assembly including the source and amount of power and the location of lamps.

15. A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons. The plans for parking vehicles including size and location of lots, points of highway access, and interior roads including routes between highway access and parking lots.

16. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one (1) separate line and receiver for each five thousand (5,000) persons. Plans for telephone service including the source, numbers and location of telephones.

17. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code, the Town Code of Ordinances and applicable Adams County Ordinances, sufficient to provide camping accommodations for the maximum number of people to be assembled. The plans for camping facilities, if any, including facilities available and their location.

18. Security guards, either regularly-employed, duly sworn, off duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every seven hundred fifty (750) people. The plans for security including the number of guards, their deployments and their names, addresses, credentials, and hours of availability.

19. Fire protection, including alarms, extinguishing devices, and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code, Town Code of Ordinances and applicable Adams County Ordinances, and sufficient emergency personnel to efficiently operate the required equipment. The plans for fire protection, including the number, type, and location of all protective devices including extinguishers, and the number of emergency fire personnel available to operate the equipment.

20. All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly. The plans for sound

control and sound amplification, if any, including number, location, and power of amplifiers and speakers shall be specified.

21. The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.

22. The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.

(c) A minimum bond of a One Hundred Thousand Dollars (\$100,000) bond shall be filed with the Town Clerk, either in cash or underwritten by a surety company licensed to do business in Wisconsin, which shall indemnify and hold harmless the Town of Rome or any of its agents, officers, servants, and employees from any liability or causes of action which might arise by reason of granting this license and from any cost incurred in cleaning up any waste material produced or left by the assembly. The application shall include the bond required in this Section and the license fee.

(d) The application for a license shall be processed within ten (10) days of receipt and shall be issued if all conditions are complied with.

(4) REVOCATION: The license may be revoked by the Police Chief at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.

## 7.10 BUSINESS LICENSE

(1) The purpose of this Section is to aid in the development of a business data file to ensure compliance with Town ordinances, assist in emergency situations, and foster economic development.

(2) It is unlawful for a person to conduct any business, or operate a household occupation permitted under sec. 10.03 (9) of the Town Code, within the Town without first having secured a business license as provided in this section. "Business" shall be defined as any enterprise with a permanent physical location in the Town where money is exchanged for goods or services. No permits issued by the Town, including but not limited to building permits, occupancy permits, town conditional use permits, or site plan review permits shall be granted to a business operator or the property owner until a business license has been obtained.

(3) LICENSE APPLICATION:

(a) Applications for licenses shall be made to the Zoning Administrator on forms approved by the Town Board. The application shall be accompanied by the full amount of the required business license fee.

(b) The application shall require the disclosure of the following:

1. The name of the business.
2. The physical address for each location at which the business has regular operations.
3. The number of employees at each location.
4. The nature of activity(s) conducted at each location, including a disclosure of any use of dangerous substances or machinery.
5. The name of each owner of the business and contact information for each owner, including address and telephone numbers

(c) When there is a change in business entity, its location, members, their addresses, phone numbers or any other pertinent information since the original business application, the Zoning Administrator must be contacted and the license amended accordingly.

(d) Each location shall obtain a business license from the Zoning Administrator.

(e) Business licenses are not transferable from person-to-person or site-to site under any circumstance.

(4) LICENSE FEES: An annual fee shall be set by the Town Board. Fees are nonrefundable.

(5) ISSUANCE DECISION: The Zoning shall investigate all applications and determine if the business conforms to all of the rules and regulations of the Town, and whether or not the business constitutes a significant threat to the health, welfare, and safety of the community. Upon the Zoning Administrator's approval of an application meeting the requirements for licensing, he or she shall issue a business license. If the above prerequisites are not complied with, the application shall be denied in writing with the reasons for denial being stated.

(6) **LICENSE DURATION AND RENEWAL:** All granted shall be for a one (1) year term from February 1<sup>st</sup> through January 31<sup>st</sup> and shall be renewed on an annual basis on or before January 31<sup>st</sup> of each year. The fee shall accompany the application for license renewal. Any operating business which has not renewed the business license prior to this date shall be deemed an illegal operation. Any license renewed after the expiration date shall be subject to a double-fee.

(7) **LICENSE EXEMPTIONS:** No Town of Rome business license shall be required and no fee shall be charged for any person or organization conducting or operating a nonprofit enterprise, when it is without profit for a public, charitable, educational, literary, fraternal or religious purpose.

(8) **LICENSE SURRENDER:** Except as provided for in sec. 7.09(3)(c), a business license shall be surrendered to the Zoning Administrator's office if a business is closed.

(9) **POSTING LICENSE:** The license issued under this Section on shall be framed and conspicuously posted within the business establishment. Any licensee who fails to post a license as required shall be presumed to be operating without a license.

(10) **OUTSTANDING CLAIMS AS CONDITION OF LICENSE ISSUANCE:** The Town shall not issue or renew any license to transact any business within the Town to any applicant who:

(a) Has delinquent taxes for any real or personal property within the town or who has delinquent assessments, forfeitures or other financial claims owed to the town.

(b) As it relates to taxes, paragraph (a) shall not prevent the renewal of an existing license if real property taxes are delinquent for not more than one year. Personal property taxes, however, must be current at the time of renewal.

(11) **SUSPENSION:** The Zoning Administrator may suspend a business license if he or she determines that probable cause exists to believe that the requirements of this Section have been violated by the licensee.

(12) **APPEAL:**

(a) Any person whose application for a license has been denied or whose license has been suspended by the Zoning Administrator or designee, and who proposes to appeal such denial or suspension to the Town Board, shall within thirty (30) days from the date of denial or suspension give to the Town Clerk notice in writing of intention to appeal the denial or suspension.

(b) Chapter 68 of the Wisconsin Statutes shall govern the appeal process,

(13) **PENALTY:** Any person who operates a business within the Town of Rome without a license, or who violates any term or provision of Section 7.09 of this Ordinance, shall be subject to a forfeiture not exceeding \$25 (twenty-five dollars). Each day a violation exists or continues shall constitute a separate offense.

