

CHAPTER 9

OFFENSES AND NUISANCES

9.01 STATE STATUTES ADOPTED:

(1) **OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE:** The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Town provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. However, upon failure to timely pay the forfeiture and costs, imprisonment may be imposed by the Court at the rate of 1 day for each \$50.00, or portion thereof, owed. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

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- 941.325 Placing foreign objects in edibles.
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9.02 OFFENSES AGAINST PUBLIC SAFETY AND PEACE:

(1) PROHIBITED ACTIVITIES: It shall be unlawful for any person to hunt on town-owned property or to discharge any bow and arrow, crossbow or firearm on any land, regardless of ownership, within the territorial limits of the Town of Rome except as follows:

- (a)** On a privately-owned parcel of land which is five (5) acres in size or greater;
- (b)** Discharge of firearms by law enforcement officers, while in the performance of their official duties;
- (c)** If the discharge is justified under sec. 66.0409 (3) (b) Wis. Stats. or if the discharge is subject to a defense described in sec. 939.45 Wis. Stats.;
- (d)** When acting under a valid discharge event permit issued by the police chief or his designee pursuant to sub. (2) herein.
- (e)** Discharge of a bow and arrow or crossbow on privately-owned land subject to the following limitations:
 - 1.** A bow and arrow or crossbow may not be discharged within 100 yards of a building, as that term is defined in sec. 29.038 (3) (b) 1. a. Wis. Stats., located on another person's land unless the person who owns the land on which the building is located permits the discharge within such distance.
 - 2.** The arrow or bolt from the bow and arrow or crossbow must be discharged toward the ground.

(2) DISCHARGE EVENT PERMITS:

- (a)** Hunting with, and/or discharge, of a bow and arrow, crossbow or firearm may be conducted on town-owned property and firearms may be discharged on privately-owned parcels less than five (5) acres in size upon issuance of a discharge event permit from the police chief or his designee.
- (b)** Applications for discharge event permits shall include the following information:
 - 1.** Name, address and telephone number for each individual participating in the discharge event.
 - 2.** A description of the nature of the discharge event (i.e. hunting, target practice, etc.).
 - 3.** The date(s) on which the discharge event will take place.
 - 4.** A description of the parcel(s), or portions thereof, on which the discharge event will take place.

5. For hunting activities, a statement that the applicant will ensure that all individuals in the hunting party who will possess a weapon hold a valid hunting license and, if using a firearm, are not legally prohibited from doing so.

(c) An application fee will be imposed. The police chief may waive the fee in his or her discretion.

(d) The police chief or his designee is vested with the authority to approve or deny applications based on public safety considerations and may place conditions on the discharge event permit as determined necessary including, but not limited to, limiting the size or nature of the weapons used (i.e. shotgun only, bow only, etc.)

(e) The police chief or his designee may, but is not required to, conduct a background check of any person named in an application for the purpose of determining if the person is prohibited from possessing a firearm or is the subject of an active warrant.

(f) The police chief or his designee may, in his or her discretion; revoke a discharge event permit if it is determined that anyone participating in the discharge event has violated any governing law or the terms of the permit.

(3) CARRYING OF WEAPONS IN TOWN OWNED BUILDINGS:

(a) Pursuant to § 943.13(1m) (c) 4, Wis. Stats. it shall be unlawful for any person to enter or remain in any Town owned buildings while carrying a firearm, knife, or other weapon.

(b) Nothing in this section shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Town Board to possess a firearm or weapon in any public Town owned building. Notwithstanding § 939.22(22), Wis. Stats., for purposes of this subsection, "peace officer" does not include a commission warden who is not a state-certified commission warden.

(4) LOITERING PROHIBITED:

(a) **General Regulation of Loitering:** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(b) Loitering Prohibited:

1. No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any police officer.
2. No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places.
3. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(c) Loitering by Underage Persons Where Alcohol Beverage is Dispensed:

1. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
2. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(5) LOUD AND UNNECESSARY NOISE PROHIBITED:

(a) Loud and Unnecessary Noise Prohibited:

1. No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof. The presence of noise at the following decibel levels, as measured from any portion of any parcel adjacent to the parcel that is the source of the noise, shall be considered prima facie evidence that the peace has been unreasonably disturbed as prohibited in this Section.
 - a. Eighty (80) decibels or more between the hours of 7:00 am and 10:00 pm.
 - b. Fifty-five (55) decibels or more between the hours of 10:00 pm and 7:00 am. (amended 3/12/09)
2. Noise created between the hours of 7:00 am and 8:00 pm by normal yard maintenance, farming, timber harvesting, and construction activities shall be exempt from this Section.

