

TOWN OF RED RIVER

ORDINANCE 2003-01

**BUSINESS REGISTRATION AND LICENSING
RULES AND REGULATIONS**

ADOPTED MARCH 25, 2003

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FEE SCHEDULE

BUSINESS REGISTRATION

Business Registration Fee	\$35.00
Business Registration Renewal	\$35.00
Late Fee	\$10.00

BUSINESS LICENSE

Auctions per Event	\$100.00
Carnival, Circus or Menagerie (Per Day)	\$100.00
Home Occupations	\$35.00
Junk Dealers	\$100.00
Kiddy Rides	\$35.00
Pawnbrokers and Pawn Shops	\$100.00

SPECIAL LICENSE

Itinerant Vendor-License Fee (Less than four consecutive days)	\$200.00
Extra Services During Special Events:	
a. Sanitation Service	\$100.00
b. Police & Fire Protection	\$100.00
Itinerant Vendor-Local Business Owner	\$200.00
Solicitors and Peddlers	\$35.00
Firewood Sellers	\$35.00
Seasonal Business	\$35.00

LIQUOR LICENSE

Retailer	\$250.00
Dispenser	\$250.00
Club	\$250.00
Restaurant	\$250.00

**ORDINANCE 2003-01
BUSINESS REGISTRATION AND LICENSING**

AN ORDINANCE REPEALING ORDINANCES 1997-6, 1995-6, 1995-4, 1994-7, 1994-6, 1994-3, 1993-3, 1989-12, 1981-20, 1981-18, 1981-13, 1973-6; All RELATING TO THE LICENSING, REGULATION AND REGISTRATION OF BUSINESS; ADOPTING REGULATIONS, REQUIREMENTS AND RELATED FEES AND GENERAL POLICY FOR BUSINESS REGISTRATIONS, OCCUPATIONS, AND LICENSES FOR THE TOWN OF RED RIVER. PROVIDING FOR THE IMPOSITION AND COLLECTION OF A MUNICIPAL LICENSE TAX FOR THE SALE, DISTRIBUTION, SERVICE, AND PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES, BEER AND WINE. ESTABLISHING AN EFFECTIVE DATE AND PROVIDING FOR A PENALTY FOR VIOLATION THEREOF.

WHEREAS, NMSA 1978, §3-38-3 provides in general terms that a municipality shall charge a business registration fee on each place of business conducted within a municipality; and

WHEREAS, NMSA 1978, §3-38-1 authorizes municipalities, in addition to and exclusive of registering business, to license certain other types of businesses in the interest of promoting the health, safety and welfare of the municipality; and

WHEREAS, NMSA 1978, §3-18-17 authorizes municipalities to regulate or prohibit any amusement or practice which tends to annoy persons on a street or public ground; and

WHEREAS, NMSA 1978, §3-18-12 authorizes municipalities to regulate sales of merchandise, and

WHEREAS, NMSA 1978, §7-24-1 authorizes municipalities to impose an annual, nonprohibitive municipal license tax upon the privilege of persons holding state licenses under the provisions of the Liquor Control Act (NMSA 60-3A-1), and

WHEREAS, certain regulations, certain requirements and related fees need to be established.

BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF RED RIVER, NEW MEXICO THAT this Ordinance shall be known as the Business Registration and Licensing Ordinance which includes certain regulations, certain requirements and related fees for engaging in any business within the Town of Red River and the governing body declares that the licensing and regulation of a business, not otherwise exempt by law, is conducive to the promotion and the health and general welfare of the citizens.

ARTICLE 1. BUSINESS REGISTRATION

Sec. 1-1. Short Title.

Article 2, Sections 1-2 through Section 1-9 shall be cited as the "Business Registration Ordinance".

Sec. 1-2. Definitions.

- A. *Business* means any commercial activity or enterprise for financial gain, benefit, advantage or livelihood.
- B. *Engaging in Business* means persons operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade, pursuit or activity for the purpose of profit and who are required to obtain a New Mexico Taxpayer Identification Number.
- C. *Person* means any individual, estate, trust, receiver, cooperative, association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit, or commercial activity.
- D. *Place of Business* means the premises within the Town of Red River, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. In the event there is no such location, but the business is transacted or the service provided in the location of the buyer, then the general sales area within the Town shall be considered a *Place of Business*. Unless a construction contractor has at least one permanent location within the Town of Red River, *Place of Business* includes a construction site, located therein.