(14) **ILLEGAL OPERATION:** In addition to any other penalties provided in this Section, whenever a business is being operated illegally or without a valid business license, the Town may seek to close down said business through any lawful process, including, but not limited to, injunctive measures



## 7.11 ROOM TAX

(1) **DEFINITIONS:** The definitions set forth in sec. 66.06150) Wis. Stats. are incorporated herein by reference.

(2) **IMPOSITION OF ROOM TAX:** Pursuant to sec. 66.06150m), Wis. stats., a tax is hereby imposed on the privilege of furnishing at retail, except sales for resale, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of eight percent (8%) of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by sec. 77.52(2) (a) 1 . , Wis. Stats. and may not be imposed on sales to the federal government and persons listed under sec. 77.54 (9a) Wis. Stats.

(3) **DISTRIBUTION OF TAXES COLLECTED:** The proceeds of such tax when collected shall be apportioned thirty percent (30%) to the Town for general purposes and the remaining seventy percent (70%) shall be spent directly by the Town on tourism promotion and development as defined in sec. 66.0615 (l) (fm) Wis. Stats.

(4) **ADMINISTRATION:**

(a) Collection of the room tax shall be administered by the Town Clerk/ Treasurer. The tax imposed under this Section is due and payable within thirty (30) days of the end of each calendar quarter for which imposed. A tax return shall be filed with the Town Clerk/ Treasurer by those furnishing at retail such rooms and lodging on or before the same date on which the tax is due and payable. Accompanying the return shall be a copy of the current State sales tax report for the quarter,

(b) All quarterly returns shall be signed by the person required to file a return or his authorized agent, but need not be verified by oath.

(c) Disbursements of the tax shall be administered by the Clerk/Treasurer who shall ensure that at least seventy percent (70%) is spent on tourism promotion and development,

(5) **INTEREST ON LATE TAXES:** All late taxes under this Section shall bear interest at a rate of one percent (1 %) per month from the due date of the tax until the first day of the month following the month in which the tax is paid or deposited with the Town Clerk/Treasurer.

(6) **ISSUANCE OF PERMIT:**

(a) For the purpose of identifying such business, every person furnishing rooms or lodging under Sub.(2) herein shall file with the Town Clerk/ Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Town Clerk/Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business and such other information as the Town Clerk/ Treasurer requires. The application shall contain an authorization to the Wisconsin Department of Revenue to release sales tax returns and information to the Town Clerk/ Treasurer. The application shall be signed by the owner if a sole proprietor and if not a sole proprietor, by the person authorized to act on behalf of such applicant.

(b) After compliance with paragraph (a) by the applicant, the Town Clerk/ Treasurer shall grant and issue to each applicant a separate permit for each place of business within the Town. Such permit is not assignable and is valid only for the person or entity in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which it is issued.

(7) DELINQUENT TAXES:

(a) No license under this Section shall be granted or issued to any person or for any premises for which taxes or charges owed to the Town are delinquent and unpaid.

(b) If the grant or issuance of a license is denied for nonpayment of taxes or charges, the Town Clerk/Treasurer or officer responsible for issuing the license shall notify the applicant in writing that the license will not be granted or issued because of nonpayment of taxes or charges. The applicant may appeal the decision to the Town Board which may grant or deny the license after affording the applicant a hearing before the Town Board.

(8) AUDIT: Whenever the Town Clerk/Treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Town Clerk/ Treasurer may inspect and audit the financial records of any person subject to the tax to determine whether the correct amount of tax is assessed and whether any room tax return is correct.

(9) DOOMAGE ASSESSMENT: If a person required to file a return fails, neglects or refuses to do so for the amount, in the manner and form and within the time prescribed in sub. (4) herein, the Town Clerk/Treasurer may determine the amount of room tax according to his or her best judgment.

(10) RETURNS CONFIDENTIAL: Except as provided for in sec.66.0615 (3) Wis. Stats., all financial information obtained by the Town pursuant to sub. (9) herein shall be confidential.

(11) EFFECTIVE DATE: The effective date of this Section shall be January 1, 2007.

(12) SEVERABILITY: If any portion of this section is ever determined by a court of competent jurisdiction to be unconstitutional or otherwise unenforceable, said portion shall be removed so as to allow the remaining provisions of this section to be enforceable

(13) PENALTY: Any per who violates this Section shall be subject to a forfeiture, together with the applicable court costs and fees, as follows:

(a) A forfeiture equal to no more than five percent (5%) of the room tax imposed under sub. (2) herein for failure to comply with a audit request made pursuant to sub. (9) herein,

(b) A forfeiture equal to no more than twenty-five percent (25%) of the room tax due for the previous year or \$5,000, whichever is less, for failure to pay the room tax due under sub. (2) herein.

(c) A forfeiture of not less than \$100 nor more than \$500 for violating sub.(11) herein.

(d) A forfeiture of not less than \$100 nor more than \$300 for violating any other provision of this Section.

## 7.12 OPERATION OF SHORT-TERM RENTALS:

### (1) PURPOSE:

(a) It is the purpose of this Section to ensure that the quality of short-term rentals operating within the Town is adequate for protecting the health, safety and general welfare, including establishing minimum standards of space for human occupancy, and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering properties for tourists and transient occupants, to protect the character and stability of all areas, especially residential areas, within the Town of Rome; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof.

### (2) LICENSE REQUIRED:

(a) No person may maintain, manage or operate a short-term rental in the Town of Rome for more than 10 (ten) nights in a 365-day period, without a short-term rental license. Short-term rental shall mean a residential dwelling that is offered for rent or a fee and for a duration of less than twenty-nine (29) consecutive days. Every short-term rental shall be operated by a Property Owner or Property Manager. Short-term rentals of six (6) or fewer consecutive days in duration are prohibited.

(b) All applications for a short-term rental license shall be filed with the Town Clerk/Treasurer on a form provided by the Town and approved by the Town Board. Applications must be filed by the Property Owner or authorized agent. No permit shall be issued unless the completed application form is accompanied by payment of the required short-term rental license fee.

