

Series of 1982

AN ORDINANCE REPEALING ORDINANCE NO. 2-1979, ADOPTED AUGUST 6, 1979; AND, ADOPTING THE FOLLOWING MUNICIPAL CODE PROVISIONS, INCLUDING FINES AND PENALTIES FOR VIOLATION FOR THE WITHIN PROVISIONS AND ESTABLISHMENT OF FINES AND PENALTIES FOR OTHER ORDINANCES NOT OTHERWISE PROVIDED FOR.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FLEMING, COLORADO:

## ANIMALS &amp; FOWL

Section 1  
Amended by  
Ordinance  
#2-1990

1-1. CRUELTY TO ANIMALS. It shall be unlawful for any person inhumanely, unnecessarily or cruelly to beat, injure or otherwise abuse any animal.

1-2. KEEPING SWINE AND LIVESTOCK. It shall be unlawful for any person to keep any swine or livestock within the town limits.

1-3. DEAD ANIMALS. It shall be unlawful for any person to dispose of a dead animal within the town limits, and, such animals shall be taken beyond the town limits for disposal at a rendering plant or at some other suitable facility.

1-4. FOWL NOT TO RUN AT LARGE. It shall be unlawful for any person to allow any chickens, ducks, geese, turkeys or other domestic fowl under his control to run at large within the town limits.

1-5. BIRD SANCTUARY. ESTABLISHMENT. The entire area embraced within the corporate limits of the town be and the same is hereby designated a bird sanctuary.

BIRD SANCTUARY PROTECTIVE PROVISIONS. It shall be unlawful to trap, hunt, shoot, or molest or attempt to trap, hunt, shoot, or molest, in any manner, any birds or wild fowl, or to rob bird or wild fowl nests. It is provided, however, if birds or fowl are found to be congregating in such numbers as to constitute a nuisance or menace to health or property, then said birds or fowl may be destroyed in such numbers as is deemed advisable under the supervision of the mayor.

## 1-6. DOGS

1-6.1. LICENSES REQUIRED: TERM. It shall be unlawful for any person to own, keep or harbor a dog of any description within the town limits without having obtained a license for such dog from the Town Clerk, on or before the 30th day of April of each year. Each such license shall expire on the 30th day of April the following year.

1-6.2. LICENSE FEES. Any person who shall own or keep a dog shall pay an annual license for each such dog so kept as follows:

For each male dog, an annual license fee of Five Dollars (\$5.00);

For each female dog, unless spayed, an annual license fee of Twenty-five Dollars (\$25.00);

For each spayed female dog, an annual license fee of Five Dollars (\$5.00).

1-6.3. RABIES CONTROL. Each dog shall be innoculated against rabies at least once in every twelve (12) month period;



except in the event that a type L E P (low egg passage) Flury Strain Avianized Rabies Vaccine or live virus avianized vaccine licensed by the U. S. Department of Agriculture is used, then the animal so inoculated need be inoculated only once in every twenty-four (24) month period. The said inoculation shall be made by a licensed veterinarian and shall be evidenced by an identification tag attached to the collar of any such dog.

1-6.4. DOGS. ISSUANCE OF LICENSE. The Town Clerk shall issue a license to any person keeping a dog, upon payment in advance, of the license fee herein specified, which licenses shall be numbered in the order of their issue, and, the Town Clerk shall furnish a metal plate or tag with each license, bearing the number of the license, and the date of the year of the issuance of the same, which metal tag or plate the owner shall have attached to the collar to be worn by the dog so licensed.

The Town Clerk shall not issue a license for the keeping of any dog which has not been inoculated against rabies in compliance with 1-6.3. of this ordinance. Upon application for a dog license, the applicant shall exhibit to the Town Clerk satisfactory evidence that such dog has been inoculated against rabies as provided in 1-6.3 of this ordinance.

1-6.5. DOGS. CUSTODY AND LEASH REQUIREMENTS. Every person owning or having charge, care, custody or control of any dog of any age shall keep such dog exclusively upon his own premises; provided, that such dog may be off such premises if it is under the control of a competent person and restrained by a substantial chain or leash not exceeding six (6) feet in length.

1-6.6. DOGS. VICIOUS DOGS. No biting, vicious or dangerous dog shall be harbored, kept or suffered to be kept, or suffered to be at large unless the same is securely muzzled. Whenever such biting, or vicious or dangerous dog shall be outside the enclosure of its owner or keeper without being so muzzled, it shall be deemed to be a public nuisance and may be killed by any peace officer, whether such dog is licensed, registered and numbered, or otherwise.

1-6.7. DOGS. IMPOUNDMENT OF DOGS. Every dog found running at large shall be impounded by the police department or someone designated by it and kept for a period of seventy-two (72) hours.

1-6.8. DOGS. RABID DOGS. In any case where a dog is suspected of having injured a person, a police officer may impound said dog for a period of fifteen (15) days or until such dog is proved to be non-rabid.

1-6.9. DOGS. REDEMPTION OF DOGS. Within seventy-two (72) hours after the impoundment of a dog under the provisions of the preceding section, if the ownership of the dog is proven, and the owner calls for it, he shall be able to remove it on the payment of a fee established by resolution of the council. If such dog is licensed and the collar bearing the license tag is lost, the replacement of such at the expense of the owner shall be required before he is allowed to remove the dog. If such dog is un-licensed, the owner who desires to redeem the dog shall deliver a certificate of examination to the police department and pay to it the required license fee.



1-6.10. DOGS. DISPOSITION OF DOGS. If the ownership of an impounded dog is not proven within seventy-two (72) hours, such dog shall be destroyed in a humane manner; provided, however, that the police department may give or sell any such redeemed dog to any person who will procure for such dog a necessary collar and tag with a certificate of vaccination as required under the provisions of this ordinance.

