

# City of Rio Communities, New Mexico

## Ordinance No: 2014-17

### CHAPTER 9 ANIMAL CONTROL

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#### 9-1-1 DEFINITIONS

For the purpose of this Section, the following meanings shall apply:

"Abandon" means an owner has relinquished all right, title, claim and possession of an animal with the intent of not reclaiming it or resuming its ownership, possession or its enjoyment.

"Adoption" means to take by choice and assume responsibility for proper care and keeping of an animal in accordance with this chapter.

"Animal" means dog, cat or any other vertebrate, excluding the human species and those animals under the jurisdiction of the New Mexico Department of Game and Fish.

"Animal control center (shelter)" means any establishment authorized by the City of Rio Communities for the care and custody of impounded animals.

"Bite" means any puncture or tear of the skin inflicted by the teeth of an animal.

"City of Rio Communities" or "City" includes the land area within the annexed boundaries of the City of Rio Communities, including privately owned land, state owned and federal owned land.

"Council" means the governing body of the city of Rio Communities.

"Confinement" means the restriction of movement of an animal to the premises of its owner, or to the premises of one charged with the care and control of the animal.

"Estray" means any animal running at large and unattended.

"Guard dog" means any dog that is used to defend, patrol or protect property or persons.

"Hobby breeder" means a small-scale dog breeder who owns no more than three breeding female dogs (older than six (6) months), that are registered with a recognized registry organization.

"Impoundment" means the taking into custody any stray, vicious animal or an animal alleged to be vicious by an animal control officer or city police officer and the detention of the animal in an animal control center.

"Leash" means a chain, strap or cord of sufficient substance to hold the animal attached under control and shall be no longer than eight feet.

"Livestock" means any horse, cattle, pig, sheep, goat, rabbit and poultry.

"Kennel" means any person, partnership or corporation that is engaged for profit, in the maintenance and shelter of animals belonging to others or engaged in breeding animals for sale.

"Nuisance" means, but is not limited to, defecation, urination, disturbing the peace, emitting noxious or offensive odors or otherwise endangering or offending the well being of the inhabitants of City of Rio Communities.

"Owner" of an animal is a person who owns, harbors or keeps or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his/her care or who permits an animal to remain on or about their premises.

"Pet shop" means any person, partnership or corporation that is engaged in buying, selling or grooming of animals for profit.

"Premises" is defined as a parcel of land and any structures upon it.

"Run at large" means any animal that is free of physical restraints that can go beyond the boundaries of the premises of its owner.

"Service animal" means any animal that has been trained by a recognized service animal trainer to assist a blind person, a hearing impaired person, or a mobility impaired person. The term shall also include any animal that is deemed necessary to render constant aid or assistance to a person by a physician licensed to practice in the state of New Mexico.

"Veterinarian" means a person with a doctor of veterinary medicine degree licensed to practice in the state of New Mexico.

"Vicious animal" shall mean any animal that bites or in any other manner, attacks or attempts to attack any person or other animal within the City, except any animal that bites, attacks or attempts to attack any person who has unlawfully trespassed upon its owners or keepers' premises, or is provoked to attack; such an animal shall not be considered a vicious animal.

#### **9-1-2 DOMESTIC ANIMALS AS PERSONAL PROPERTY**

Dogs, cats, and other animals shall be deemed and considered personal property and all remedies given for the recovery of personal property and of damages for injuries are extended to them.

#### **9-1-3 RESTRAINT REQUIRED**

A. Dogs are permitted on the streets or public places of the City only if they are secured on a leash not exceeding eight (8) feet in length and under the immediate physical control of the person holding the leash. This provision does not apply

when such an animal is in a *bona fide* animal show authorized by the City or as authorized by appropriate animal authorities.

- B. Dogs shall not be allowed at or in city-sponsored events. This restriction shall not apply to service animals or to animals that are authorized to participate in such events.
- C. Service animals shall be admitted to any building open to the public and to all public accommodations such as restaurants, hotels, hospitals, swimming pools, stores, common carriers, and theaters, provided that the person needs the assistance of the service animal.