(c) The Clerk/Treasurer shall issue a short-term rental license to all applicants following the approval of an application and the filing of all documents and records required under Section 7.12(3) of this Ordinance. Issuance of a Short-Term Rental License under this section will be deemed as meeting the requirement of obtaining a Business License under 7.10 of this Ordinance.

### (3) CONDITIONS OF APPLICATION/ISSUANCE OF LICENSE:

(a) Before an applicant may be issued a short-term rental license, the applicant shall first provide:

1. Identity of the Property Owner and any Property Manager (if applicable), with contact information including mailing address, physical address, email, and 24-hour phone number.
2. A copy of Tourist Rooming House Permit from the State of Wisconsin Department of Agriculture, Trade and Consumer Protection under ATCP 72.04.
6. A copy of a current, completed State Lodging Establishment Inspection form.
7. Proof of Casualty and Liability Insurance issued by an insurance company authorized to do business in the state of Wisconsin, identifying the property as used for short-term rental, with liability limits of not less than \$300,000 per individual and \$1,000,000 aggregate.
8. Floor plan of the proposed property for rental, and requested maximum occupancy.

9. Site plan including available onsite parking.
  10. Proof of an annual general building and fire inspection is required prior to issuance or renewal of the license, with no outstanding compliance orders remaining.
  11. A Room Tax Permit issued by the Town of Rome.
  12. An Employer Identification Number issued by the Internal Revenue Service or Social Security Number.
  13. Certification from the Property Owner that the property meets the requirements of this Ordinance.
- (b) During the initial application process, the Town Zoning Administrator shall notify property owners within a 200-foot radius of an applicant's proposed rental property lot, of an applicant's intention to operate a short-term rental in the Town of Rome. Notification of property owners shall not be required for renewal of a license as long as there is no lapse in license renewal.
- (4) LICENSE FEES: An annual fee shall be set by the Town Board. Fees are non-refundable, and shall not be prorated. Any renewal application received after the expiration date may be subject to a double-fee.
- (5) LICENSE DURATION AND RENEWAL:
- (a) All licenses granted shall be for one (1) calendar year, and shall be renewed on an annual basis on or before June 30 of each year. The fee shall accompany the application for license renewal. Any property operating as a short-term rental which has not renewed the short-term rental license prior to this date shall be deemed an illegal operation.
- (b) Each application for renewal of a permit or license shall include updated information for the documentation on file with the Town Clerk/Treasurer. The Clerk/Treasurer shall verify that the information provided on the renewal application is complete and in accordance with this Ordinance. The Clerk/Treasurer shall request reports from the Town of Rome Police Department and the Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the short-term rental property. The Clerk/Treasurer shall issue renewal licenses within thirty (30) days of the filing of an application unless the information provided is incomplete or otherwise not in compliance with the requirements herein, and/or the staff reports received indicate that there are complaints or actions involving the property.
- (c) No license shall be renewed if the subject property has outstanding fees, taxes or forfeitures owed to the Town, or is under an order issued by the Building Inspector to bring the premises into compliance with Town ordinances, unless arrangements for payment have been provided to the Clerk/Treasurer and approved by the Town Administrator.
- (d) If the Clerk/Treasurer finds that the license should not be renewed, the Clerk/Treasurer shall recommend to the Town Administrator a denial of the renewal. A denial of renewal under this section may be appealed in accordance with procedures under 7.12(8)(a).
- (6) STANDARDS FOR SHORT-TERM RENTALS:
- (a) Each short-term rental shall comply with this Section's requirements, along with all other Town of Rome Ordinances. Each short-term rental shall meet the following minimum requirements:

1. The maximum number of occupants allowed in any unit shall not exceed the following limits: Not less than one-hundred fifty (150) square feet of floor space for the first occupant thereof, and at least an additional one-hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined by using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum occupancy for any premises without a separate enclosed bedroom is two (2) people.
2. One (1) internal bathroom for every four (4) occupants.
3. Not less than two (2) onsite off-street parking space for every four (4) occupants based upon maximum occupancy.
4. A sign shall be posted in a conspicuous place inside the rental unit, during the license duration, specifying information on approved parking spaces, Town regulations of discharge of fireworks as designated in Town Ordinance 9.02(7), lake rules, limitations on loud and unnecessary noise as designated in Town Ordinance 9.02(5), and Town burning regulations under Ordinance Chapter 3.
5. Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code.
6. No vehicular traffic shall be generated that is greater than normally expected in the neighborhood for the district for which the dwelling is zoned.
7. There shall not be excessive noise, fumes, glare, or vibrations generated during the use of the dwelling as a short-term rental.
8. Name plates or other outdoor signage shall not exceed one square foot. No other signage advertising the short-term rental is permitted on site.
9. Each short-term rental shall maintain the following written records for each rental of the dwelling unit: the full name and current address of any person renting the property, the time period for that rental, and the monetary amount or consideration paid for that rental. Quarterly, on a form created and provided by the Town, every licensee shall certify and report to the Town a summary of these records.
  - a. Whenever the Town Clerk/Treasurer has probable cause to believe that records submitted are not correct, or that probable cause exists to believe that a dwelling unit is not in compliance with this ordinance, the Town Clerk/Treasurer may inspect and audit the written records for each rental of the dwelling unit to determine compliance with the requirements of this ordinance.

(7) REVOCATION OF LICENSE:

(a) A short-term rental license may be revoked by the Town Administrator for one or more of the following reasons:

1. Failure to make payment on taxes or debt owed to the Town of Rome.
2. Three (3) or more police-officer verified violations in a twelve (12) month period for nuisance activities or other law violations as regulated in Town Ordinance Chapter 9. Lake violations that result from

use of the property owner's watercraft shall also qualify for revocation under this Section.