(b) Radios, or other Electric Sound Amplification Devices: Except as provided in s. 347.38(1), Wis. Stats. no person may operate or park, stop or leave standing a motor vehicle while using a radio

or other electric sound amplification device emitting sound from the vehicle that is clearly audible under normal conditions from a distance of fifty (50) or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition. This subsection does not apply to any of the following:

1. The operator of any authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm.
2. The operator of a vehicle of a public utility, as defined in s. 11.40(1) (a), Wis. Stats.
3. The operator of a vehicle that is being used for advertising purposes.
4. The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.
5. The activation of a theft alarm signal device.
6. The operator of a motorcycle being operated outside of a business or residence district.

(c) Variances:

1. The Town may issue variances from this subsection for special circumstances such as, but not limited to:

a. Special public events such as parades, Fourth of July celebrations, fairs, band playing and similar public, community events which are limited in duration. The variances may limit the hours and duration of the variance and may be conditioned upon the applicant taking technologically reasonable steps to minimize the noise.

b. Existing business operations and equipment which produces excessive noise if it is found that it is not technologically or economically feasible to alter such operation to reduce noise to the standard prescribed by this Section. Such variance permit may be of indefinite duration.

2. The variance may be granted upon application stating the name of the applicant, address of the event, date and times of operation, what technologically reasonable steps will be taken to minimize the noise and a noise impact statement.

3. In determining whether to grant or deny an application, the Board shall balance the hardship to the applicant, the community, and other persons of denying the variance against the adverse impact of granting the variance on the health, safety and welfare of persons affected.

(6) EMERGENCY ALARM SYSTEMS:

(a) **Purpose:** The primary purpose of this ordinance is to reduce the number of false emergency alarms. It is also intended to encourage the installation of quality alarm systems to ensure maximum safety and protection of persons and property. This section will also impose operation standards and will impose penalties for negligence of the alarm user.

(b) **Definitions:**

1. Alarm User: Means any person on whose premises an alarm system exists within the Town of Rome.

2. Alarm System: An alarm system includes any of the following:

a. Hold-Up Alarm System: means any alarm system that is activated by a person committing a crime or an employee of the protected premises.

b. Localized Alarm System: means any alarm system that when activated causes an audible or visual signaling device. This is considered an on-premise alarm system.

c. Residential Alarm: means an alarm system that is installed to protect a private residence.

d. Fire Alarm: means an alarm system which is designed to activate when fire is detected inside a structure.

3. False Alarm: means any of the following:

a. The activation of an alarm through negligence of the alarm user or anyone acting on the alarm user's behalf.

b. Activation of an alarm from mechanical failure or malfunction due to improper maintenance of the alarm.

c. Activation of an alarm due to improper installation.

(Alarms that are activated due to adverse weather conditions will not be included as false alarms.)

(c) Exception: Vehicle alarms shall be excluded from the provisions of this ordinance.

(d) Penalty imposed for reported false alarms:

1. An alarm user as defined in this section shall be subject to a fine as follows for each false alarm activated after three occurrences in a 12-month period.

a. 4th occurrence - \$50.00

b. 5th occurrence - \$100.00

- c. 6th and subsequent occurrence - \$200.00
- 2. The penalty scale will terminate 12-months after the 1st occurrence and repeat itself.

(7) REGULATION OF FIREWORKS.

(a) Definition. In this Section, “fireworks” means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- 1. Fuel or a lubricant.
- 2. A firearm cartridge or shotgun shell.
- 3. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- 4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- 5. A cap containing not more than one quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- 6. A toy snake which contains no mercury.
- 7. A model rocket engine.
- 8. Tobacco and a tobacco product.
- 9. A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length that is designed to produce audible or visible effects.
- 10. A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
- 11. A fuss-less device that is designed to produce audible or visible effects, that contains less than one-quarter (1/4) grain of explosive mixture.
- 12. A device is designed primarily to burn pyrotechnic smoke – producing mixtures, at a controlled rate, and that produces audible or visible effects.
- 13. A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50

14. A cone fountain is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50 Provided however, items that explode and/or leave the ground shall be considered fireworks.