**9-1-4 ANIMAL CONTROL AUTHORITY**

As imposed by this Article, an Animal Control Officer and a City Police Officer have authority to enter a premise:

- A. For the purpose of discharging their respective official duty when they have reasonable cause to believe a violation of the provisions of this Article have been committed or any of the laws of the state of New Mexico relating to the care, treatment, control, and prevention of cruelty to animals is being violated.
- B. However, if an owner or occupant of any dwelling or premises objects to any inspection as stated in this section, a search warrant shall be obtained from a court of competent jurisdiction prior to any inspection when permission is denied. The warrant shall then be presented to the owner or occupant by the animal control officer or city police officer.
- C. For the purpose of discharging their respective duties imposed by this Article when it is determined to be their duty to enter upon private land for the purposes of hot pursuit or for impounding any animal found running at large.

**9-1-5 IMPOUNDED STRAYS**

- A. It shall be the duty of the animal control or city police officer to take up and impound or cause to be impounded any stray animals found in the City.
- B. If any stray animal is wearing a license or bears other identification, the animal control officer shall notify the owner or his agent of the animals impoundment by registered or certified mail to the owner or his agents' last known address. If after three (3) full working days the owner or his agent has not reclaimed the animal, the animal may be adopted, sold, or euthanized in a humane manner.

- C. If any stray animal is not wearing a license or other identification and after three (3) full working days no one has appeared to reclaim the animal, the animal may be adopted or euthanized in a humane manner.
- D. If after three (3) working days of notification, the owner or agent of the impounded animal has not reclaimed the animal, the City and its authorized agents shall not be held liable if the animal is adoption or euthanized.
- E. If the owner or agent of the impounded animal cannot be notified because the animal does not have a license or other visual identification, within three (3) working days of impoundment, the City and its authorized agents shall not be held liable if the animal is adopted, sold or euthanized.
- F. Any person who finds any stray animal shall notify the animal control officer or a city police officer as soon as possible and shall surrender the stray to the animal control officer or a city police officer upon demand.

**9-1-6 RECLAIMING OR ADOPTING AN IMPOUNDED ANIMAL**

- A. The stray animal may be reclaimed from the pound by its owner or agent after payment of impounding fee to the City.
- B. If the impounded animal is unlicensed or the license has expired, before the owner or agent can reclaim the animal, they shall pay to the City any licensing fee.
- C. If it is determined that the impounded animal does not have current and required vaccinations, or medical expenses were incurred by the impounding authority, the owner or agent, before they can reclaim the impounded animal, shall pay to the City any costs incurred for vaccination and or any medical expenses.
- D. Any stray animal that is not reclaimed by its owner or agent within three (3) working days may be adopted by another person. The adopting party shall be responsible for paying to the City, the cost of any licensing fee, vaccinations and or any medical expenses incurred by the impounding authority.

**9-1-7 LICENSING AND VACCINATIONS**

**A. Vaccinations**

All dogs and cats shall be vaccinated as required by state law. It shall be the responsibility of the owner to comply with the regulations prescribed by the New Mexico Department of Health (NMAC 7.4.2). In the City, dogs and cats over the age of three (3) months shall be vaccinated against rabies and so tagged by a

licensed veterinarian. Upon demand by the animal control officer or city police officer, the owner of the dog(s) and/or cat(s) shall present evidence that the animal has been vaccinated.

**B. City Licensing**

Any person harboring or maintaining any dog over three (3) months of age within the City shall obtain a license for each dog. Persons who are visiting or temporarily remaining within the City for less than thirty (30) consecutive days shall be exempt from this licensing requirement. Licenses may be issued only by the City or a local licensed veterinarian. Licenses shall expire one (1) year after the date of issuance of the license. The City animal control officer shall keep a record of all licenses issued. A current rabies vaccination certificate shall be presented at the time of the application for the license.