3. Three (3) or more issued citations related to building inspection or the health department in a twelve (12) month period.
4. Failure to comply with applicable building inspection requirements.
5. Failure to maintain all required local, county, and state licensing requirements.
6. Failure to maintain written records required pursuant to sub. (6)(a)(9) herein, or failure to comply with an audit request made pursuant to sub. (6)(a)(9)a. herein.
7. Any violation of local, county or state laws that substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood in R-1, R-1C, R-2, R-4, and LD districts.

(b) Upon revocation of a Short-Term Rental License under this section, a renewal application will not be permitted until after January 1 of the next calendar year.

(8) APPEAL:

(a) The denial of a short-term rental license application or renewal under this Ordinance may be appealed by filing a written appeal request with the Clerk/Treasurer within ten (10) days of the Town's notice of denial. The appeal shall be heard by the Town Board, which shall consider the application or renewal and staff recommendations and may approve or deny the application or renewal.

(9) PENALTY:

(a) Any person who operates a short-term rental within the Town of Rome for more than 10 (ten) nights in a 365-day period, without a license, shall be deemed an illegal operation, and upon conviction, be subject to a forfeiture per Ordinance 1.02 "Penalties" together with the costs of prosecution. Each day a violation exists or continues shall constitute a separate offense. Prosecutions of violations of provisions of this ordinance shall be commenced by citation pursuant to Chapter 800 Wis. Stats.

## 7.13 MANUFACTURED HOME COMMUNITIES

### (1) LICENSE REQUIRED:

(a) No person may install, operate, or maintain, or cause the construction, installation, operation, or maintenance of, any manufactured home community in the Town unless the owner of the land occupied by the manufactured home community or the operator of the manufactured home community has been issued a Town Manufactured Home Community License by the Town Board and has fully paid the annual license fee under sec. 66.0435 (3) (a), Wis. Stats. to the Town.

(b) Application for a license shall be made to the Zoning Administrator on a form furnished by the Town. The application shall contain the following information:

1. Name and address of applicant.
2. Local and legal description of the manufactured home community.
3. Complete engineering plans and specifications of the proposed community showing, at a minimum, the following:
  - a. The area and dimension of the tract of land.
  - b. The number, location, and size of all manufactured home lots, and the location of the common areas.
  - c. The location and width of roadways and walkways.
  - d. The location of the manufactured home stand within each manufactured home lot.
  - e. The plans and specifications of all utilities, including sewage collection and disposal, storm water drainage, water distribution and supply, refuse storage and collection, lighting, electrical, telephone and television antenna systems.
  - f. Landscaping plans for the entire community, including a planting plan for buffer strips that are required herein.
  - g. Plans and specifications of all buildings to be located within the community.
  - h. Such other plans and specifications and information as may reasonably be required by the Town Board.
- (c) The Zoning Administrator shall review the application and forward the same to the Plan Commission with comments. The Plan Commission shall then review the application and make a written recommendation to the Town Board regarding the approval, approval with conditions or denial of the application. The Town Board shall make final determination as to the issuance of a license. The Zoning Administrator shall issue a license only at the direction of the Town Board.

(d) All licenses issued under this Section are personal and are not transferable except by written approval of the Town Board.

(2) PERMITS REQUIRED FOR UNITS:

(a) Except as provided in paragraph (b), no person may install, operate, park, or maintain manufactured home unit in any manufactured home community in the Town without timely payment of the monthly parking permit fee as determined under sec. 66.0435 (3) (c), Wis. Stats. The manufactured home community licensee shall collect and timely pay the fee to the Town Clerk, pursuant to sec. 66.0435 (3) (c), Wis. Stats. Any licensee who collects monthly parking permit fees may deduct for administrative expenses two (2) percent of the monthly fees collected prior to payment to the Town Clerk. Fees shall be collected by the licensee and paid to the Town Clerk by the 10<sup>th</sup> day of each month. The licensee is liable for the monthly municipal permit fee for any unit occupying space in the community as well as the owner and occupant of each such unit, except that the licensee is not liable until the Town has failed, in an action under ch. 799, Wis. Stats., to collect the fee from the owner and occupant of the unit.

(b) Paragraph (a) does not apply to any manufactured home that is any of the following:

1. An improvement to real property under sec. 70,043 (1), Wis. Stats.
2. A recreational mobile home as defined in sec. 66.0435 (1) (hm), Wis. Stats.
3. A camping trailer as defined in sec. 340.01 (6m).

(c) The licensee shall timely notify the Town Clerk of the number of all manufactured homes installed, parked, or removed in each month. This information shall be provided by the licensee by the 10<sup>th</sup> day of the following month.

(4) GENERAL REGULATIONS:

(a) All manufactured home communities shall comply with all applicable statutes, provisions of the Wisconsin Administrative Code, Adams County Ordinances, the Town comprehensive plan, this Section, and any other applicable Town ordinances.

(b) No license shall be issued for the construction of a manufactured home community, unless the development shall contain a minimum of twenty (20) lots, except in the case of an addition to or extension of a contiguous manufactured home community, in which case the minimum requirement shall be ten (10) lots.

(c) A minimum total site area of twenty (20) acres is required for each community.

(d) Each manufactured home must meet the requirements of sec. 10.07, R-2 District.

(e) Minimum Lot Size: Individual lots within manufactured home communities must contain an area of not less than eight thousand (8,000) sq. ft. for single wide homes and twelve thousand (12,000) sq. ft. for double-wide homes. All dwelling lots shall have a minimum average width of sixty (60) ft. and at least twenty-five (25) ft. of road frontage.



(f) Separation Requirements: Manufactured homes shall be separated from each other and from all other buildings by at least twenty (20) feet. An accessory structure such as an awning, storage cabinet, carport, windbreak patio, or porch attached to the manufactured home shall, for purposes of separation requirements, be considered a part of the manufactured home. Detached accessory structures shall be allowed only if included and approved as part of the original or revised manufactured home park plan.

(g) Setbacks: Each manufactured home shall be located at least ten (10) feet from any manufactured home lot line. There shall be a minimum distance of twenty-five (25) feet between any manufactured home and the traveled way of any abutting interior private street. Setbacks from Class A, B, & C roadways shall be the same as required for the R-1 Residential district. All manufactured homes shall be located at least forty (40) feet from any manufactured home community property boundary line, except where the adjoining property is also a manufactured home community.