(b) Parental Liability. A parent, foster parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(c) Sale/Use/Possession. Except as provided in sec. 167.10 (5) (e) Wis. Stats., no person shall possess, use, ignite, sell or give away within the Town of Rome any fireworks except for specific fireworks displays for which the Rome Fire Chief or his designee has issued a permit.

(d) No person may use fireworks or a device listed in paragraph (a) 5. -7. and 11. – 14. above while attending a fireworks display for which a permit has been issued pursuant to paragraph (e) below.

(e) Permits: The Fire Chief or his designee is authorized to issue permits for fireworks displays. Permits may only be issued to the entities specified in sec. 167.10 (3) (c) 1 – 7 Wis. Stats.

1. Issuance: The Fire Chief or his designee is authorized to issue permits for fireworks displays. Permits may only be issued to the persons and entities enumerated in sec. 167.10 (3) (c) 1 – 7 Wis. Stats.

2. Qualifications: A permit shall only be issued to a person who is at least twenty-one (21) years of age and who possesses a certificate of competency to display fireworks. The permit holder must be present during setup, display, and take-down. Permits will only be issued after all appropriate documentation has been approved.

3. Insurance Requirement: A permit shall not be issued unless the applicant provides written proof of liability insurance coverage from an insurer licensed in Wisconsin in an amount not less than \$1,000,000. The town shall be a named insured on such coverage.

4. Permit holder will be responsible for crowd control.

5. Permit holder will be responsible for complying with current National Fire Protection Standards #1123, #1125 and #1126.

(8) WEAPONS ON TOWN-OWNED PROPERTY

(a) The possession of weapons, concealed or otherwise, is prohibited in all buildings owned or occupied by the Town of Rome including, but not limited to, the following:

1. Town Hall/Fire Department Complex;

2. All Highway Department Buildings;

3. Fire Station No. 2 on Apache Avenue;
4. Buildings at Dyracuse Park;
5. Lester Public Library; and,
6. Police Department Building.

Signs shall be placed at the entries to such buildings notifying the public of this prohibition.

(b) The possession of weapons, concealed or otherwise, is prohibited at any special event, as that term is defined in sec. 943.13 (1m) (c) 3. Wis. Stats., for which the town chairperson has issued such a prohibition by written order. Signs shall be placed at the entries to such special events notifying the public of this prohibition.

(c) Exemption: A peace officer, as defined in sec. 939.22 (22) Wis. Stats, shall be exempt from the prohibitions contained in this subsection.

(d) Penalty: Any person who violates this subsection shall, upon conviction, be subject to a forfeiture of not more than \$500 per violation, plus court costs and fees.

9.03 OFFENSES BY JUVENILES:

(1) TOWN JURISDICTION OVER PERSONS 14 THROUGH 17 YEARS OF AGE:

(a) Adoption of State Statute. Section 938.17(2), Wis. Stats. is hereby adopted and by reference made a part of this Section as if fully set forth herein.

(2) CURFEW:

(a) Curfew Established: It shall be unlawful for any person under eighteen (18) years of age to be on foot, bicycle or in any type of vehicle or any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Town of Rome between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore:

(b) Exceptions:

1. This Section shall not apply to a child:

a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.

b. Who is on his own premises or in the areas immediately adjacent thereto.

c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.

d. Who is returning home from a supervised school, church or civic function, but not later than (30) minutes after the ending of such function.

2. These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(c) Parental Responsibility: It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under eighteen (18) years or age to allow or permit such person to violate the provisions of (1) or (2) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have a missing person notification to the police department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this Section.

9.04 NUISANCES:

(1) NUISANCES ON PRIVATE PROPERTY:

(a) **Definition:** Any condition or use of premises or building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to the keeping or depositing on or the scattering over the premises of any lumber, junk, trash, or debris; abandoned, discarded, or unused objects or equipment, such as motor vehicles, recreational vehicles, furniture, stoves, refrigerators, freezers, cans, or containers. Maintaining any object on the premises, which causes an odor, which is revolting or obnoxious and which gives pain or unpleasant sensation to the owners of neighboring properties is a violation of this Section.

