

## TOWN OF RED RIVER

### TOWN OF RED RIVER

ORDINANCE NO. 1990- 2AN ORDINANCE PROVIDING FOR ANIMAL CONTROL, LICENSING OF ANIMALS; PROVIDING FOR IMPOUNDMENT OF ANIMALS AND CONFINEMENT OF BITING AND VICIOUS ANIMALS; PROVIDING FOR LICENSEFEES FOR ANIMALS AND KENNELS; PROVIDING APENALTY FOR VIOLATION; PROVIDING FOR A PENALTY ASSESSMENT METHOD OF ENFORCEMENT AND REPEALNG ORDINANCE NUMBERS 1972-1,1972-4, 1976-3,1979-1,1986-5,1986-11. BE IT ORDAINED by the Governing Body of the Town of Red River, New Mexico:

#### **SECTION 1. "DOG OR ANIMAL" DEFINED.**

The word "dog" as used in this section shall be construed to mean any dog, bitch or whelp over three (3) months of age. The word "animal" herein shall include any cattle, horse, mules, sheep, goats or other hard hoofed animals, dogs, cats and domestic animals. This ordinance shall be known as the Town of RED RIVER Animal Control Ordinance.

#### **SECTION 2. LICENSE REQUIRED.**

- A. The owner, possessor or keeper of any dog within the Town shall secure a license for such dog from the Clerk-Treasurer within thirty (30) days after the dog reaches the age of three (3) months of age. New residents of the Town shall have thirty (30) days after they become residents to secure a license hereunder. A license for such dog shall be secured each year and will be renewable each year at the time of vaccination.
- B. No person shall debar a guide dog that is trained by a recognized guide dog school to lead a blind or hearing impaired person in any place of public accommodation, or any place of public entertainment, or any place of public amusement. Blind persons shall not be required to pay any additional charges for their guide dogs, but shall be liable for any damage done to any property by their guide dogs. A guide dog must be licensed, however, no license fee shall be charged. All other license requirements shall be met prior to licensing. Any person violating subparagraph-B of this section is guilty of a petty misdemeanor.

#### **SECTION 3. FEES.**

The annual license fee for dogs within this Town shall be \$4.00 for neutered and spayed dogs and \$8.00 for unneutered and unsplayed dogs.

#### **SECTION 4. RABIES VACCINATION REQUIRED.**

The owner, possessor or keeper of every dog within the Town shall have such dog inoculated against rabies within thirty (30) days after the dog reaches the age of three (3) months. Upon receipt of a rabies vaccination, the owner, possessor or keeper of every dog shall secure a license for such dog from the ClerkTreasurer.

#### **SECTION 5. BY LICENSED VETERINARIAN.**

The inoculation required by Section 4 shall be made by any veterinarian licensed to practice veterinarian medicine in this State or in another state.

#### **SECTION 6. PREREQUISITE TO ISSUANCE OF LICENSE; FORM OF APPLICATION FOR LICENSE.**

Upon application for a dog license, the applicant shall exhibit to the Clerk-Treasurer a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this section. All applications for license shall be made on forms provided by the Clerk-Treasurer.

#### **SECTION 7. TAGS ISSUANCE.**

It is the duty of the Clerk-Treasurer to deliver or cause to be delivered to each person making application for a license, paying the license fee provided for in Section 3 and presenting the certificate of inoculation required by Section 6, a dog tag for each dog licensed and inoculated.

#### **SECTION 8. DESCRIPTION.**

The dog tag provided for in Section 7 shall be of such size, shape, color and material as may be deemed expedient and suitable by the Clerk-Treasurer; such tag shall contain a number stamped thereon in numerical order beginning with number one and the words 'RED RIVER'.

#### **SECTION 9. ATTACHMENT TO DOG'S COLLAR OR HARNESS.**

Every owner, possessor or keeper of a dog within the Town shall place upon such dog a collar or harness made of durable material to which the dog tag provided for in Section 7 shall be attached.