Sec. 1-3. Imposition of Business Registration Fee.

There is imposed on each place of business conducted in this municipality a business registration fee for each calendar year and is due on or before March 15th of each year. The fee is imposed pursuant to NMSA 1978, §3-38-3 as it now exists or is amended. The business registration fee shall be effective for a one year period based on a calendar year. The fee may be prorated for businesses conducted for a portion of that year.

Sec. 1-4. Exemptions.

- (a) *Exemptions from business registration fee.* No business registration fees shall be imposed on any business which is licensed under any other provision of this ordinance or which is specifically exempt from paying a business registration fee pursuant to NMSA 1978, § 3-38-1.
- (b) *Minors engaged in fundraising activities.* Minors under the age of 18 years shall not be required to obtain a registration when the purpose of the business is fundraising for a specific nonprofit organization.

Sec. 1-5. Application for Issuance of Business Registration.

- (a) Any person proposing to engage in business within the municipal limits of the Town shall apply for registration and pay a business registration fee for each place of business within the municipal limits of the Town prior to engaging in business, unless such person is exempt under Sec.1-3 of this ordinance.
- (b) The application for registration shall be made prior to the commencement of business or prior to the opening of any outlet, branch or additional location within the municipal limits of the Town.
- (c) Any person filing an application for issuance of a business registration shall include in the application the current taxpayer identification number issued by the New Mexico Taxation and Revenue Department or evidence of application for such number, and any other information required by the Town of Red River.
- (d) The business registration fee shall be paid to the Municipal Clerk during regular business hours.
- (e) The Municipal Clerk shall not issue a business registration authorizing the conduct of commercial activity to any person whose records reflect any unresolved non-compliance with the business registration provisions or any other municipal ordinance or regulation.
- (f) No business shall be issued a registration until all requirements in this article are met.

Sec. 1-6. Renewal of Business Registration.

- (a) Each year, any person engaging in a business within the municipality shall apply for the renewal of any applicable business registration and shall pay the fee for each place of business. Any person filing for application of renewal shall include the state taxpayer identification number or evidence of application for such number. The term for each registration is valid for one year.
- (b) The Municipal Clerk shall not issue a business registration authorizing renewal for the conduct of commercial activity to any person whose records reflect any unresolved non-compliance with the provisions of this ordinance or any other municipal ordinances or regulations.
- (c) No business shall be issued a renewal of registration until all requirements in this article are met.

Sec. 1-7. Transfer of Business Registration.

No registration issued pursuant to this ordinance shall be transferable from one business to another, or from one person conducting a business to a succeeding person conducting the same business.

Sec. 1-8. Late Fee; Enforcement; Collection

There shall be imposed upon each delinquent registration fee, a late fee of \$10.00 pursuant to NMSA 1978, § 3-38-5.

If any business is conducted in violation of this ordinance, the Town may institute appropriate legal action to enjoin, restrain, correct, or abate the violation of the ordinance or the conduct of the business. Any person who fails to pay the business registration fee for issuance or renewal by the deadline date shall receive a notice of violation by certified mail, ordering the person's appearance within thirty days from date notice is mailed, to show cause why the Town should not initiate proceedings under this ordinance.

Sec. 1-9. Fee schedule.

- Issuance of Registration \$35.00
- Renewal of Registration \$35.00
- Late Fee \$10.00

ARTICLE 2. BUSINESS LICENSE.

Sec. 2-1. General Policy.

The Governing Body declares and determines that the licensing and regulation of certain businesses, not otherwise exempt by law, is conducive to the promotion of the health and general welfare of the Town of Red River and imposes a license fee and separate license upon businesses which are hereby determined to affect the health and general welfare of the municipality. The fees imposed in this ordinance bear a reasonable relation to the actual costs of the Town in regulating each place of business named herein.

Sec. 2-2. License Required.

It shall be unlawful for any person to engage in the following businesses, professions, or trades within the municipal limits of the Town of Red River without first obtaining a license.

Sec. 2-3. Definitions.

Auction. The term "auction" includes any offer to sell personal property or real property to the highest bidder.