(b) No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant, or otherwise, shall allow any partially dismantled, wrecked, junked, unlicensed, discarded appliances, recreational vehicles, motor vehicles, machinery or manufactured homes or otherwise non-operating motor vehicle, recreational vehicle or non-inhabitable manufactured home to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the Town for a longer time than ten (10) days, except that this Section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This Section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such a vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town or any public agency or entity, except that this Section does not restrict the Town from proceeding under any other ordinance which the Town may have relating to non-operating vehicles as herein described.

(c) Whenever the Police Department shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the Town, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicles or appliance is not removed within five (5) days, the Police Department shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.

(d) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the Chief of Police shall cause the vehicle or appliance to be removed and impounded, and the Chief of Police or his duly authorized representative shall thereafter dispose it of. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.

(2) PERMIT:

- (a) The Police Chief is authorized to issue annual permits to store unlicensed motor vehicles upon a parcel of property.
- (b) A written permit to store an unlicensed motor vehicle shall be issued upon proper application having been made, and only after the applicant if deemed necessary has met all the requirements, as to the type of enclosure or shielding.
- (c) Any application for an “Unlicensed Motor Vehicle Storage Permit” shall be acted within 60 days after it was filed with the Police Chief.
- (d) If the Permit is issued, such Permit shall be issued for a period of one year.
- (e) Inspection of an enclosure facility may be executed each year before the Police Chief acts the next year's permit on.

9.05 DISORDERLY CONDUCT: (1) DISORDERLY CONDUCT PROHIBITED:

(a) No person in any public or private place shall engage in violent, noisy, riotous abusive, indecent, profane, boisterous, unreasonably loud or abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct, which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.

(b) No person shall intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) **DISORDERLY CONDUCT WITH MOTOR VEHICLE:** No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.

(3) **DEFECATING OR URINATING IN PUBLIC PLACES:** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Town, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings, or to indecently expose his person.

9.06 FAILURE TO OBEY LAWFUL ORDER: It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

9.07 FEEDING OF DEER PROHIBITED: Purpose: The purpose of this ordinance is to protect the health, safety, general welfare and property of citizens and landowners in the Town of Rome. The Town has an abundance of deer which can create many problems including threats to traffic safety, damage to real and personal property, damage to plant life and, through the spread of disease including chronic wasting disease, a threat to public safety. The effect of these problems on persons and property is more pronounced in areas of higher residential density. The Town Board, therefore, determines that it is necessary and appropriate to prohibit the feeding of deer in areas of the Town of Rome zoned "L" Lake District in an effort to reduce the elements of attraction for deer, especially in residential areas. By reducing the elements of attraction for deer, the intensity of the deer population, especially in residential areas, should be reduced.

Feeding of Deer Prohibited: No person may, within any area of the Town zoned "L" Lake District, place or permit to be on the ground, or within five (5) feet of the ground surface, any grain, fodder, salt licks, fruit, vegetables, nuts, hay or other edible material (including feed for birds), which may reasonably be expected to result in deer feeding, unless such items are screened or protected in a manner that prevents deer from feeding on them. Living fruit trees and other live vegetation shall not be considered as deer feeding.

Penalty: Any person convicted of violating this ordinance shall be fined not less than \$30 nor more than \$100 for each such violation. Each day a violation exists shall be considered a separate violation.

9.08 REGULATIONS FOR LAWN FERTILIZER APPLICATION

(1) **AUTHORITY:** This section is adopted under the authority of secs. 60.22(3) and 61.34(1), Wis. Stats.

(2) **PURPOSE AND INTENT:** The Town of Rome finds that lakes and streams are a natural asset, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Board further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the lakes will improve and maintain lakes, streams, rivers and ground water quality.

(3) **APPLICABILITY:** This Ordinance applies in all areas of the Town of Rome.

(4) DEFINITIONS:

(a) *Agricultural* use means beekeeping, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and seed crops, raising of fruits, nuts, berries, sod farming and vegetable raising.

(b) *Fertilizer* has the meaning set forth in sec. 94.64(1) (e), Wis. Stats.

(c) *Lawn fertilizer* means any fertilizer, whether distributed by property owner, renter or commercial entity, distributed for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. *Lawn fertilizer* does not include fertilizer products intended primarily for garden and indoor plant application.