#### **SECTION 10. TO BE WORN ONLY BY LICENSED DOGS.**

No person shall affix to the collar or harness of any dog, or permit to remain so affixed, a tag evidencing licensing and rabies inoculation except the dog tag issued to that dog at the

time of issuance of its license.

**SECTION 11. RECORDS TO BE KEPT OF ISSUANCE; DUPLICATES; TRANSFERS.**

The Clerk-Treasurer shall keep a record of the date of issue of each dog tag and the person to whom such tag is issued and the number thereof. If the dog tag is lost or destroyed, a duplicate tag may be obtained from the Clerk-Treasurer upon the payment of a fee of fifty cents (\$.50). In the event that the ownership or possession of a dog is changed, a new dog tag must be obtained and such new dog tag shall be issued by the Clerk-Treasurer upon proof being presented that the inoculation and licensing requirements of Section 6 have been complied with and upon the payment of the fee of fifty cents (\$.50).

**SECTION 12. IMPOUNDMENT.**

It is lawful for all police or animal control officers to impound any dog which is not wearing a dog tag and any dog which they have probable cause to believe is in violation of any of the provisions of Sections I thru 34, whether such dog is wearing a dog tag or not. It is lawful for any police or animal control officer to go upon private property for the purpose of catching any dog to be impounded. Such impoundment may be done by any legal capture system, including but not limited to tranquilizer dart or capture pole.

**SECTION 13. ESTABLISHMENT OF POUND.**

The Town Council may establish a dog pound for the municipality to be operated by Town personnel, or at its election, it may contract with a public or private person or organization for the operation of a dog pound for and on behalf of the Town.

**SECTION 14. FILING OF COMPLAINT IN MUNICIPAL COURT.**

If a dog is impounded, the police or animal control officer shall immediately institute proceedings in the Municipal Court on behalf of the Town against the owner, possessor or keeper of such dog if known, charging the owner, possessor or keeper with a violation of the appropriate section. Nothing herein contained shall be construed as preventing the police or animal control officer or any citizen from instituting a proceeding in the Municipal Court in the Town for violation of this section where there is no impoundment and nothing herein contained shall be construed as preventing the police or animal control officer from issuing a penalty assessment citation in lieu of impoundment or institution of municipal court proceedings.

**SECTION 15. NOTICE TO OWNER OR KEEPER OF DOG.**

As soon as practicable after the date of impoundment, the animal control officer shall send by regular mail a written notice of such impoundment to the owner, possessor or keeper of such dog if the address of such person be known.

If the owner, possessor or keeper of such dog is not known or if his address cannot be determined, the animal control officer shall cause to be posted in a conspicuous place in the Town for five (5) consecutive days a notice of impoundment. Weather the notice herein provided be mailed or posted, it shall describe the dog, set forth the date of impoundment and describe the location where the dog was taken

**SECTION 16. RELEASE OF IMPOUNDED DOG; DESTRUCTION OF DOG.**

If a complaint has been filed in the Municipal Court of the Town against the owner, possessor or keeper of any dog for a violation of Sections 23 or 30, the dog shall not be released from impoundment except on order from the Municipal Judge. In cases of violation of all other offenses the animal control officer may release the dog with proper identification of owner. No dog shall be released until current rabies vaccination and Town tags if applicable as shown. In addition to any penalties which may be provided for in this Ordinance, the Municipal Judge shall require such owner, possessor or keeper to pay the fees herein provided for in Section 20 if applicable may, upon finding that such dog constitutes a nuisance or that such dog is a vicious dog or that such dog constitutes a clear and present danger to the citizens of the community, order that the dog be destroyed in a humane manner by the animal control officer or by persons authorized to do so by the Town Council.

**SECTION 17. DISPOSAL OF DOGS UNCLAIMED.**

If a complaint has not been filed in Municipal Court because the owner, possessor or keeper of an impounded dog is not known or if a complaint has been filed but the owner possessor or keeper of an impounded dog cannot be located and the dog has not been claimed within seven (7) days from the date of impoundment, the dog may be disposed of in any humane manner prescribed by the animal control officer or by persons so authorized to do so by the Town Council.