(h) Buffer Strips: All manufactured home communities shall be provided with a planting of natural growth along the properly boundary line separating the park and such adjacent properties, except where the adjoining property is also a manufactured home community. Unless waived or modified by the Town Board, the planting area shall have a minimum width of fifteen (15) feet and shall include the following:

1. A temporary planting of fast-growing flora such as Lombardy Poplar is recommended.
2. A permanent planting such as White or Norway Pine so arranged that within ten (10) years they will have formed a screen equivalent in capacity to a solid fence or wall shall be planted.

(i) Recreation and Common Space Areas:

1. All manufactured home communities shall provide one (1) or more recreation areas which shall be easily accessible to all manufactured home community residents.
2. The size of such recreation areas shall be based upon a minimum of two hundred (200) square feet for each lot. No outdoor recreation area shall contain less than two thousand five hundred (2,500) square feet.
3. Recreation areas shall be located as to avoid traffic hazards and should, where the topography permits, be centrally located.

(j) Allowable Uses:

1. Single-family manufactured homes.
2. Approved accessory structures included in the original plans and specifications or revisions thereof.
3. Parks, playgrounds, and open space.
4. Manufactured home community office,
5. Laundromat for exclusive use of manufactured home community residents.
6. Clubhouse and facilities for private social or recreational clubs.

7. Signs pertaining to the lease, hire, or sale of individual manufactured homes; and one (1) manufactured home community identification sign shall be allowed subject to the requirements of Section 10.22.

(k) Access Requirements:

1. All manufactured home communities shall provide safe and convenient vehicular access.
2. Design and Improvement: The design and improvements provided in such proposed communities, including street widths and construction of approach streets or ways, shall conform to the requirements of Chapter 17. However, the street widths and construction requirements in Chapter 17 shall be applied only to those streets which would be necessary to service a future conventional residential subdivision and need not be applied to secondary manufactured home site access streets or ways unless the Town Board determines certain requirements are necessary for ingress and egress of public emergency or service vehicles.
3. In all cases, direct access adequate for emergency vehicles shall be provided.

(l) Parking Requirements:

1. A minimum of two (2) off-street parking spaces shall be provided for each individual lot. Those spaces shall be located within one hundred fifty (150) feet of the manufactured home to be served.
2. A minimum of one (1) space for every four (4) manufactured homes shall be provided for visitor parking purposes.
3. Each parking space shall contain a minimum of two hundred (200) square feet. This space shall be paved with a smooth, hard, durable and dense surface.
4. In no instance shall any required road pavement width be used for parking purposes. The remaining right-of-way width may be used for parking purposes when all other parking spaces are occupied.
5. Parking of boats, trailers, campers, snowmobiles, or other motorized vehicles may be restricted to a centralized area.
6. All communities shall be provided with safe, convenient walkways as follows:
  - a. A common walk system shall be provided where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3-1/2) feet.
  - b. All manufactured home stands shall be connected to common walks, to roads, or to driveways. The individual walks shall have a minimum width of two (2) feet.
  - c. Walks shall be paved with a smooth, hard, durable and dense surface.

(m) Installation & Maintenance Requirements:

1. Manufactured Home Stand:
  - a. The dimensions shall not be less than the total dimension of the manufactured home, and is to be determined before the time of placement.

b. The manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home.

c. The stand should be designed and installed so as not to heave, shift, or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, or other forces acting on the structure.

d. Anchors or tie downs, such as cast-in-place concrete "Dead Men 't eyelets embedded in concrete screw augers or arrowhead anchors shall be placed at least at each corner of the manufactured home stand, and each device shall be able to sustain a minimum load of four thousand eight hundred (4,800) pounds.

2. Site Suitability and Storm Water Drainage: A manufactured home community shall be located only upon a site where the conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. Excluding sand boxes, beaches and other uses requiring the lack of ground cover, exposed ground surfaces in the manufactured home community shall be protected with a vegetative growth.

3. Water Supply and Distribution System: An adequate, safe, and potable supply of water shall be provided in each manufactured home community. Where a public supply of water of satisfactory quality and pressure is available at the site or at the boundary of the site, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply is not available, a private water supply system may be developed and used as approved by the State of Wisconsin.

4. Sewage Disposal System: An adequate and safe sewer system shall be provided in all manufactured home communities for conveying all sewage. The manufactured home community sewer system shall make connection to the public sewerage system, if available, at the boundary of the site and shall use its disposal and treatment service exclusively. If a public sewer system is not available, individual onsite waste treatment systems or a centralized onsite treatment facility shall be constructed and maintained according to standards set by the State of Wisconsin and Adams County.

5. Refuse Storage and Collection System:

a. The storage, collection, and disposal of refuse in the manufactured home community shall be so conducted in order to avoid health hazards, rodent harborage, insect breeding areas, accidents, fire hazards and air pollution.

b. All refuse shall be stored in water, insect and rodent-repellant containers, which shall be located not more than one hundred fifty (150) feet from any manufactured home lot.

c. Refuse collection stands shall be provided for all refuse containers.

d. All refuse shall be collected and properly disposed of at required intervals. Where suitable collection service is not available, the manufactured home community operator shall provide this service.

e. In no instance shall disposal of the waste be carried on through incineration on the manufactured home community site.

6. Public Utility Systems:

a. All utility service systems shall be installed and maintained in accordance with applicable codes and regulations.

b. Public utility service outlets shall be provided at each manufactured home stand for electric, telephone, gas (if provided) and television service systems.

c. All utility service lines shall be located underground within the manufactured home community.

7. Illumination Requirements:

a. A community shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting height as will provide for adequate maintained levels of illumination for the safe movement of pedestrians and vehicles at night.

b. Potentially hazardous locations such as road intersections and steps or stepped ramps shall have direct lighting.