**C. Breeding and Selling of Dogs and Fees**

1. Any owner who intentionally or unintentionally breeds dogs shall have a current hobby breeder's license or shall pay a litter fee of twenty-five dollars (\$25.00) for each litter.
2. The twenty-five dollar (\$25.00) fee may be refunded at the time proof of sterilization of the female animal is submitted and verified by the City but no later than two months from the time the female dog or cat delivers a litter.
3. Each hobby breeder shall pay an annual fee of fifty dollars (\$50.00) in lieu of fees for individual litters and such fee will cover all litters during the calendar year.
4. An owner shall not advertise of sell, barter, exchange or give away any dogs within the City boundaries unless proof of a litter fee is displayed legibly. An owner shall furnish the litter fee or hobby breeder permit number to any prospective recipient or customer who may request such documentation.

**D. License Tag**

A current license tag number shall be affixed to the licensed dog at all times in a reasonable manner.

**E. Additional Fees**

1. An annual license fee shall be three dollars (\$3.00) for each neutered or spayed dog and five dollars (\$5.00) for each unspayed or unneutered dog.

2. In the event a tag is lost, a replacement tag shall be obtained for a charge of one dollar (\$1.00).
3. Each kennel or pet shop that houses or keeps ten (10) dogs or more shall pay an annual fee of fifty dollars (\$50.00) in lieu of licensing individual dogs and such fee will cover all dogs kept by such business during the year.
4. This annual license fee is due on July 31, 2014 and due on July 1 of each year thereafter.

**9-1-8 ANIMALS RUNNING AT LARGE**

- A. Any person owning or having charge or control of any animal shall keep such animal on their premises. No animal shall be allowed to run at large or be unleashed on any street, alley, sidewalk, vacant lot, public property or other non-enclosed space within the City or on any private property.
- B. Any animal found running at large in violation of this section shall be declared a nuisance, a menace to public health and safety and if observed by an animal control or city police officer, shall be taken up and impounded. However, cats are not required to be leashed but shall be confined to the owner's property.
- C. It is unlawful for any person to chain or stake any animal on any property in the City of Rio Communities.
- D. An animal control officer or city police officer is authorized to destroy in a humane manner any stray dogs within the City that are running in packs and are potentially dangerous to humans, livestock or other animals.

**9-1-9 ANIMAL FIGHTING PROHIBITED**

It is unlawful for any person to promote, stage, hold, conduct, carry on or attend any game, exhibition or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal; or to train and or promote any of the activities as described in this Section.

**9-1-10 CRUELTY TO ANIMALS PROHIBITED**

- A. It is unlawful for any person to willfully or maliciously kill or maim any animal, except where reasonable force may be employed to drive off vicious or trespassing animals.

- B. It is unlawful to poison dogs or cats or other animals normally considered household pets.
- C. It is unlawful for any person to neglect to provide any animal in his charge or custody with proper food, drink, shade or shelter; or to carry any animal in or upon any vehicle in a cruel or inhumane manner; or to keep any animal under unsanitary or unhealthy conditions.
- D. Whenever an animal control officer finds that any animal is without proper care, whether because of injury, illness, confinement or voluntary absence of the owner or person responsible for the animal's care, the officer may impound the animal for protective care. In the event of sickness or injury to the animal and upon the advice of a licensed veterinarian, the officer may take such action as necessary to prevent undo pain and suffering, including immediate destruction of the animal.
- E. It is unlawful for any person to abandon any animal in the City.
- F. Housing facilities for dogs and cats shall be structurally sound and constructed of nontoxic materials. Interior floor material shall be of smooth, easily to clean and impervious to water. The premises shall be kept clean, sanitary and in good repair in a manner that will protect the dogs and cats from overcrowding. Dogs and cats shall be provided with adequate space to allow each dog and cat to turn about freely, to stand, sit, and lie in a comfortable normal position and to walk in a normal manner. Outside housing shall protect the dogs and cats from weather conditions that may be detrimental to the health of the animals.