Carnival means any mechanical device, aquatic device or combination of devices that carries or conveys passengers on, along, around, through or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement, including bungee jumping facilities and state fair rides, but does not include playground equipment, a single-passenger, coin-operated device secured by a stationary foundation or a small promotional event or operation consisting of fewer than six kiddie rides designed for children twelve years of age or younger, including merry-go-rounds.

Home Occupation means a business located within a home which produces an income exceeding one thousand dollars (\$1,000) annually. These businesses must be compatible with the neighborhood in which they are located and shall comply with the Planning and Zoning rules and regulations.

Junk Dealer means a person who deals in the business of purchasing or selling secondhand or cast-off material of any kind which is commonly called "junk".

Kiddy Ride means an operation designed for children twelve years of age or younger.

Pawnbroker means a person engaged in the business of lending money on the deposit or pledge of personal property or who purchases personal property with an expressed or implied agreement or understanding to sell it back at a stipulated price.

Sec. 2-4. Types of Business and Fees.

A. Before conducting, operating, or engaging in any business, trade, or occupation within the municipal limits of the Town of Red River, persons engaged in any business listed in the schedule below shall secure a license from the Office of the Municipal Clerk and shall pay a license fee according to the fee schedule.

• Auctions per event	\$100.00
• Carnival, circus or menagerie, per day	\$100.00
• Home Occupation	\$35.00
• Junk Dealers	\$100.00
• Kiddy Rides	\$35.00
• Pawnbrokers and Pawn Shops	\$100.00

B. A separate license is required for each place of business conducted or maintained by the same person, firm, corporation, or association.

Sec. 2-5. Issuance of License.

- A. Each year, all businesses engaging in a type of business listed in this article shall apply for a business license for that year or event. These businesses shall include payment with the application. The business license fee shall not be prorated.
- B. Any business may protest the requirement of a business license fee by filing a written protest with the Municipal Clerk. The Governing Body shall give the protesting business notice of a public hearing at which time the protest shall be heard by the Governing Body. The Governing Body shall determine whether the business falls within the meaning of the definitions. Upon the receipt of an application for a business license, the clerk shall require an investigation of the applicant's business to determine whether the applicant's business is conducive to the public health, safety and welfare. If the clerk finds substantial cause to believe that the issuance of a business license is not conducive to the public health, safety and welfare, the application shall be referred to the Governing Body for hearing and issuance or denial of the license. The clerk shall notify the applicant of the time and place of such hearing and the applicant shall have a full and fair opportunity to be heard before the Town Council. The Town Council may also

hear any other evidence presented on the matter. If, upon hearing, a majority of the Town Council present determines that issuance of the license is not in the best interest of the public health, safety or welfare, the license shall be refused and the Council shall enter findings and conclusions justifying the refusal. Otherwise, the license shall be issued.

C. If refused the Governing Body shall enter findings and conclusions justifying the refusal. Otherwise, the license shall be issued.

Sec. 2-6. Application.

A. Applicants for licenses under this article must file with the Municipal Clerk a sworn application in writing, on a form to be furnished by the Municipal Clerk, which shall include, but is not limited to the following information:

- owner's name;
- owner's home address;
- business name;
- business address;
- current New Mexico tax identification number
- or evidence of application for number;
- a brief description of the nature of the business;
- copy of New Mexico State License, when applicable;
- written permission of the property owner upon which the business
- is to be located, when applicable.

Sec. 2-7. Pawnbrokers.

Any person engaging in the business of pawnbroker shall comply with any and all laws of the Pawnbrokers Act, NMSA 1978, §§ 56-12-1 to 56-12-16.

Sec. 2-8. Junk Dealers.

Any person engaging in the business of junk shall comply with the Trade Practices and Regulations, NMSA 1978, § 57-7-1.

Sec. 2-9. Carnival.

Any person engaging in the business of carnival with rides shall comply with the Carnival Ride Insurance Act, NMSA 1978, § 57-25-2.

Sec. 2-10. Home Occupations.

Home Occupations shall comply with the Town of Red River Ordinance 2000-5, Article 6.

ARTICLE 3. SPECIAL LICENSES.

Purpose.

The purpose of this section is to regulate the location, time, manner and amount of activities relating to vending, solicitation, sale of merchandise, goods, and entertainment on public and private property in such a manner as to protect the rights of the public, public property, and the rights of private property owners to peace and tranquility in their residences.

