

# **ORDINANCE No. 312**

## **TOWN OF RICO, COLORADO**

**AN ORDINANCE ENACTING REGULATIONS FOR THE CONTROL AND LICENSING OF DOGS IN THE TOWN OF RICO, AND IMPOSING FINES OF UP TO \$1,000.00 AND 90 DAYS IN JAIL FOR EACH VIOLATION OF THIS ORDINANCE, AND REPEALING ORDINANCE NO. 279.**

WHEREAS, the Board of Trustees have received several 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**SECTION 1:                   ORDINANCE NO. 279 REPEALED**

Ordinance No. 279, "AN ORDINANCE RELATING TO DOGS, THE VACCINATION AGAINST RABIES OF THE SAME, VICIOUS DOGS, POISONING OF DOGS, AND PENALTIES FOR VIOLATION THEREOF" is hereby repealed in its entirety.

**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**

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### SECTION 3: DEFINITIONS

For the purpose of the Rico Dog Regulations, the following definitions shall apply:

- A. Animal. Both domestic and wild, mammals and fowl.
- B. Barking Dog. An unprovoked dog that makes noises emanating from his throat thereby unreasonably disturbing persons residing anywhere in the Town of Rico.
- C. Command Leash. When the dog is within the sight of the owner and the dog is under the clear voice control of the owner.
- D. Dog. Any animal of the canine species, regardless of sex.
- E. Enforcing Officer. Person, or persons, designated by the Town of Rico as the official agent or agency responsible for enforcing these regulations.
- F. Nuisance Dog. a barking dog, stray dog, trashing dog or vicious dog.
- G. Owner. Any person or persons owning, keeping, harboring, or responsible for a dog.
- H. 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 battering its owner.
- I. Stray Dog. Any dog which is reasonably determined to have no owner.
- J. 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, shrub, tree or garden or other public or private property whatsoever, or defecates thereon.
- K. 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 other animal in an apparent attitude of attack while on either private or public property.

### SECTION 4. VIOLATIONS

Barking dogs, stray dogs, trashing dogs, vicious dogs, and dogs not vaccinated annually against rabies by a person legally authorized to do so, are not permitted in the Town of Rico. The owner of either a barking dog, a stray dog, a trashing dog or a vicious dog shall be deemed to be in

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violation of the Rico Dog Regulations.

**SECTION 5. PENALTIES**

- A. **Penalty.** Each violation of this Ordinance is punishable by a minimum fine of \$300.00 and a maximum fine of \$1,000.00 and a 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 offense.
- B. **Election and Effect.** Any person charged with a 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 animal 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 offense the penalty schedule for any person convicted of violating the Rico Dog Regulations shall be:

1.	First Conviction	\$ 25.00
2.	Second Conviction	\$ 50.00
3.	Third Conviction	\$ 75.00
4.	Fourth Conviction	\$100.00
5.	Fifth Conviction and each subsequent conviction	\$150.00; and/or

Imprisonment in the county jail  
for not more than ninety (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 shall be a class 2 petty offense. A monetary penalty is mandatory in all cases. Multiple offenses shall be defined as more than one offense with a 24 month period by either the same dog or the same owner.

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### **SECTION 6. DOGS DESTROYED**

Any dog at large, stray dog or vicious dog may be destroyed by the enforcing officer of the Town of Rico eight days after notification of the dog owner or completion of reasonable efforts to notify the owner, including posting a notice and description of the impounded dog at the Rico Post Office.

### **SECTION 7. PICKING UP OF DOGS**

If the enforcing officer believes that a dog is a nuisance dog he 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 may destroy the dog. If possible, the enforcing officer shall notify the owner that he has either picked the dog up 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 while 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. All dogs shall wear a tag supplied by the Town of Rico attached to a collar. Proof of annual vaccination is a condition to licensing a dog. The Town of Rico shall issue to the owner a receipt for the payment and a tag for each dog licensed.

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B. The Annual Licensing Fees are as follows:

	<u>Neutered</u>	<u>Not Neutered</u>
1. First Dog per residence	\$ 10.00	\$ 30.00
2. Second Dog per residence	\$ 20.00	\$ 60.00
3. Third 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 which assist the physically handicapped; and,
3. Dogs owned by owners over 60.

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 only 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 form 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 dogs 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.

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**SECTION 15. SAFETY CLAUSE**

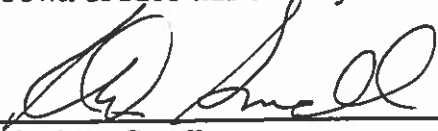
The adoption of this ordinance is necessary for the immediate protection of the public health, peace, safety and welfare because vicious dogs, trashing dogs, and dogs at large is recognized as an existing hazard and threat to the health, safety and welfare of the Rico community.

**SECTION 16. EFFECTIVE DATE**

This ordinance shall be in full force and effect upon publication of notice of final adoption because the adoption of the this ordinance is necessary for the immediate preservation of the health and safety of the Rico community.

**FIRST READING HEARD, APPROVED AND REFERRED TO A PUBLIC HEARING**  
by the Board of Trustees of the Town of Rico this 10<sup>th</sup> day of January, 1996.

**SECOND READING HEARD, APPROVED AND ADOPTED,** by the Board of Trustees of  
the Town of Rico this 13<sup>th</sup> day of March, 1996.

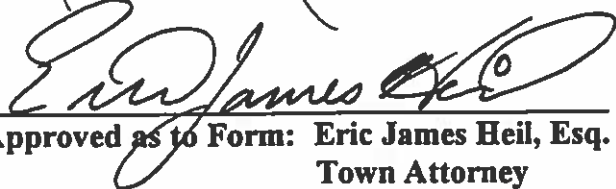


By: **Robert Small**



Attest: **Linda Yellowman, Town Clerk**

(Town Seal)



Approved as to Form: **Eric James Heil, Esq.**  
**Town Attorney**