(5) REGULATION OF THE USE AND APPLICATION OF LAWN FERTILIZER:

(a) No person shall apply any lawn fertilizer within Town of Rome that is labeled as containing more than zero percent (0%) phosphorus or other compound containing phosphorus, such as phosphate, except as provided in sub. (6) herein.

(b) No lawn fertilizer shall be applied when the ground is frozen.

(c) No person shall apply fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

(6) **EXEMPTIONS:** The prohibition against the use of fertilizer under sub. (5) herein, shall not apply to:

(a) Newly established turf or lawn areas during their first full growing season.

(b) Turf or lawn areas that soil tests, performed within the past three (3) years by a state-certified soil testing laboratory, confirm are below phosphorus levels established by the University of Wisconsin Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.

(c) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.

(d) Yard waste compost, biosolids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.

(7) **PENALTY:** Any person who violates this section in the application of fertilizer at his or her residence shall be subject to a forfeiture of thirty dollars (\$30) per violation, plus court costs and fees. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates this section shall be subject to a forfeiture of fifty dollars (\$50) plus costs and fees for the first violation within a twelve (12) month period, one-hundred fifty dollars (\$150) plus costs and fees for the second (2nd) violation within a twelve (12) month period, and three hundred (\$300) plus costs and fees for the third (3rd) and each subsequent violation within a twelve (12) month period.

(8) **SEVERABILITY CLAUSE:** If any provision or portion of this Section is ruled invalid by a court, the remainder of the Section shall not for that reason be rendered ineffective or invalid.

9.09 REGULATIONS FOR LAWN FERTILIZER APPLICATION

(1) AUTHORITY: This section is adopted under the authority of secs. 60.22(3) and 61.34(1), Wis. Stats.

(2) PURPOSE AND INTENT: The Town of Rome finds that lakes and streams are a natural asset, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public. The Board further finds that regulating the amount of nutrients and contaminants, including phosphorus contained in fertilizer, entering the lakes will improve and maintain lakes, streams, rivers and ground water quality.

(3) APPLICABILITY: This Ordinance applies in all areas of the Town of Rome.

(4) DEFINITIONS:

(a) “Agricultural use” means beekeeping, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and seed crops, raising of fruits, nuts, berries, sod farming and vegetable raising.

(b) “Fertilizer” has the meaning set forth in sec. 94.64(1) (e), Wis. Stats.

(c) “Lawn fertilizer” means any fertilizer, whether distributed by property owner, renter or commercial entity, distributed for nonagricultural use, such as for lawns, golf courses, parks and cemeteries. Lawn fertilizer does not include fertilizer products intended primarily for garden and indoor plant application.

(e) “Lawn Waste” means organic debris such as grass clippings, leaves, flowers, and brush which is produced as part of yard development and maintenance.

(5) REGULATION OF THE USE AND APPLICATION OF LAWN FERTILIZER:

(a) No person shall apply any lawn fertilizer within Town of Rome that is labeled as containing more than zero percent (0%) phosphorus or other compound containing phosphorus, such as phosphate, except as provided in sub. (6), herein.

(b) No person shall apply any lawn fertilizer within the Town of Rome that is labeled as containing less than 20% slow-release nitrogen.

(c) No lawn fertilizer shall be applied when the ground is frozen.

(d) No person shall apply fertilizer to any impervious surface including parking lots, roadways, and sidewalks. If such application occurs, the fertilizer must be immediately contained and either legally applied to turf or placed in an appropriate container.

