

**TOWN OF RICO**  
**ORDINANCE 2018-08**

AN ORDINANCE ENACTING REGULATIONS FOR THE CONTROL AND LICENSING OF DOGS IN THE TOWN OF RICO, AND IMPOSING FINES OF UP \$1,000 AND 90 DAYS IN JAIL FOR EACH VIOLATION OF THIS ORDINANCE AND REPEALING ORDINANCES 312 AND 2002-5

WHEREAS, the Board of Trustees have received complaints regarding nuisance dogs;

WHEREAS, the Board of Trustees of the Town of Rico, State of Colorado, has determined that vicious dogs and dogs at large are public nuisance and a threat to the safety of the Rico community and that the regulation of dogs in the Town of Rico will promote and protect the health, safety, and general welfare of the Rico community; and,

WHEREAS, the Board of Trustees held a public hearing on the 20<sup>th</sup> day of February, 1996, and the 13<sup>th</sup> day of March, 1996, and considered all public comments given at such public hearing, prior to the adoption of this Ordinance No. 312;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, STATE OF COLORADO, the following:

**SECTION 1. ORDINANCES REPEALED**

Ordinance No. 312 repealed

Ordinance No. 312 "AN ORDINANCE ENACTING REGULATIONS FOR THE CONTROL AND LICENSING OF DOGS IN THE TOWN OF RICO, AND IMPOSING FINES OF UP \$1,000 AND 90 DAYS IN JAIL FOR EACH VIOLATION OF THIS ORDINANCE AND REPEALING ORDINANCE NO. 279

Ordinance No. 2002-5 repealed

Ordinance No. 2002-5 "AMENDING ORDINANCE NO. 312 CONCERNING THE REGULATION OF DOGS

**SECTION 2. RICO DOG REGULATIONS**

The regulations in this Ordinance, and in any subsequent amendments to this Ordinance, shall regulate the control and licensing of dogs within the Town of Rico and shall be referred to as the "Rico Dog Regulations".

**SECTION 3. DEFINITIONS**

Animal. Both domestic and wild, mammals and fowl.

Barking Dog. An unprovoked dog that makes noises emanating from his throat thereby unreasonably disturbing persons residing anywhere in the Town of Rico.

Command Leash. A dog that is within the sight of the owner and the dog is under the clear voice control of the owner.

Dog. Any animal of the canine species regardless of sex.

Dog at Large. A dog that is not on the property of the Owner and is not connected to the Owner by leash or voice command.

Enforcing Officer. Person, or persons, designated by the Town of Rico as the official agent or agency responsible for enforcing these regulations.

Kennel. The owning, keeping, or harboring of four (4) or more dogs on any property, defined as a residential unit, a single family residential property, or a commercial premises is deemed to be a Kennel.

Nuisance Dog. A barking dog, stray dog, trashing dog or vicious dog.

Owner. Any person or persons owning, keeping, harboring or responsible for a dog.

Provoked. A dog which barks at, bites or attacks a person or animal who is trespassing upon, breaking into or otherwise destroying or defacing its owner's property or who is assaulting or battery its owner.

Service Animal. Any animal defined by Title II and Title II of the Americans with Disabilities Act as an animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Service animals must be trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Stray Dog. Any dog which is reasonably determined to have no owner.

Trashing Dog. A dog that goes upon any sidewalk, street, alley or private lands or premises without the permission of the owner of such premises or sidewalk, street or alley and breaks, tears up, crushes or injures any lawn, flower bed, plant, tree or garden or other public or private whatsoever, or defecates thereon.

Vicious Dog. A dog that is not provoked and that bites, attacks or harms human beings or other animals either on private or public property or which in a vicious or terrorizing manner approaches any human being or animal in an apparent attitude of attack while on either private or public property.

#### SECTION 4. VIOLATIONS

Any owner of a dog(s), nuisance dog(s), stray dog(s), trashing dog(s), vicious dog(s), dog(s) at large, dog(s) without current rabies vaccinations as evidenced by a state licensed veterinarian, dog(s) without a collar and current Rico dog license or use of a property in the Town of Rico as a kennel are each deemed to be a violation of the Dog Regulations. The requirement for obtaining a license for any dog(s) and for demonstrating proof of rabies vaccination for any dog(s) shall not apply to dog(s) less than seven (7) months old.