8. Fire Protection:

a. Manufactured home communities shall be kept free of litter, rubbish, and other flammable refuse.

b. Portable fire extinguishers shall be kept in service buildings and shall be maintained in good operating condition. Their capacity shall not be less than two and one half (2-1/2) pounds.

c. Fire shall be made only in barbecue pits, fireplaces, stoves, or other equipment intended for such purposes. These items shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisances. No open fire shall be left unattended. No fuel shall be used which emits dense smoke or objectionable odors.

9. Responsibility of the Licensee:

a. The licensee shall operate the community in compliance with this Section and shall provide adequate supervision to maintain the park in good repair and in a clean and sanitary condition.

b. The licensee shall supervise the placement of each manufactured home on its manufactured home stand which includes securing its stability and installing all utility connections.

c. The licensee shall maintain a register containing the names of all community occupants identified by lot number or road address.

d. The licensee shall locate an office for the attendant or person in charge of the community. A copy of the community license and the text of this Section shall be posted therein and the community register shall at all times be kept in the office.

e. The licensee shall be responsible for the placement of a mail drop facility of a type approved by the postal authority and the Zoning Administrator.

(n) Responsibilities of Community Occupants:

1. Each community occupant shall comply with all applicable requirements of this Section and shall maintain his manufactured home lot, its facilities, and equipment in good repair and in a clean and sanitary condition.
  2. The community occupant shall be responsible for proper placement of his home on its manufactured home stand and proper installation of all utility connections in accordance with the instruction of the community management.
  3. Pets, if permitted in the community, shall be prevented from running at large or committing any nuisance.
  4. The undercarriage, supports, and stabilizing devices of the manufactured home shall be skirted within sixty (60) days of placement of the home to maintain an attractive community appearance.
  5. Porches, patios, awnings, and other additions shall be installed subject to uniform standards established by the community management. When installed, they shall be maintained in good repair. The space immediately underneath a manufactured home shall be used for storage only if permitted by the community management. If permitted, the following conditions shall be satisfied:
    - a. The storage area shall be provided with a base of impervious material.
    - b. Stored items shall be located so as not to interfere with the underneath inspection of the manufactured home.
- (4) CAMPGROUNDS: No person may construct, install, operate, maintain, or cause the construction, installation, operation, or maintenance of a campground without obtaining a Town Campground License. No Town Campground License shall be issued for a campground for which a permit has not been issued by the State of Wisconsin under sec. 254.47, Wis. Stats,
- (5) REVOCATION: Any license issued under this Section may be revoked for cause by the Town Board. Any licensee whose license is so revoked may apply within five (5) days after the revocation for a public hearing before the Town Board. At the hearing, the licensee is entitled to be represented by counsel. The hearing shall be conducted upon publication of a Class I Notice under sec. 985.07, Wis. Stats., prior to hearing, with the costs for publication and public hearing paid by the licensee to the Town Clerk prior to publication. After hearing the evidence, the Town Board may confirm or reverse the revocation, or modify the revocation by imposing a limited period of suspension. The determination of the Town Board shall be in writing, shall state the reason for the Town Board's action, and is final.
- (6) PENALTIES: Any person, firm, company, or corporation who violates any provision of this Section or fails to comply with any of its requirements shall be subject to a forfeiture for each offense of not less than Two Hundred Dollars (\$200.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation and, in addition, shall pay all costs and expenses involved in the matter, including reasonable attorneys' fees and court costs. Each day that a violation continues shall be considered a separate offense.
- (7) SEVERABILITY: If any provision of this Section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Section that can be given effect without the invalid provision or application, and to this end the provisions of this Section are severable.

## 7.14 REFUSE AND SOLID WASTE DISPOSAL

### (1) PURPOSE:

(a) The purpose of this Section is to regulate the disposal of waste, garbage, refuse, putrescible animal/vegetable matter or sludge upon public and private properties in the Town by individuals, corporations, and municipalities. Any such disposal in violation of the terms and provisions contained in this Section is hereby declared to be a public nuisance.

(b) Environmental and health hazards may result if heavy metals, toxic substances and hazardous materials are deposited on land in the Town. The Town Board is aware of guidelines and administrative rules that have been established by the Department of Natural Resources for the land spreading of certain waste materials upon properties in Wisconsin. However, in many instances landowners and permittees are allowed to conduct land-spreading operations by voluntarily following the Department's guidelines due to the insufficiency of the Department's staff to actually monitor land-spreading operations as they occur. The Town Board, therefore, deems it necessary for the protection of the health, general welfare and environment of the Town of Rome that regulations be adopted to provide additional adequate protection for its inhabitants, wild and domestic animals, its water supplies, its wetlands and other natural resources. In addition, adequate remedies for any violations of such regulations are necessary without intending to prohibit the application of land spreading in the Town of Rome or to abrogate, annul, impair, or interfere with any existing rules, regulations or permits previously adopted or issued pursuant to law. The purpose of this Section is to provide those additional regulations and protections.

(c) The following are not within the scope or meaning of this Section:

1. Sites used for the disposal of waste, garbage, or refuse from a single family or household, a member of which is the owner, occupant, or lessee of the property, provided, however, that such waste, garbage, or refuse is placed in suitable containers or stored in such other way as not to cause a public or private nuisance.
2. The use of sanitary privies and public and private sewerage disposal systems, which conform to state statutes and regulations and any applicable ordinances of Adams County and the Town of Rome.
3. Animal waste regulated under Ch. NR 243, Wisconsin Administrative Code, liquid manure applied in accordance with sound agricultural practices and farms on which only animal wastes resulting from the operation of the farm are disposed.
4. Any waste disposal operation conducted under the ownership, direction and control of the Town.

(2) REGULATIONS: Except as expressly permitted in paragraph (f) herein, no person, corporation, or municipality shall dispose of waste, garbage, refuse, putrescible animals/vegetable matter or sludge within the Town of Rome unless a permit to engage in such dumping or disposal is first obtained from the Town under the conditions prescribed herein. Persons or municipalities permitted to engage in disposal operations in the Town are subject to the following regulations:

(a) The disposal operations must be conducted in such a way as not to constitute a public or private nuisance.