- (e) No person shall apply any fertilizer to any established natural buffer zones.
- (f) No person shall apply any fertilizer within 35 (thirty-five) feet of any wetland, pond, shoreline, or ordinary high-water mark of any lake, river or stream as established by the Wisconsin Department of Natural Resources.
- (6) **EXEMPTIONS:** The prohibition against the use of fertilizer under sub. (5), herein, shall not apply to:
- (a) Newly established turf or lawn areas during their first full growing season.
- (b) Turf or lawn areas that soil tests, performed within the past three (3) years by a state-certified soil testing laboratory, confirm are below phosphorus levels established by the University of Wisconsin Extension Service. The lawn fertilizer application shall not contain an amount of phosphorus exceeding the amount and rate of application recommended in the soil test evaluation.
- (c) Agricultural uses, vegetable and flower gardens, or application to trees or shrubs.
- (d) Yard waste compost, biosolids or other similar materials that are primarily organic in nature and are applied to improve the physical condition of the soil.
- (7) **LAWN WASTE DISCHARGE REGULATED:** It shall be unlawful for any person to intentionally place, throw, or otherwise discharge lawn waste into any drainage ditch, lake, stream or creek.
- (8) **ENFORCEMENT:** The Town Board shall designate an agent who shall be responsible to act upon and enforce this Section.
- (9) **PENALTY:** Any person who violates this section in the application of fertilizer at his or her residence shall be subject to a forfeiture of thirty dollars (\$30) per violation, plus court costs and fees. Any commercial fertilizer applicator, residential or commercial developer, industrial or commercial owner, or other person who violates this section shall be subject to a forfeiture of fifty dollars (\$50) plus costs and fees for the first violation within a twelve (12) month period, one-hundred fifty dollars (\$150) plus costs and fees for the second (2nd) violation within a twelve (12) month period, and three hundred (\$300) plus costs and fees for the third (3rd) and each subsequent violation within a twelve (12) month period.
- (10) **SEVERABILITY CLAUSE:** If any provision or portion of this Section is ruled invalid by a court, the remainder of the Section shall not for that reason be rendered ineffective or invalid.

9.10 RESTRICTIONS ON DEAD TIMBER & BRUSH

(1) **PURPOSE:** The Town of Rome is heavily wooded. The combination of woodlands and high density housing make homes in the Town particularly vulnerable to wildfires. The effects of such wildfires would be devastating to both persons and property. Dead trees and brush are highly combustible and represent an ideal fuel for the start and spread of a wildfire. The Town has determined that dead trees and brush constitute a safety hazard and a public nuisance and that it is therefore necessary to regulate them.

(2) **DEAD TREES AND BRUSH PROHIBITED IN MANAGED AREAS AS FOLLOWS:** Every owner of a parcel(s) of land that is two (2) acres or less with or without a permanent building on it shall be subject to these restrictions on their entire property. Every owner of a parcel that is greater than two (2) acres in size with a dwelling on it shall be subject to these restrictions within one hundred (100) feet of the dwelling. This shall not apply to any outlots, green spaces, common areas or other parcels that are undivided fractionally owned by a Property Association landowner or wholly owned by a Property Owners' Association.

The managed area shall be kept free of:

- (a) Dead trees, standing or fallen, that are 6 inches or greater in diameter at the base of the tree;
- (b) Dead brush and trees limbs on the ground greater than 3" in diameter on the larger end;
- (c) Brush piles greater than 3' x 3' x 3'

In an attempt to prevent the spread of oak wilt, property owners shall avoid cutting or injuring standing oak trees during the period of April 15 – October 1 of each year except in the case of natural disasters where this can be suspended for a time to be determined by the Town Board. Dead wood that is already on the ground can be cut and piled regardless of the time of year.

(3) **PROCEDURE:** Whenever the Town Board's designee shall determine that a property owner is in violation of this section, the Town Board's designee shall send a notice of the violation to the property owner. The notice shall include a description of what constitutes the violation and shall set forth a deadline for the violation to be remedied not to exceed eighteen (18) months. If the violation is not remedied by the deadline, the property owner may be issued a citation by the Police Department for the violation. In addition, the Town may abate the nuisance pursuant to the normal procedure for the abatement of a nuisance.

(4) **PENALTIES:** Any owner of property convicted of a violation of this Section shall be subject to a fine of not more than two hundred dollars (\$200.00) plus costs. Each day that the subject property remains in violation of this Ordinance shall constitute a separate violation.

9.11 IRRIGATION OVERSPRAY PROHIBITED

- (1) PURPOSE:** Outdoor sprinkler systems are proper and necessary; these systems should be reasonably setup to only irrigate the owner's property. Overspray can cause safety concerns for motorists and cause damage to public streets.
- (2) NO PERSON SHALL:** allow or operate an irrigation system which sprays water onto the traveled portions of the roadway.
- (3) PENALTIES:** Any owner of an irrigation system who fails to stop irrigation overspray onto a roadway, after being warned by a police officer, shall be subject to a fine of not more than one hundred dollars (\$100.00) plus costs for a first violation and a fine of not more than two hundred dollars (\$200.00) plus cost for second and subsequent violations.