Sec. 3-1. Itinerant Vendors.

A. Definition.

Itinerant Vendor means any person, including a natural person, firm, corporation, partnership or association, who engages in the sale of goods, wares, merchandise or services within the Town on a transient or temporary basis, except "seasonal vendors," including the following:

1. Persons conducting business out of a vehicle, truck, trailer or other mobile unit.
2. Persons who in conjunction with a special event engage in temporary or transient business in the Town.
3. Town business persons or establishments that sell goods, wares, merchandise or services at a location separate from their usual place of business on a temporary basis during special events.
4. Town business persons or establishments that set up stalls or other facilities at their usual places of business during special Town events when the items offered for sale were not purchased by the merchant in advance for resale and the items offered for sale differ from the regular merchandise of such local business or the business accepts any fee or percentage of the sales from a transient vendor in exchange for the temporary use of the local premises.

B. General Policy.

The Red River Town Council recognizes that the business activity of itinerant vendors is extremely difficult to regulate for the protection of the vendors and the public, that there is great difficulty in assuring the payment of gross receipts taxes, that the failure of itinerant vendors to pay such taxes is common. Accordingly, the Town Council has determined that certain regulations shall apply to itinerant vendors doing business within the municipal limits of the Town. The person, firm or corporation engaged in itinerant vending shall not be relieved from the provisions of this section by reason of association with any local dealer, trader or merchant, or by conducting such temporary or transient business in connection with, as a part of or in the name of any local dealer, trader or merchant.

C. Itinerant Vending Allowed During Special Events.

For reasons of traffic safety, difficulty of regulation and aesthetics, transient and itinerant vending is prohibited in the Town of Red River except during a special event.

D. Vendor License Required.

It shall be unlawful for any person to engage in the business of itinerant vending within the Town limits without first obtaining a license. The vendor license must be prominently displayed and available for public inspection at all times.

E. Application.

To obtain a license, a vendor shall file in the office of the Municipal Clerk, a verified application (furnished by the Municipal Clerk) with the following information:

- Name and address of applicant
- Name of business.
- State Taxpayer Identification Number
- Dates of Operation
- Name of property owner where business is to be located.
- Location of property where business is to be located.
- Description of type of vending business.
- Written permission to use the property must accompany application.
- Express permission for the Town Administrator, Police or Safety Personnel to conduct investigations of the vending premises.

F. Itinerant Vendor Fee Imposed.

The governing body finds that licensing and regulation of itinerant vending is necessary for the general safety and welfare of the Town. In particular, the presence of itinerant vendors during special events causes large increases in the cost of police and fire protection, sanitation and emergency services necessary to protect the vendors and the public. To offset these additional costs, and in reasonable relation thereto, the Council has determined that the following are reasonable and necessary charges for itinerant vending within the Town of Red River for each sales period of four consecutive days or less per location:

Vendor License Fee	\$200.00
Police Protection, Fire and Emergency Services Fee	\$100.00
Sanitation Fee	\$100.00

Permanent town businesses and establishments who engage in itinerant vending during special events shall pay a Vendor License Fee of \$200 for each four day period per location.

G. Exemptions.

1. Car washes, fund-raisers, or other activities held on private property by charitable, educational, youth or civic non-profit organizations for fund-raising purposes.
2. School sponsored activities or fund-raising events on school property.
3. Church activities or church sponsored events on church property.
4. Newspaper vending.
5. Sales of home grown fruits, vegetables, flowers or farm or garden products in their natural state or homemade jelly.
6. Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.
7. Events sponsored by the Red River Conference Center.
8. Garage Sales

These exceptions are subject to the discretion of the Town Administrator with regard to locations, traffic and safety issues.

H. Vehicular or Pedestrian Traffic Flow.

It shall be unlawful for any Itinerant Vendor to peddle, sell, advertise, or display any article on private property in such a manner as to hinder the flow of vehicular traffic on public streets or hinder the flow of pedestrian traffic on public walkways, sidewalks, streets, or other public thoroughfares.

Sec. 3-2. Special Events.

A. Definition.

Special Event means an event which meets one or a combination of the following requirements:

- (1) A planned occurrence or happening where the Town provides extraordinary services, including but not limited to sanitation services, law enforcement, traffic control, fire and/or emergency services.
- (2) An artistic, cultural, entertainment, amusement event, performance or promotional program, in the Town which may reasonably be expected to draw more than one hundred (100) persons in attendance on any one day.