**9-1-11 DISTURBING PEACE PROHIBITED (NUISANCE)**

**A. Nuisance**

Any animal that habitually or continually barks, howls or otherwise disturbs the peace of the inhabitants of the City or is kept or maintained in such a manner or in such numbers as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the City is declared to be an animal nuisance.

- 1. It shall be unlawful for any person to allow any animal to create noise that is plainly audible for at least once a minute for ten consecutive minutes:
  - a. Inside the confines of a dwelling unit, house, or apartment of another; or
  - b. At a distance of fifty (50) feet or more from the animal.



This provision shall not apply if the noise is due to harassment of or injury to the animal or due to a trespass upon the premises where the animal is located.

**B. Complaints**

Complaints filed pursuant to this section may be filed in writing with the animal control officer or Municipal court and shall include the name of the complainant and the name and address of the person(s) permitting the nuisance to occur and to continue.

**C. Limit to Four Dogs and Cats**

No person or household shall own, harbor or keep more than a total of four dogs and cats in any combination thereof over the age of three months.

**9-1-12 VICIOUS ANIMAL DEFINED AS:**

- A. Any animal that kills or severely injures (muscle tears or disfiguring lacerations that require multiple sutures or corrective or cosmetic surgery), a person or domesticated animal. It does not include an animal that bites, attacks or injures a person or animal that has unlawfully trespassed upon its owner's premises or is provoked.
- B. Any animal when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or animal when the person or the animal are off the property of the owner of the animal; or
- C. Any animal when unprovoked, injures a person but the injury does not result in muscle tears or disfiguring lacerations or require multiple sutures or corrective or cosmetic surgery; or
- D. Any animal possessing a poisonous bite or sting that would constitute a significant hazard to the public.

**9-1-13 POSSESSION OF A VICIOUS ANIMAL**

- A. It shall be unlawful for any person to own or keep a vicious, dangerous or ferocious animal in the City. Any person attacked by an animal which is on public property may use reasonable force to repel the animal.
- B. It shall be unlawful for any person to keep any breed of animal or any trained animal that is of a certain breed or training that is likely to attack and injure a human being, unless such animal is kept secured so as to prevent injury to any person or other animals.

- C. Any animal that injures or attacks a human being shall be impounded and may be destroyed if it is shown that the animal is vicious.
  - 1. For the purpose of this Article, an animal shall be deemed vicious if the animal bites a human being while the person is on public property or on property of someone other than that of the owner of the animal.
  - 2. The Municipal court shall, after the animal is impounded, conduct a hearing to determine if the animal is vicious. If the court determines that the animal is vicious, the animal shall be destroyed and the remains sent to the proper agency for testing.
- D. Any attack by a vicious animal may be repelled by the use of reasonable force. When a judicial determination is made that an animal is vicious, the court may in addition to fine or imprisonment of the owner of said animal, order the animal control officer to have the animal destroyed.
- E. No person shall keep or harbor a vicious animal. The animal control officer shall humanely destroy a vicious animal or require the owner either to provide proof acceptable to the animal control officer that the animal has been destroyed or surrender the animal to the animal control officer for humane destruction.
- F. No person shall maintain a dangerous animal in a manner which constitutes a threat to any other person or other animal.

**9-1-14 DISPOSITION OF DANGEROUS DOGS**

- A. Any dog that kills or injures any livestock or other animals or dogs in the presence of a City animal control officer or City police officer, such officer has the authority to destroy the offending dog. No liability shall be assessed against any animal control or city police officer engaged in such killing.
- B. Any dog that kills or injures any livestock or other animal or dogs but not in presence of an City animal control officer or City police officer:
  - 1. The owner or keeper of the dog that killed or injured livestock or other animal shall be liable for all damages that his dog has caused to the owner of the livestock, or animal that was killed or injured.