**SECTION 18. SALE OF ANIMALS.**

- A. If the owner or person entitled to the possession of an animal does not pay the charges and take it away within seven days from the time it is taken into custody, the town may sell such animal at public auction after having given at least five days notice of the time and place of such sale by publishing one time in a newspaper of general circulation in the Town or by posting such

notice in five public places in the Town as well as serving a copy of said notice upon the owner or possessor of said animal, if known. Such animal may be redeemed at any time before the date of sale by payment to the officer in charge or his assistant, of any fines, fees, expenses and charges herein provided.

- B. In case an animal is sold for more than is sufficient to pay the fines, fees and expenses and charges aforesaid excess shall by the officer or his assistant be deposited with the Clerk-Treasurer, who shall pay such excess, upon order of the Town council to the owner of such animal or the person entitled to the possession of the same upon claim and proper proof within one (1) year from date of sale. If said excess is unclaimed at that time it shall revert to the town General Fund.
- C. The authority in this section to sell an animal is entirely at the discretion of the Town and nothing in this section shall prevent the Town from exercising the authority to destroy the animal as provided in section 17 of this ordinance.

#### **SECTION 19. UNLAWFUL TO ALLOW RUNNING AT LARGE OR CREATE NUISANCE.**

- A. It shall be unlawful for any person owning, harboring or having the custody or possession of any dog to cause or allow such animal to:
  1. Be in or on a public street, or public place unless such dog is on a secure leash not exceeding eight (8) feet in length and under the immediate physical control of the person having custody thereof. Or be in the back of an open pick up unless the dog is secured to prevent it from lunging at passers by.
  2. Commit any damage or nuisance upon the property of any person.
  3. Enter in a public building unless such dog is a guide dog for a blind or hearing impaired person.
  4. Bark excessively and disturb the peace of surrounding persons.
- B. Any dog found engaged in any of the activities mentioned above may be impounded by the Animal Control officer.
- C. Any person owning or having charge, custody, care or control of any such animal shall keep such animal on their property. No such animal shall be at large in or on any street, alley, sidewalk, vacant lot, public property, or any other unenclosed space in the Town. Further no such animal shall be allowed to be at large on any private property unless there is specific permission from the owner of that property. Any such animal found running at large in violation of this section is declared to be a nuisance, a menace to the public health and safety, and if observed by the animal control officer, may be taken up and impounded.
- D. A dog or animal that continually creates a nuisance upon public or private property can be impounded after formal complaint has been filed by the aggrieved person

with the Municipal Court. The owner of such dog will be held liable for the actions of the dog and must answer the said charge.

- E. If any dog or animal shall kill or injure any livestock or poultry, the owner or keeper of the dog or animal shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction, and it shall be unlawful to keep such dog, or animal after it is known that the dog or animal is liable to kill livestock or poultry, and it shall be the duty of the owner to kill, or have killed, the dog or animal upon order of the court after a finding that the dog or animal has killed or injured livestock or poultry, and provided further, that it shall be the right of the owner of livestock or poultry so killed or injured by the actions of any dog or animal to kill the dog, or animal while it is upon property controlled by the owner of the livestock.
- F. Any police or animal control officer may impound any dog or animal found running at large unaccompanied by and not under the control of the handler, and further, the officer shall destroy the dog or animal, whenever possible, if it is in the act of pursuing, wounding or killing livestock or poultry or attacking humans.
- G. Any police or animal control officer may kill any dog or animal doing any of the acts described in subsection F above whether or not the dog or animal wears a rabies tag required by 77-1-3 NMSA 1978 or this ordinance. There shall be no liability of the officer in damages or otherwise for such killing.
- H. It is unlawful for any person to keep any dog or animal known to be vicious and liable to attack or injure human beings unless such dog or animal is securely kept to prevent injury to any person.
- I. It is unlawful to keep any unvaccinated dog or cat or any animal with any symptom of rabies.
- J. It is unlawful to fail or to refuse to destroy vicious animals or unvaccinated dogs, cats or any animal with symptoms of rabies as prescribed by regulation of the state health and environment department for the protection of public health and safety.