(b) Permittees engaged in dumping or disposal operations must conduct the operations in such a way that odors or dust, dirt, debris, or other materials or substances will not be carried by wind or water across the boundary of the parcel of land being used for the operations.

(c) A covering, which meets standards established by the Wisconsin Department of Natural Resources, shall be placed over all of the area used for the disposal operation within a reasonable time, not to exceed twenty-four (24) hours, after the disposal occurs. The covering must be applied so as to make the area covered compatible with the surrounding and adjacent property and in such a manner as to not substantially depreciate property values within the immediate area unless property owners have been previously compensated for the loss,

(d) Such disposal operations must not be in violation of any applicable zoning regulations and must not violate any deed restriction or covenant, which would prohibit or restrict such use of the land.

(e) The information submitted with the application for a permit as specified under sub. (3), together with any additional information received at the public hearing by the Town Board must be sufficient so as to enable the Town Board in its discretion to determine that the purposes for which this Section was enacted will not be compromised or in any way violated by the issuance of a permit.

(f) A permit under this Section shall not be effective unless there is on file with the Town Clerk a cash bond or a bond with a corporate surety duly licensed in the State of Wisconsin in the amount of one-hundred thousand dollars (\$100,000). The bond is to assure that the applicant will comply with all the provisions of this Section and will save harmless, indemnify, and defend the town, its officers, its representatives, and its agents from any expenses or costs incurred through action of the applicant with regard to the operation.

(g) If the Section is violated or if the disposal plan is not carried out, the Town shall have the right to revoke the disposal permit after a public hearing upon a published Class I notice and, if necessary, to obtain a court order terminating such operation. If the owner of the land does not cover the disposal area in accordance with the disposal plan, the Town Board shall have the right to correct the violation and to charge the expense against the bond.

(h) The applicant for a disposal permit in making the application, grants to the Town the right to go on the land for necessary inspections at any time and to carry out the disposal plan if the owner or occupant of the land fails to do so after reasonable notice is given.

(i) Nothing contained herein shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency regulating the subject of this Section.

**(3) PERMIT:**

(a) An application for a permit for a solid waste facility shall be filed with the Zoning Administrator in writing at least thirty (30) days before a public hearing is held. The initial application fee of five-thousand dollars (\$5,000) shall accompany the application, unless waived or reduced by the Town Board. In addition, the Town Board may charge the applicant an additional fee to reimburse the Town for appropriate and necessary costs and expenses incurred by the Town for attorneys' fees and experts' fees related to the application process. The total application fees, both initial and subsequent, shall not exceed twenty-thousand dollars (\$20,000) for any application. The application for a permit shall be processed within ninety (90) days

of the receipt of a completed application accompanied by full documentation and required bond. A sworn statement that they are true and factual shall follow the application and accompanying information. The information to be provided shall include:

1. Name, address, and telephone number of the applicant.
2. Location, current owners, and legal description of the site of the proposed facility.
3. Names, addresses, and telephone numbers of any persons who will represent the applicant.
4. Copies of available site reports, feasibility reports, engineering plans, or other documents filed or to be filed with the Department of Natural Resources, or the U.S. EPA, that are related to the proposed facility.
5. A plan for construction, operation, maintenance, closure, and long-term care of the proposed facility that describes the size, capacity, and other features of the site and its proposed future.
6. A plan for financial, legal, and environmental protection of the Town government, its employees and agents, and for current and future residents living within one mile of the facility.
7. Proposed traffic patterns to and from the proposed facility and for roadway usage for access to the site.
8. Copies of current financial statements or other financial information.

(4) **HEARING:** A public hearing will be held at which the Plan Commission will invite all interested parties from the Town and the applicant to provide information as to the need for the permit, positive and negative potential effects of the proposed facility on the Town and its residents, and the probability of reasonable compliance by the applicant with the regulations of this Section. The hearing will be of an informational nature for the Town Board. The hearing will be held under the following conditions:

- (a) A Class 3 notice as prescribed by statute will be given.
- (b) The cost of publication of such notice will be deposited in advance by the applicant.
- (c) The hearing will be held on the date specified in the notice or on any adjourned date.

(5) **AFTER THE PUBLIC HEARING,** the Plan Commission shall review the application and make a recommendation in writing to the Town Board regarding approval, approval with conditions or denial of the application. The Town Board shall then decide whether to issue the permit.

(6) **PENALTIES:** Any person, firm, company, or corporation who violates any provision of this Section or fails to comply with any of its requirements shall be subject to a forfeiture for each offense of not less than Two Hundred Dollars (\$200.00) nor more than Two Thousand Dollars (\$2,000.00) for each violation and, in addition, shall pay all costs and expenses involved in the matter, including reasonable attorneys' fees and court costs. Each day that a violation continues shall be considered a separate offense.

(7) **ENFORCEMENT:** The Town Board of the Town of Rome by the Town attorney or such person as appointed by the Town Board, may bring a civil action in the Adams County Circuit Court by filing with it a complaint setting forth the facts and requesting such preventative relief, including an application for a temporary or permanent injunction, restraining order, or such other order as the Town deems necessary to



ensure the full enjoyment of the rights granted by this Section, provided, however, that nothing contained herein shall prevent the imposition of a forfeiture in addition to other remedies enumerated herein. The costs of such proceedings shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the violation and/or nuisance, and such cost shall be assessed against real estate as a special charge on the tax rolls. For purposes hereof, costs shall include, but not be limited to, actual attorneys' fees and court costs,