B. General Policy.

The governing body recognizing that special events promote tourism and provide recreational opportunities for the general public declares that special events need to be properly controlled to ensure the health, safety and welfare of the participants and the general public.

C. Requirements, Permits and Fees.

- Persons desiring to sponsor, promote or put on any special event shall, not less than 14 days prior to the planned event, make application to the office of the Town Clerk for approval of a permit allowing the event.
- Such application shall include the date of the event; the beginning and end times of the event; the location of the event; the size of the event; the purpose of the event; and a description of the entertainment to be provided.
- Before issuance, the application must be approved by the Town Administrator, Town Marshal, and Town Fire Chief who shall assess plans for the event and the effects upon facilities, systems, and/or properties in the Town, including but not limited to the following: parking, sanitation, transportation, cleanup, medical, fire, and police services and any other impacts identified by the Town Administrator.
- In determining whether to issue the permit, the following shall be considered:
 1. loudness of the entertainment;
 2. proposed times during which the event will be scheduled.
 3. location of the event in relation to residential areas and commercial lodging.
 4. the financial and economical impact on the municipality.

D. Application for Waiver

The sponsor of a special event may apply for a waiver from the Town Council for all or any portion of the fees for itinerant vendors. The application shall demonstrate and, in considering the waiver the Town Council shall consider, whether:

- 1) The event is of such a nature and is so planned that it will not require extraordinary Town services for sanitation, police and fire protection and other administrative services.
- 2) The history of the event in the Town has not involved the need for such services.
- 3) The event is so organized that submission of gross receipts taxes by vendors is reasonably assured.

E. Fee.

- For persons desiring to vend during a special event which does not require extraordinary services, the fee shall be \$200.00.
- For persons desiring to vend during a special event which does require extraordinary services, the fee shall be \$400.00.

F. Exemption.

- These requirements do not pertain to any special event sponsored by the Red River Conference Center.

G. Use of Public Property.

Public property may be made available for a special event, subject to the discretion of the Town Administrator, when such use of public property is determined to be in the best interests of the Town.

Sec. 3-3. Solicitors and Peddlers.

A. Definition.

Commercial Solicitation means the selling of taking orders for or offering to sell or take orders for goods, merchandise, wares or other items of value for future delivery or for services to be performed in the future for commercial purposes.

Non-Commercial Solicitation means requesting contribution of funds, property or anything of value or the pledge of any type of future donation or selling or offering for sale any type of property, including but not limited to goods, tickets, books and pamphlets, for political, charitable, religious or other noncommercial purposes.

Peddler means any person, traveling by foot, or a motorized or mechanized type of conveyance, from place to place, from house to house or from street to street, carrying merchandise, locally grown produce, homemade goods, local arts or engaging in the business of selling food on a designated route from a motor vehicle. Such items may not be spread out on tables to be sold and may not be sold from a utility trailer or from a fixed location; otherwise, the definition and requirements of "Itinerant Vendor" shall apply.

Solicitor means any person, traveling either by foot, automobile, truck or other type of conveyance, who engages in the practice of going from door to door, from house to house, or along any streets within the town conducting solicitation.

B. License Required.

To prevent fraud, deceit, dishonest dealing, crime and invasions of privacy, together with protecting and promoting the public health, safety and welfare of the citizens of the Town of Red River, any peddler or solicitor shall first obtain a permit issued by the Town Clerk before soliciting or peddling.

To obtain a permit, the following information shall be provided to the Town Clerk:

- Applicant's name, mailing address, phone number
- Business license number provided by the municipality or county in which the business is located, and the taxation identification number from the state where the business is located.

C. Fee.

Solicitors and peddlers shall pay a fee of \$35.00 per year. The permit shall be valid for a period of one calendar year.

D. Invitation Required to Enter Posted Premises.

No solicitor or peddler shall enter any premises or attempt to solicit or peddle where the owner or occupant of such premises has indicated desire not to be contacted for sales or solicitations by the placing of a "no solicitors" or "no peddlers" sign on those premises, visible to persons approaching or entering onto the premises or indicates orally that (s)he desires not to be contacted for sales by the solicitor or peddler.