2. Any person having knowledge that a dog has killed or injured livestock or any other animal shall report the incident to the animal control authority or city police. Upon receiving such a complaint, the animal control officer or the city police officer shall impound the dog upon reason to believe the dog did injure or kill livestock or another animal. A complaint shall be filed and a hearing convened within a reasonable time to determine whether in fact, the dog killed or injure livestock or another animal.
3. Should the court determine that the dog killed or injured livestock or another animal, it shall order the animal control officer to have the dog euthanized in a humane manner.
4. An animal control officer or city police officer is authorized to destroy in a humane manner any stray dogs within the City that are running in packs and are potentially dangerous to humans, livestock or other animals.

**9-1-15 RABIES VACCINATION REQUIRED**

In accordance with New Mexico Administrative Code § 7.4.2.8, all dogs and cats over the age of three months shall be vaccinated against rabies.

- A. All vaccinated dogs and cats shall receive a booster within the twelve (12) months following the initial vaccination.
- B. All dogs and cats shall be revaccinated against rabies within twelve (12) months if a one (1) year vaccine is administered or within thirty-six (36) months if a three (3) year vaccine is administered.
- C. The rabies vaccine shall be licensed by the United States Department of Agriculture and administered according to label recommendations. The “compendium of animal rabies control (CARC)” shall be the reference for the route of inoculation and the type of vaccine. NMAC § 7.4.2.8

**9-1-16 RABID ANIMALS**

- A. It shall be unlawful to keep any unvaccinated dog, cat, ferret or any animal that displays any symptoms of rabies except, if such animal has bitten a human being where it shall be confined. If the animal is determined to be vicious, it shall be euthanized and tested for the presence of the rabies virus.
- B. If the animal is determined not to be vicious, it shall be held for ten (10) days. If the animal dies during the confinement period, all necessary laboratory tests and inspections shall be conducted by the district health officer.

- C. If no action is taken against the animal or its owner, after three (3) working days, the owner may apply to the City to have the animal returned. If the City or a designated representative determines the animal is not vicious, the animal may be returned to the owner, pending payment of any costs or fees incurred for the animal's care and confinement, including vaccinations for rabies.

**9-1-17 CONFINEMENT OF ESTRUS DOGS AND CATS**

Any un-spayed female dog or cat, for the duration of estrus (mating season) shall be confined in a house, building or secured enclosure so that other dogs or cats are not attracted to the animal. Such enclosures shall be constructed so that no other dog or cat may gain access to the confined animal, except for the intent to breed.

**9-1-18 KENNELS**

**A. Permit**

No person shall operate a kennel, guard dog site or hobby breeder site without a valid permit issued by the City. A fine of one hundred dollars (\$100.00) will be assessed for any violation.

**B. Permit Application**

Persons who wish to apply for a permit shall file on forms provided by the City. The application shall require information sufficient to assure the City that the applicant and facilities are adequate to care for the animals in a manner that protects the public and the animals.

**C. Permit Requirements**

1. No permit is transferable from one person or place to another person or place.
2. A valid permit shall be posted in a conspicuous place at each permitted premise.
3. A permit holder shall notify the City of any changes in operations that may affect the status of the permit and shall keep the City informed of any changes in name, address, home and business telephone numbers.
4. Both the person in charge of permitted premises and the owner of the permitted premises shall be responsible for complying with this section.
5. At each permitted premises a current record shall be kept that describe all animals owned, purchased or received and the final disposition of each animal.

6. Permits shall expire one (1) year after the date of issuance of the permit. An application for renewal, accompanied by a current certificate of inspection issued by the City shall be filed at the City thirty (30) days before the date of expiration. Failure to renew a permit as specified shall result in the expiration of the permit or in the assessment of a late fee of ten dollars (\$10.00) in addition to the renewal cost.