## 7.15 PUBLIC MARKETS

- (1) **PUBLIC MARKET ESTABLISHMENT:** There is hereby established a public market in the Town of Rome. Said public market is established for the purpose of allowing the Town of Rome to administer public market events under an annual permit to be issued by the Town Board, which shall incorporate by reference the conditions as set forth in this Section and any other written conditions of such permit as are deemed necessary by the Town Board when granting the permit,
- (2) **LOCATION OF PUBLIC MARKET:** The boundaries of any said proposed public market place shall be stated in the Permit Application and approved by the Town Board.
  - (a) No items may be displayed or sold in Veterans Park.
  - (b) No items may be displayed or sold from any vehicle parked in or adjacent to the Business Park, unless specific provision with written conditions are made part of the conditions of any permit approved by the Town Board.
  - (c) No parking stalls within the public right-of-way adjacent to the Business Park may be included within the boundaries of the public market\* unless specifically approved in the annual permit and such approval shall be explicit and detailed in writing on the permit.
- (3) **TIMES OF PUBLIC MARKET:** The public market may be held on Saturday and Sunday during the months of April through October between the hours of 7:30 AM and Noon, and at other times and days as may be authorized in the annual permit approved by the Town Board.
- (4) **ITEMS PROHIBITED FROM SALE OR DISTRIBUTION:** The following items may not be offered for sale or distribution at the public market:
  - (a) Live animals of any species.
  - (b) Tobacco products, liquor, or fermented malt beverages.
  - (c) Any drugs or drug paraphernalia, medical supplies or equipment, or medications.
  - (d) Firearms, ammunition, fireworks or explosive devices.
  - (e) Sexually oriented materials or products.
  - (f) Any other items specifically prohibited under a permit issued under this Section or any other Ordinance.
  - (g) Any other use or items determined by the Community Development Director to be a health hazard.
- (5) **NO WAIVER OF BUSINESS PARK RULES PERMITTED:** All park regulations, as set forth in the Alpine Village Design Manual, shall remain in full force and effect and may not be waived by any permit issued under this Section.

(6) **PERMIT APPLICATION:** The following information shall be included in an application for an annual permit, and such permit may remain in effect between April 1<sup>st</sup> until October 31<sup>st</sup> of the year in which granted.

(a) The name, address and telephone number of the applicant and of the contact person who has the authority to manage and administer the public market under the permit.

(b) Any guidelines, rules or registration forms that are intended for application to individual vendors participating in the public market under the permit.

(c) The hours and days of operation proposed for the public market.

(d) A detailed description of the public market including:

1. Number of vendors
2. Nature of items, generally, that will be offered for sale
3. Provisions for parking
4. Restroom facilities that will be available

(e) The proposed location for the public market

(f) Any formal requests for areas of the right-of-way to be utilized by the public market, and reasons for those requests, A street use permit pursuant to Sec. 7.06 may be required.

(g) Any other information the applicant believes would be relevant when the application is reviewed by the Town Board.

(7) **INSURANCE:** The applicant for a public market permit may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town on account of any injury to or death of any person or any damage to property caused by or resulting from the activities from which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Town of Rome. The applicant may be required to furnish a performance bond prior to being granted the permit.

(8) **APPLICATION PROCESS:**

(a) Applications for a public market permit shall be submitted to the Community Development Director on a form provided by the Director or designee.

(b) **Initial Permit, Review and Recommendation.** The Director or designee shall review the initial permit application and shall forward the application, together with his recommendation, to the Town Board. In making his recommendation, the Director shall consider such factors as traffic safety; appropriate vehicular access and circulation; available parking; public safety, including provision for security personnel; generation of noise; hours of operation; sanitary facilities; the standards set forth in Sec. 7.06(3) and any substantially adverse effect upon adjoining properties or public streets. The Director may request reports and/or

recommendations from other Town departments, including but not limited to the police and fire departments in preparing the recommendation.

(c) Determination of Town Board. Upon reviewing the application and the recommendation of the Director, the Board may approve, approve conditionally or deny the application. If denied, the reasons for denial shall be included in the minutes of the meeting. The Board may require a cash deposit to secure the cleanup of the public market sites.

(d) Renewal of a public market permits may be granted by the Director if the previous year's operation was in compliance with this section and the use is not to be expanded or extended. If the previous year's operation was not in compliance with this section or the use is intended to be extended or expanded, the application and recommendation of the Director shall be referred to the Town Board.

(9) COMPLIANCE: Where a use does not comply with the conditions of the permit, the public market permit may be revoked by the Board after a hearing is held and the use shall be considered a violation of this section.

(10) LAWS AND REGULATIONS APPLICABLE: No permit issued under this Section shall relieve the permittee or any individual vendor participating in the public market from responsibility for following all applicable laws and regulations, whether they be federal, state or local.

(11) UTILITY USE: No use of utilities, to include water and electric, may be made by the Town of Rome in administering the public market or by any individual vendor participating in the public market. Exceptions may be made to this requirement if expressly authorized by the Town Board and if made part of the written conditions of the permit.

(12) CLEANLINESS AND SUPERVISION: Upon conclusion of each market, the grounds shall be left in the same condition as they were in when the public market event commenced. All litter or refuse of any kind shall be placed in appropriate receptacles prior to the Town of Rome officially closing each public market event. The permittee or authorized representative shall remain present throughout each public market event to supervise conduct within the market and to keep order, and if assistance is needed by authorities, to seek such assistance immediately.

(13) NON-EXCLUSIVITY AND NO VESTED RIGHT TO PERMIT: Nothing in this Section may be construed to limit the Town Board from amending or repealing this Section or from approving permits for similar events at other locations within the Town during the public market or at other times besides the times established for the public market. Nothing in this Section may preclude the Town Board from granting individual Vendor permits to sell or display items in the Town\* The Town Board may seek at any time to limit the size of the public market through action to either amend this Section or to modify the permit issued under this Section.

(14) ENFORCEMENT: If non-compliance with the conditions of the permit or this Section is found to exist, a notice of noncompliance shall be provided to the person who is listed under sub. (6)(a). and a meeting with the Community Development Director shall be held within ten (10) days of the issuance of said notice to determine compliance. If the noncompliance is not corrected, then a notice and hearing before the Town Board shall be held to determine whether the permit shall be suspended, revoked or non-renewed.

(15) PERMIT FEE: The permit fee for a public market shall be established by the Town Board by resolution. The Town Board may, in its discretion, waive the permit fee.