Sec. 3-4. Sellers of Firewood.

A. Definition.

Firewood means all flammable materials intended for burning in a fireplace, campfire, wood stove, barbecue grill or similar device. Firewood does not include combustible petroleum fuels such as gasoline, propane, natural gas and similar substances.

B. General Policy.

Any person who sells or proposes to sell firewood as defined in this section shall first obtain a license to do so from the office of the Municipal Clerk. Use of public property for profit-making of any seller of firewood is prohibited. This type of business must comply with the rules and regulations of Planning and Zoning Ordinance 2000-5. This section shall apply to any person selling or delivering firewood within the Town of Red River.

C. Fee.

The fee for sellers of firewood shall be \$35.00 per year.

Sec. 3-5 Outdoor Sales and Displays.

A. Definition.

Outdoor Sales and Displays means all sales of merchandise in which merchandise is displayed outdoors from a business that is otherwise licensed by this ordinance. The term includes but is not limited to tent sales, parking lot sales, sidewalk sales or outdoor clearance sales.

B. General Policy.

Outdoor sales and displays shall be conducted only in connection with a business which is licensed or registered under this ordinance. No fee is imposed. Outdoor sales shall be subject to the following requirements:

- Only items of normal inventory of that business shall be sold or displayed outdoors.

- Public streets, alleys, or sidewalks shall not be used for sales or displays.
- The display area shall not reduce the parking on the premises below that required by the Town's zoning regulations.

Sec. 3-6. Seasonal Business.

A. Definition.

Seasonal Business means any person or business engaging in the sale of goods, wares, merchandise or services operating within the municipal limits, except when confined to the period of special events, for less than 180 days per year from a fixed location.

B. General Policy.

It shall be unlawful for any seasonal business to sell, dispose, display any goods, wares, merchandise, or services without first obtaining a Seasonal Business Permit from the office of the Municipal Clerk. Seasonal businesses must be located on private property, with the owner's permission, and must comply with the Planning and Zoning rules and regulations.

C. Fee.

The fee for a Seasonal Business shall be \$35.00 for each 180 day period.

Sec. 3-7. Garage Sales.

A. Definition.

Garage sale means a sale involving the offering for sale of multiple items of personal property on property occupied as a residence.

B. General Policy.

Garage sales are limited to six per year per residence, with the duration of the garage sales being for a maximum of three consecutive days, and shall be conducted at the place of residence. Only personal property may be sold at a garage sale. No fee shall be imposed.

Sec. 3-8. Outdoor Entertainment.

A. Definition.

Outdoor Entertainment is any planned entertainment or amusement event, performance, or gathering, which is held out of doors and which may reasonably be expected to draw less than one hundred (100) persons in attendance on any one day. This shall include strolling musicians.

B. General Policy.

The governing body recognizes that outdoor entertainments promote tourism and provide recreational opportunities for the general public and that they require proper control to ensure the health, safety and welfare of participants and the general public.

C. Permit Required.

Pursuant to NMSA 1978, § 3-18-17 authorizing the Town to define and abate a nuisance and to regulate or prohibit any amusement which tends to annoy persons on a street or public ground and the authority under NMSA 1978, § 3-18-1 to preserve peace and order within the municipality, the Town requires:

1. Persons desiring to sponsor, promote or conduct an outdoor entertainment shall, not less than 14 days prior to the planned event, make application to Town Clerk for approval of a permit allowing the entertainment.
2. Such application shall include the date of the event; the beginning and end times of the event; the location of the event; the size of the event; the purpose of the event; and a description of the entertainment to be provided.
3. Before issuance, the application must be approved by the Town Administrator, Town Marshal, and Town Fire Chief regarding appropriate plans for the event.
4. In determining whether to issue the permit, the following shall be considered:
 - a. the loudness of the entertainment.
 - b. the proposed times during which entertainment will be provided.
 - c. the location of the event in relation to residential areas and commercial lodging.

D. Fee.

No fee shall be imposed for outdoor entertainment permits.

ARTICLE 4. LIQUOR LICENSE.

Purpose.

This section shall provide for the imposition and collection of a municipal license tax to operate within the Town as retailers, dispensers, canopy licensees, restaurant licensees or club licensees for the sale of alcoholic beverages.

Sec. 4-1. Definition.