#### **SECTION 20. CONFINEMENT OF ANIMALS RUNNING AT LARGE; COSTS.**

If any animal, including dogs and cats, is found running at large contrary to the provisions of this section, the animal control officer or police officer may confine the animal in a secure place or other place provided for that purpose and such animal taken up and confined shall not be released until the owner or person entitled to the possession thereof shall pay to the Town the sum of Twentyfive (25) dollars for the taking up of such animal together with the sum of five (5) dollars per day or partial day for each and every animal so kept. Said person shall also pay for any related medical fees. If the animal is taken to Taos County pound or any other place of confinement said person shall pay all fees incurred



at that facility as well as any above charges incurred with the Town.

**SECTION 21. INTERFERENCE WITH POLICEMEN PERFORMING DUTIES.**

It is unlawful for any person to interfere with, molest, hinder or obstruct any police officer or animal control officer in the discharge of their official duties under this ordinance.

**SECTION 22. INSTIGATING OR ENCOURAGING DOG FIGHTS PROHIBITED.**

No person shall cause, instigate or encourage any dog fight within the Town.

**SECTION 23. MALTREATMENT.**

- A. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, kick, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
- B. It is unlawful for any person to drive or work any animal cruelly.
- C. It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink, shade, care or shelter, or to carry an animal in or upon any vehicle in a cruel or inhumane manner. Any animal habitually kept outside shall be provided with a structurally-sound, weather proof enclosure, large enough to accommodate the animal.
- D. It is unlawful for any person having charge, custody or ownership to abandon any animal. All animals which are to be abandoned may be turned over to the animal control center or to the Animal shelter for adoption.
- E. It is unlawful for any person by any means to make accessible to any animal, with intent to cause harm or death, any been treated or prepared with any harmful or poisonous substance. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

**SECTION 24. HOGS, SHEEP AND GOATS PROHIBITED.**

It is unlawful for any person to keep or harbor any hogs, sheep or goats within the corporate limits of the Town.

**SECTION 25. FOWL AND RABBITS RESTRAINED.**

It is unlawful for any person who owns, harbors or keeps within the corporate limits any chickens, ducks, geese, turkeys, or other domestic fowl, or any hare or rabbits, to fail to keep the same securely enclosed in a pen or building, or

to permit the same to run at large or to go upon the premises of another

**SECTION 26. PREMISES KEPT CLEAN.**

- A. Any person who owns or controls any lot, barn, stable, shed, building or other place where domestic fowl or animals are kept, shall keep said building and premises in a clean and sanitary condition and shall remove all manure from the premises at least once each week. This subsection is not intended to prevent the keeping of a fertilizer supply if done properly.
- B. All sheds or other shelters for such animals, or fowl shall be kept free of rodents and shall be thoroughly sprayed with insect spray and deodorant at intervals of not less than twice each week during the months of Juno to October, inclusive, of each year, and shall be kept in good repair and a fresh covering of straw, wood shavings or corn cobs shall be placed on the floor each day.

**SECTION 27. CONFINEMENT OR MUZZLING OF DOGS DURING RABIES DANGER; IMPOUNDING OF DOGS NOT CONFINED OR MUZZLED.**

Whenever the Mayor shall be of the opinion that any danger exists from hydrophobia in the Town or other danger exists from dogs running at large within the Town, he shall issue his proclamation requiring every owner, possessor, or keeper of any dog within the Town to confine or securely muzzle the same for such time as he may designate, during which time it is unlawful for any dog to be within the Town unless so securely muzzled with a good substantial wire or leather muzzle securely fastened and put on so as to prevent any such dog from biting. It shall be the duty of all police and animal control officers of the Town to take up and impound any dog that may be found during the time so designated by the Mayor as aforesaid unless muzzled or confined as herein provided.

**SECTION 28. FEMALE DOGS IN HEAT.**

Any unspayed female dog, while in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen or other enclosure shall be so constructed or situated as to prevent other dogs from gaining access to such yard, pen or other enclosure.