#### SECTION 5. PENALTIES

- A. Penalty. Each violation of this Ordinance is punishable by a minimum fine of \$100.00 and a maximum fine of \$1,000.00 and an order of banishment in the case of vicious dogs, at the discretion of the prosecuting attorney. Any violation of the Rico Dog Regulations, which involves a bodily injury to a person shall be a class 2 misdemeanor, and any violation shall be punished as provided in Section 18-1-106, C.R.S. 1973, for each separate offence.
- B. Election and Effect. Any person charged with violation relating to dogs under this Chapter may, instead of proceeding to defend against the prosecution, elect to pay a penalty assessment according to the schedule set out in paragraph C. of this SECTION 5. The payment of the penalty assessment is complete satisfaction for the alleged violation, except violations involving injury to person or animals by a vicious dog, if it is paid together with all pickup and impoundment fees, which resulted from the alleged violation, not more than seven (7) days after service of the summons of the alleged violation. Payment shall be made to the Town Clerk who shall issue a receipt therefor. If a person elects to pay the penalty assessment, the payment constitutes acknowledgment of guilt and is a "conviction" for the purposes of SECTION 5.C.
- C. Schedule of Penalty Assessments. For each separate offence the penalty for any person convicted of violating the Rico Dog Regulations shall be:
1. First Conviction \$100.00
  2. Second Conviction \$200.00
  3. Third Conviction \$350.00
  4. Fourth Conviction \$500.00
  5. Fifth Conviction \$1000.00 and or/ imprisonment for not more than ninety days (90) days.

Under the terms of this section, a jail sentence is not mandatory. Any violation of this Ordinance, which does not involve bodily injury to a human being, be a class 2 petty offense. A monetary penalty is mandatory in all cases. Multiple offences shall be defined as more than one offense with a 24-month period by either the same dog or the same owner.

#### SECTION 6. DOGS DESTROYED

A vicious dog may be destroyed by the enforcing officer of the Town of Rico eight days after notification of the dog owner or the completion of reasonable efforts to notify the owner, including posting a notice and a description of the impounded dog at the Rico Post Office or if it is caught in the act of attacking a person in an aggressive manner.

#### SECTION 7. PICKING UP OF DOGS

If the enforcing officer believes that a dog is a nuisance dog he or she may pick it up anywhere he finds it. If the enforcing officer believes that a dog is a vicious dog and that he

cannot pick the dog up without suffering probable injury he or she may destroy the dog. If possible, the enforcing officer shall notify the owner that he or she has either picked up the dog or destroyed the dog.

**SECTION 8. BANISHMENT**

Upon conviction the court shall order that the owner evidence immediate ability to control the nuisance dog or require the nuisance dog to be immediately removed from the Town of Rico. Failure to comply with an order of the Court shall be a violation of the Rico Dog Regulations.

**SECTION 9. NON-APPLICABILITY**

The Rico Dog Regulations shall not apply to dogs if the dog is assisting law enforcement officers.

**SECTION 10. DISPOSITION OF FINES AND FORFEITURES**

All fines and forfeitures for violations of the Rico Dog Regulations shall be paid directly into the general fund of the Town of Rico.

**SECTION 11. COLLAR AND TAG**

A. Owners of dogs that are a resident or property owner in the Town of Rico shall pay the annual license fee for each dog. For the purposes of this Ordinance an owner of a dog shall be deemed to be a resident if the owner or owner's dog(s) reside in the Town of Rico for thirty days in a calendar year. Dog(s) shall wear a tag supplied by the Town of Rico attached to a collar that is worn by such dog(s). Proof of annual vaccination is a condition of licensing a dog. The Town of Rico shall issue to the owner a receipt for the payment and a tag for each dog licensed.