Club means any non-profit organization of persons organized and operated under the laws of this state, with a membership of not less than fifty regularly admitted and enrolled

members who have paid membership dues at the rate of not less than five dollars (\$5.00) per year and who under the constitution and by-laws of the club have all voting rights and full membership privileges, which is the owner, lessee or occupant of premises used exclusively for club purposes and which the Director finds is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes.

Dispenser means any person selling, offering for sale or having in his possession with intent to sell, alcoholic liquors by the drink or in packages.

Restaurant means any establishment having a New Mexico resident as a proprietor or manager which is held out to public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals, provided that "restaurant" does not include establishments as defined in regulations promulgated by the Alcohol and Gaming Division serving only hamburgers, sandwiches, salads, and other fast foods.

Retailer means any person selling, offering for sale, or having in his possession with the intent to sell, any alcoholic liquor for consumption off the premises of the licensee and in unbroken packages.

Sec. 4-2. License Required.

Pursuant to NMSA 1978, §7-24-1, persons operating within the Town of Red River as retailers, dispensers, restaurant licensees or club licensees shall obtain a license and pay a license tax.

Sec. 4-3. License Period.

All licenses shall be issued for a period of one year and shall commence on June 1st and shall expire on May 31st of each year.

Sec. 4-4. Fee.

The municipal license fee for the sale of alcoholic liquors shall be as set forth; provided however, that the applicant for said license shall have obtained a State License from the State Alcohol and Gaming Division pursuant to NMSA 1978, § 60-3A-1, the Liquor Control Act.

The tax rate shall be:	Retailer	\$250.00
	Dispenser	\$250.00
	Club	\$250.00
	Restaurant	\$250.00

Sec. 4-5. Special Dispensers Permit for Service of Alcoholic Beverages.

A. General Policy.

Recognizing that outdoor celebrations where alcoholic beverages are served need to be properly regulated to ensure the health, safety and welfare of the participants and the

general public, the governing body has determined that a special dispenser's permit is required for the dispensing of alcoholic beverages at public celebrations or catered functions which are held off the licensed premises of a liquor licensee.

B. Permit Required.

Pursuant to NMSA 1978, §60-6A-12(D), a person requesting a special dispenser's license must receive written approval from the Town of Red River to dispense alcoholic beverages at a catered function, or receive written approval from the Town of Red River to dispense alcoholic beverages at a public celebration as required in NMSA 1978, §60-6A-12(A) and shall:

1. Make application to the Town for approval of said permit not less than 14 days prior to the planned event.
2. Such application shall include the date of the event; the beginning and end times of the event; the location of the event; the anticipated number of participants planned for and allowed; the purpose of the event; and a description of any entertainment to be provided at the event. The application shall also contain specific plans for controlling access to the event; for security at the event; and for considerations of safety for participants and the general public.
3. Before issuance, the application must be approved by the Town Administrator, Town Marshal, and Town Fire Chief regarding appropriate plans for the event.
4. The Town may disapprove a permit if the applicant has not planned to provide adequate:
 - a. controlled access to the event;
 - b. sanitation adequate for the number of persons expected and length of the event;
 - c. security;
 - d. consideration for the safety and health of the participants and general public.
5. Upon request of an applicant, the Council shall conduct a hearing on the application. Such hearing may be held at a regular Council meeting or such other time as deemed appropriate by the Council.
6. Should a permit applicant fail substantially to adhere to the plan which has been approved, the Town may order the event or function terminated immediately on notice to the permittee or any other person in charge of the event.

ARTICLE 5. ENFORCEMENT.

It shall be the duty of any police officer or any designated official of the Town to enforce the provisions of this Ordinance.

ARTICLE 6. TRANSFER OF LICENSE AND PERMITS.

No license or permit issued pursuant to this ordinance shall be transferred nor shall the same be used at any time by any person other than the one to whom it was issued.

ARTICLE 7. INSPECTION OF LICENSE AND LICENSED PREMISES.

The Town Marshal, Fire Chief, or other designated official shall be permitted at any reasonable time to inspect the license required under this ordinance and the premises for which the license has been applied or issued.

ARTICLE 8. PENALTY.

Any person violating any provision of this ordinance shall be subject to a fine not to exceed five hundred dollars (\$500.00) and imprisonment not to exceed ninety (90) days. Each day this ordinance is violated is a separate offense.

