No. 95-1398

STATE OF WISCONSIN IN COURT OF APPEALS
DISTRICT I

CITY OF MILWAUKEE,

Plaintiff-Respondent,

v. **ERRATA SHEET**

CLIFTON HAMPTON,

Defendant-Appellant.

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PLEASE TAKE NOTICE that the attached page 10 is to be substituted for page 10 in the above-captioned opinion which was released on July 31, 1996.

Dated this 20th day of December, 2006.

D. State Statutes and State Policy.

Hampton's last argument is that the "dangerous per se" language of the ordinance is in conflict with state law and state policy. We reject his argument.

Hampton claims the "dangerous per se" language in 105-34 conflicts with the state statute governing evidentiary presumptions. *See* RULE 903.01, STATS.[1] Hampton argues that RULE 903.01 governs proceedings in municipal courts in Wisconsin, *see* § 800.08(4), STATS. ("Municipal courts shall be bound by the rules of evidence specified in chs. 901 to 911."), and that it forbids irrebuttable mandatory presumptions. He then repeats his argument that the 105-34 "dangerous per se" language creates just such a presumption, and that this conflicts with RULE 903.01. We rejected his argument on this issue above, and therefore, we see no conflict with state law on this point. Further, RULE 903.01, STATS., does not even address irrebuttable mandatory presumptions.

[1] RULE 903.01, STATS., provides:

> **Presumptions in general**. Except as provided by statute, a presumption recognized at common law or created by statute, including statutory provisions that certain basic facts are prima facie evidence of other facts, imposes on the party relying on the presumption the burden of proving the basic facts, but once the basic facts are found to exist the presumption imposes on the party against whom it is directed the burden of proving that the nonexistence of the presumed fact is more probable than its existence.