#### **D. Kennel/Facility Care**

1. All dog and cat kennels shall be structurally sound and shall be constructed of nontoxic materials. Each facility shall be maintained in good repair and kept clean and sanitary at all times so as to protect animals from disease and injury.
2. Animals maintained in pens, cages, or runs for periods exceeding twenty-four (24) hours shall be provided with adequate space to prevent overcrowding, adequate space for exercising and adequate ventilation and temperature control to provide for the animals' comfort and health.
3. Sufficient lighting shall be provided by either natural or artificial means. If outside housing is provided, it must be sufficient to protect the dog or cat from sunlight, rain, snow or cold weather detrimental to the animal's health.
4. Disposal facilities shall be provided and operated so as to minimize vermin infestation, odors, and disease hazards.
5. Animals shall be provided with sufficient fresh clean and wholesome food and water. Food and water containers must be kept clean. Every animal kept in a kennel must be observed daily and diseased or injured animals must be provided with veterinary care.

#### **E. Access to Permitted Premises (Kennels)**

An animal control officer or authorized City inspector shall be allowed access to a permitted premise, following proper notification of permit holder or applicant; for the purpose of inspection prior to issuance of a permit, renewal of a permit or to investigate a complaint.

#### **F. Suspension and Revocation of Permit**

1. When an animal control officer or authorized City inspector discovers that a permitted premise is in violation of this section, he shall give notice of this violation to the permit holder, operator or person in charge by means of an

inspection report or other written notice. The notification shall state that failure to comply with the inspection report issued in accordance with the provisions of this section may result in immediate suspension or revocation of the permit.

2. Permits may be suspended for thirty days (30) to allow permit holder to comply with the requirements of this section or other applicable laws, ordinances or regulations.
3. Permits may be revoked for serious or repeated violations of the requirements of this section or for violation of other applicable laws, ordinances or regulations. A permit shall be revoked for a minimum of one (1) year. The permit shall be surrendered to the City upon suspension or revocation.
4. A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit by filing an additional application for a permit on a form required the City. Within five (5) working days after the application is received, the animal control officer or authorized City inspector shall make an inspection. If the applicant and the site are in compliance with the requirements of this section and all other applicable laws, regulations, and ordinances, the permit shall be reinstated.

**G. Exceptions to Permitted Premises.**

The following are not required to obtain a permit.

1. A veterinarian hospital or clinic operated by a licensed veterinarian.
2. A bona fide research institution using animals for research.
3. A publicly owned animal control center or shelter.

**9-1-19 GUARD DOGS**

A guard dog is a dog trained to defend, patrol or protect the property of a commercial establishment. All service companies that train, sell, rent, lease or loan guard dogs to businesses are required to have their dogs specially registered with the City as a guard dog.

- A. A person who wishes to use a guard dog shall first obtain a guard dog permit.
- B. In addition to the facilities and care standard requirements of permitted premises set forth in this section, the area where the guard dog is housed, while not on duty, shall be secured in a manner that will prevent their escape.

- C. The off-duty housing area shall be kept locked when not in use.
- D. Any guard dog premise shall be posted with warning signs at least twelve inches long on each side. The warning sign shall state "guard dog" or "guardian" and shall show a picture of an aggressive dog. Each warning sign shall be posted not more than two hundred feet apart on the exterior of the fence or wall surrounding the site and shall be posted at all exterior corners of the site and at every entrance to the site.

**9-1-20 VIOLATIONS AND PENALTIES**

Any person who violates any provisions of this Article shall be guilty of a misdemeanor and upon conviction be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both.

- A. Owners or custodians of animals cited for a stray dog shall be fined:
  - 1. First impoundment within a 12 month period: twenty-five dollars (\$25.00)
  - 2. Second impoundment within the same 12 month period: fifty dollars (\$50.00)
  - 3. Third impoundment within the same 12 month period: seventy-five (\$75.00)
  - 4. For every impoundment after the third: three-hundred dollars (\$300.00)
- B. Any owner or custodian of an animal found without a dog license shall be fined ten-dollars (\$10.00).

APPROVED, ADOPTED AND SIGNED this 13<sup>th</sup> day of May 2014 by the Governing Body of the City of Rio Communities.

\_\_\_\_\_  
 Mark Gwinn, Mayor  
 City of Rio Communities

ATTEST: \_\_\_\_\_  
 Mary Lee Serna, Mayor Pro Tem  
 City of Rio Communities

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