**SECTION 29. VICIOUS DOGS.**

No person shall own, keep, possess or harbor a vicious dog within the Town. As used in this section, a vicious dog is a dog that unprovokedly bites or attacks human beings or other animals either on public or private property or in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks or any public ground or place. All police and animal control officers shall take up and impound any dog which is a vicious dog. If a

vicious dog cannot be caught by any police or animal control officer without such officer exposing himself to danger of personal injury or exposing the general public to danger of injury, the officer may forthwith destroy such dog without notice to the owner, -keeper or possessor thereof, by any means deemed necessary.

**SECTION 30. CONFINEMENT OF BITING DOGS.**

- A. The owner, possessor or keeper of any dog which has bitten or which is suspected to have bitten any person or which is suspected of having rabies shall immediately notify any police officer or animal control officer of such fact.
- B. Any dog which has bitten or which is suspected to have bitten any person (or which is suspected to have bitten any person) or which is believed to have rabies or to have been exposed to rabies shall be confined, upon order of any police or animal control officer, for a period of ten (10) days for observation. Such dog shall either be confined at the residence of the owner, possessor or keeper thereof , if such confinement can be accomplished without exposing such dog to the public, or at the option of any police or animal control officer, such dog shall be confined at the Town pound or at a private or public veterinary hospital at the expense of the owner, possessor or keeper of the dog. It is unlawful for any owner, possessor or keeper of such dog to permit such dog during confinement to come into contact with the public.
- C. When any person is bitten by an animal, it is the duty of such person or his parent or guardian to notify the Animal control department. Every Physician and EMT shall, within twentyfour (24) hours after his first professional contact with a person bitten by an animal to report to the Animal Control department, the name,age,sex and address of the person bitten.
- D. The Animal control officer shall upon receipt of above reports also notify the district health officer as required by state law.

**SECTION 31. POSSESSION OF SKUNKS.**

Due to the presence of Rabies in skunks and the hazard to the public health of rabies developing in skunks kept as pets, no person shall import into the Town, nor capture with intent to keep as a pet,nor buy,sell, trade nor possess any skunks except in connection with a recognized zoological park or research institution

**SECTION 32. COMMERCIAL AND NONCOMMERCIAL KENNELS.**

- A. It shall be unlawful to keep, maintain, harbor or possess upon the premises of any one house hold more than three (3) cats, on more than two (2) dogs, or a combination of more than four of the above over the age of

three months unless the owner or person in charge thereof shall have obtained a noncommercial kennel license.

- B. Application for a noncommercial kennel license shall be made at the Town Clerk's office and must be accompanied by permission from at least seventy-five (75) percent of all persons in possession of premises within one hundred (100) feet of the premises upon which non-commercial kennel is to be maintained, and the application form approved by the animal control officer, available at the marshals office, accompanied by a license fee of Ten (10) dollars for three (3) dogs or 4 cats or combination of five, and an additional three (3) dollars for each additional dog or cat. The application shall state the name and address of the owner where the non-commercial kennel is to be kept and the number of dogs or cats or combination thereof. Noncommercial kennel licenses shall not be transferable and shall be good for one year from date of issue, and are subject to revocation if problems occur.
- C. Whenever additions are made to the number of dogs or cats for which the kennel license has been issued, the licensee shall within three (3) working days, report to the Town Clerk and pay the required license fee: provided however that whenever puppies of kittens are born, such puppies or kittens shall not be counted as additions until three (3) months old.
- D. The issuance of a noncommercial kennel license shall not obviate the necessity of obtaining an individual dog license.
- E. For every kennel maintained for dogs, cats or both, which is registered under the rules and regulations of the American Kennel Club, it shall not be necessary to license individual dogs, but the owner of such kennel shall pay an annual license fee of Fifteen (15) dollars, provided however , that all dogs or cats covered by any such kennel license shall be maintained and kept within the kennel or under leash at all times and further provided that the owner of said commercial kennel shall also be subject to the requirement of consent from at least seventy-five (75) percent of all persons in possession of premises within one hundred (100) feet of the premises upon which said commercial kennel is to be maintained, to be presented to the Town Clerk with the application and fees.
- F. A commercial kennel license shall be nontransferable and shall expire one year from date of issue and is subject to revocation.