B. The Annual Licensing Fees are as follows:

	Neutered	Not Neutered
First dog per residence	\$10.00	\$30.00
Second dog per residence	\$20.00	\$60.00
Third dog and subsequent dogs per residence	\$90.00	\$90.00

C. The following dogs are exempt from the licensing fees, but must be licensed:

1. Dogs used to assist law enforcement officers;
2. Dogs used to assist the physically handicapped and;
3. Dogs owned by people over 60
4. Service Dogs as defined in Section 3. Applicants for an exemption from the license fee must submit reliable documentation of a disability and their disability-related need for an assistance animal. If the disability is not readily apparent or known but the disability-related need for the assistance animal is not, the Town may ask the individual to provide documentation from a physician,

psychiatrist, social worker or other mental health professional. The Town may not ask an applicant to provide documentation if the disability or disability-related need is readily apparent.

D. The owner shall supply all required information at the time of applying for a dog license.

#### SECTION 12. ENFORCEMENT

It is the duty of the enforcing officer to enforce the Rico Dog Regulations when a citizen has signed a complaint against the owner of the offending dog. This section shall not be construed to prevent the enforcing officer from enforcing the Rico Dog Regulations if a citizen has not signed a complaint against the owner of the offending dog. A written complaint shall be kept at the office of the Town Clerk. The enforcement officer shall mail all anonymous or unsigned complaints to the Owner. The enforcement officer shall keep a file of all written complaints.

No dog will be impounded by the enforcing officer unless a dog has bitten a human, in which case the dog may be confined at a kennel for ten (10) days and/or inspected by a veterinarian, at the expense of the owner.

#### SECTION 13. PROSECUTING ATTORNEY

The Rico Town Attorney or the District Attorney shall prosecute all actions required under the Rico Dog Regulations. Any person found guilty of violating the Rico Dog Regulations shall pay all costs incurred by the Town of Rico or the District Attorney in prosecuting the case and all other costs assessed by the Court.

#### SECTION 14. SEVERABILITY

If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision, which can be given effect without the invalid portion.

#### SECTION 15. SAFETY CLAUSE

The adoption of this ordinance is necessary for the immediate protection of the public health, peace safety and welfare because vicious dogs, trashing dogs, and dogs at large is recognized as an existing hazard and threat to the health, safety and welfare of the Rico community.

#### SECTION 16. KENNELS

Kennels are not permitted as a use by right anywhere in the Town of Rico and can only be approved through a Special Use Permit process or zoning amendment process. A kennel use of a property is recognized to have significant impacts on surrounding properties and may not be compatible with adjacent land uses anywhere within the Town of Rico, as it exists as of the date of this Ordinance. Appropriate areas for Kennel uses may be annexed into the Town of Rico in the future. Dog owners or properties that meet the definition of kennel as of the date of this Ordinance are deemed to be grandfathered and shall be permitted to continue to keep such individual dogs that exist as of the date of this Ordinance provided that no new or additional dogs are kept, harbored or owned on

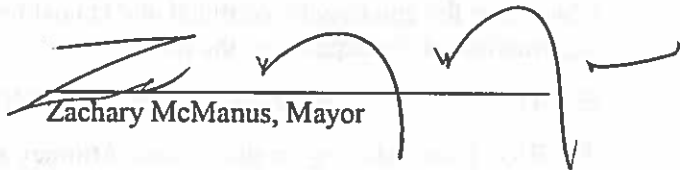
such property without complying with this Ordinance: and further provided that in the event such grandfathered kennel owners or properties keep, harbor or own a new or additional dog without coming into compliance with the Dog Regulations than such grandfathered status shall be immediately revoked.

**SECTION 17. EFFECTIVE DATE**

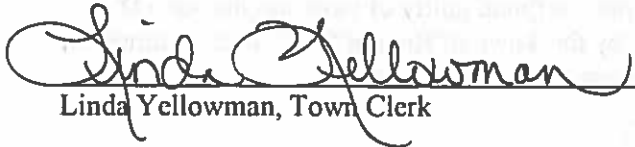
This Ordinance shall be effective immediately upon final adoption.

**INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED PUBLISHED**  
on first reading by Town of Rico Board of Trustees this 15th day of October, 2018.

**READ, APPROVED AND ADOPTED BY FINAL READING** by Town of Rico Board of  
Trustees this 21<sup>st</sup> day of November, 2018

  
Zachary McManus, Mayor

Attest:

  
Linda Yellowman, Town Clerk