ARTICLE 9. REPEAL.

The existing ordinances 1997-6, 1995-6, 1995-4, 1994-7, 1994-6, 1994-3, 1993-3, 1989-12, 1981-20, 1981-18, 1981-13, and 1973-6 covering the same matters as embraced in this ordinance are repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are repealed.

ARTICLE 10. SEVERABILITY.

Should any article, section, subsection or clause of this ordinance be found to be in violation of a State Statute or law otherwise unenforceable, that article, section, subsection, or clause shall be deemed severed and the remaining articles and sections shall remain in full force and effect.

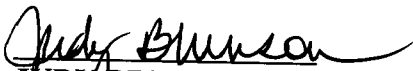
ARTICLE 11. EFFECTIVE DATE.

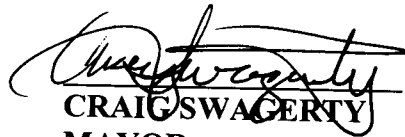
This ordinance shall become effective five (5) days after passage and publication as provided by law.

PASSED, APPROVED, AND ADOPTED THIS 25TH DAY OF MARCH, 2003.

ATTEST:

TOWN OF RED RIVER


JUDY BRUNSON
MUNICIPAL CLERK


CRAIG SWAGERTY
MAYOR

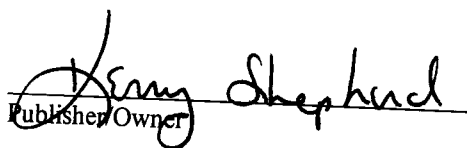
Affidavit of Publication

STATE OF NEW MEXICO }
 } SS.
 COUNTY OF TAOS }

The undersigned, being first duly sworn according to law, on her oath deposes and says that she is the business manager of the newspaper named "Red River Miner" and that she has personal knowledge of the facts stated herein; that the said "Red River Miner" is a weekly newspaper of general paid circulation printed and published in the County of Taos and State of New Mexico and having been uninterruptedly and continuously printed and published in said County during the period of more than six months next prior to the date of publishing of the first issue of the publication or notice concerning which this affidavit is made and a copy of which is hereto attached; that said newspaper is duly qualified for that purpose under the laws of the state of New Mexico; that the publication, a printed copy of which is hereunto attached and made a part of this affidavit, was published in said newspaper one each week for 2 successive weeks, said publication having been made on the following dates, to-wit:

- First publication: The 13 day of February, 2003
- Second publication: The 20 day of February, 2003
- Third publication: The day of , 2003
- Fourth publication: The day of , 2003
- Fifth publication: The day of , 2003

and that payment for such publication has been made or assessed as part of the Court costs in the case to which it relates.


 Publisher/Owner

Subscribed and sworn to before me this _____ day of _____, 2003

 Notary Public

MY COMMISSION EXPIRES

72 lines

#395

#395	1995-4,	1994-7,	THE SALE, DISTRIBUTION, SERVICE AND PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES, BEER AND WINE. PROVIDING FOR PENALTY FOR VIOLATION AND AN EFFECTIVE DATE THEREOF. A copy of the proposed ordinance will be available for inspection during regular business hours at the office of the Municipal Clerk, Town Hall, Red River, NM. Judy Brunson Municipal Clerk PUB 3-13-03 and 3-
TOWN OF RED RIVER	1994-6,	1994-3,	
P.O. BOX 1020	1993-3,	1989-12,	
RED RIVER NM 87558	1981-20,	1981-18,	
LEGAL NOTICE	1981-13,	1973-6;	
Notice is hereby given by the Town of Red River of a PUBLIC HEARING to be held at a regular meeting of the Red River Town Council, Tuesday, March 25, 7:00 P.M. at Town Hall, 100 E. Main, Red River, New Mexico for proposed Ordinance 2003-01, title and summary as follows: AN ORDINANCE REPEALING	RELATING TO THE LICENSING, REGULATION AND REGISTRATION OF BUSINESS; ADOPTING REGULATIONS, REQUIREMENTS AND RELATED FEES AND GENERAL POLICY FOR BUSINESS REGISTRATIONS, OCCUPATIONS, AND LICENSES FOR THE TOWN OF RED RIVER. PROVIDING FOR THE IMPOSITION AND COLLECTION		
ORDINANCE			