**SECTION 33. NOTICE OR KNOWLEDGE OF VIOLATION OF SECTION NOT NECESSARY FOR PROSECUTING OF OWNER OR KEEPER.**

For the purpose of prosecution for violations of this Ordinance, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the

owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Ordinance at the time and place charged, It being the purpose and intent of this Ordinance to impose strict liability upon the owner, possessor or keeper of any dog for the action, conduct and condition of such dog.

**SECTION 34. PENALTY ASSESSMENT MISDEMEANORS.**

As used in this ordinance, "Penalty assessment misdemeanor" means violation of any of the following listed section of the ordinance for which the listed penalty assessment is established:

Common Name of Offense	Section Violated	Penalty Assessment
License Required	2.A.	\$25.00
Debarring Guide Dog	2.B.	\$75.00
Rabies Vaccination Required	4.	\$40.00
Improper Vaccination	5.	\$20.00
False or No Certificate	6.	\$20.00
Illegal Possession/Tag	a.	\$30.00
Attachment of Tag	10.	\$15.00
Tagging Wrong Animal	11.	\$25.00
Running at Large or Nuisance	19.	\$40.00
Interference with Officer	21.	Court Appearance
Causing Animal Fights	22.	\$40.00
Maltreatment of Animals	23.	Court appearance
Keeping Prohibited Animals	24.	Court appearance
Fowl and Rabbits Restrained	25.	\$20.00
Uncleaned Premises	26.	Court appearance
Confinement or Muzzling	27.	Court appearance
During Rabies Danger		
Female Dogs in Heat	28.	Court appearance
Vicious Animal or Dog	29.	Court appearance
Confinement of Biting	30.	Court appearance
Dogs or Animals		
Possession of Skunks	31.	Court appearance
Commercial and Non-Commercial Kennels	32.	Court appearance

**SECTION 35. ANIMAL CONTROL CITATIONS**

A. Unless a penalty assessment or warning notice is given, whenever a person is arrested for any violation of this

ordinance or other law relating to animals or animal control punishable as a misdemeanor, the arresting officer, using the animal control citation, shall complete the information section and prepare a notice to appear in court, specifying the time and place to appear, have the arrested person sign the agreement to appear as specified, give a copy of the citation to the arrested person and release him from custody.

- B. Whenever a person is arrested for violation of a penalty assessment misdemeanor and elects to pay the penalty assessment, the arresting officer, using the animal control citation, shall complete the information section and prepare the penalty assessment notice indicating the amount of the penalty assessment, have the arrested person sign the agreement to pay the amount prescribed, give a copy of the citation, along with a business reply envelope addressed to the Municipal Court Clerks office, to the arrested person and release him from custody. No officer shall accept custody or payment of any penalty assessment. If the arrested person declines to accept a penalty assessment notice, the officer shall issue a notice to appear.
- C. The arresting officer may issue a warning notice, but shall fill in the information section of the animal control citation and give a copy to the arrested person after requiring his signature on the warning notice as an acknowledgment of receipt .
- D. In order to secure his release, the arrested person must give his written promise to appear in court, or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice. Failure to do so will require immediate appearance before a Judge.
- E. Any officer violating this section is guilty of a misconduct in office and is subject to removal.

**SECTION 36. FORM OF CITATION**

Citation form is attached at the end of this ordinance.

**SECTION 37. PENALTY.**

Any person convicted of violating any section of this ordinance can be punished by a fine not exceeding Five-Hundred (500) Dollars or by imprisonment not exceeding Ninety (90) days or both such fine and imprisonment.

**SECTION 38. REPEAL.**

Town of Red River ordinances number 1972-1, 1972-4, 1976-3, 1979-1, 1986-5 and 1986-11 are repealed.