1-6.11. DOGS. INSPECTIONS. A health officer, Animal Warden, or any police officer is hereby empowered to enter upon any private property for the purpose of ascertaining whether any dog kept or harbored therein is afflicted with rabies or whether or not a license tag has been procured for such dog.

1-6.12. DOGS. VIOLATIONS. It shall be unlawful for any person to fail to comply with the licensing provision 1-6.4., the rabies inoculation section 1-6.3., the custody and leash requirement provision 1-6.5., and the provision concerning harboring, keeping or suffering to be kept or suffered to be at large vicious dogs numbered 1-6.6.

1-6.13. DOGS. DOG FIGHTS. It shall be unlawful for any person to cause, instigate or encourage a dog fight in any public or private place in this town.

1-6.14. DOGS. BARKING DOGS. It shall be unlawful for any person owning, possessing or keeping custodial or supervisory authority or control over any dog to permit such dog by loud and persistent or habitual noise, to disturb, or tend to disturb, the peace of any other person. No person shall be charged with a violation of this provision unless he has, within the twelve (12) month period immediately preceeding the date of issuance of a summons and complaint charging a violation thereof, received at least one warning by a police officer, and further, unless either two (2) or more complaining witnesses can testify at a trial or other evidence can be presented corroborating the testimony of the complaining witness at such trial.

1-6.15. DOGS. INTERFERENCE. It shall be unlawful for any person to interfere or oppose or resist any officer, either health officer, Animal Warden, or police officer, while engaged in the performance of his duty pertaining to the enforcement of the provisions above concerning dogs.

#### SUBSTANCES RELEASING TOXIC VAPORS

2-1. DEFINITIONS. As used in this section the term "substances releasing toxic vapors" shall mean the following products: plastic (styrene) cements containing toluene, acetone, benzene, aliphatic acetates (such as ethyl acetone, toluene, or naphtha or petroleum origin; household cements, containing toluene, acetone, isopropanol, methyl, ethyl ketone, or methyl isobutyl ketone; finger-nail polish removers containing acetone, aliphatic acetates, benzene, or alcohol; lacquer thinners containing toluene, aliphatic acetates or methyl, ethyl or propyl alcohol; lighter fluids or cleaning fluids containing naphtha of petroleum origin, perchlorethylene, trichlorethane, or carbon tetrachloride.

2-2. USE OR POSSESSION. It shall be unlawful for any person to intentionally smell or inhale the fumes of any substance releasing toxic vapors for the purpose of causing a condition of euphoria,



excitement, exhilaration, stupefaction, or dulled sense of nervous system, or to possess, buy or use any such substance for the purpose of violating or aiding another to violate this section.

2-3. SALE OF SUBSTANCES RELEASING TOXIC VAPORS.

2-3.1. It shall be unlawful to sell, give, deliver, or furnish any substance releasing toxic vapors to any child under the age of eighteen (18) years without the personal or written consent of a parent or guardian of such child; except when the sale of one tube of glue is made simultaneously with or as part of a sale, purchase, or delivery of a hobby or model kit.

2-3.2. No person, except a person who is at the time of such sale actually employed by or engaged in operating a bona fide commercial establishment at a fixed location, shall sell to any other person any substance releasing toxic vapors, and all sales of such substance not made in or from such an establishment shall be unlawful.

2-3.3. It shall be unlawful for any person knowingly to sell or offer for sale, deliver, or give away to any other person any substance releasing toxic vapors, where the seller, offerer, or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, stupefaction, or dulled senses or nervous system.

2-3.4. Exception. This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

PUBLIC NUISANCES

3-1. GENERAL NUISANCES. A public nuisance (hereafter called "nuisance") is a thing, act, failure to act, occupation, activity, condition or use of property which:

3-1.1. Shall annoy, injure or endanger the safety, health, comfort or repose of any considerable number of persons;

3-1.2. Shall offend the public decency;

3-1.3. Shall interfere with, obstruct or tend to obstruct or render dangerous for passage any lake, stream, canal or other body of water or a public park, street, alley or other public way;

3-1.4. Shall in any way render any considerable number of persons insecure in life or use of property; or

3-1.5. Shall otherwise constitute or be known or declared a public nuisance by virtue of common law or the state statutes or ordinance of the town.

3-2. SPECIFIC NUISANCES. DEFINED AND DECLARED. The following are declared nuisances. The enumeration hereof shall not be construed to limit or exclude in any way any thing, act, failure to act, activity, condition, occupation or use of property constituting a nuisance as provided in subsection 3.1.

3-2.1. UNCLEAN OR DEFECTIVE DRAIN, DITCH, GARBAGE BOX, ETC. Any unclean, foul, unsafe, unhealthy, dangerous, defective or filthy drain, ditch, tank or gutter, or any leaking or broken slop, garbage or manure box or receptacle of like character shall be deemed a nuisance.



- 3-2.2. UNCLEAN STABLE OR STALL. Any stable, stall, shed, yard or appurtenance thereto in which refuse shall collect and accumulate to an extent offensive or unhealthy to others, or which shall not be kept protected from flies and other insects and rodents and in a clean or wholesome condition, shall be deemed a nuisance.
- 3-2.3. POND OR POOL A NUISANCE. Any pond, pool, stream, ditch or deposit of water or other liquid or viscous body which is unsafe, dangerous or detrimental to the public health or safety, or unwholesome or offensive in odor shall be deemed a nuisance.
- 3-2.4. WELLS WHICH OVERFLOW. Any well maintained or operated so that it overflows or waste is discharged therefrom into or over any street or other public way or place or upon or over private property so as to form ice, create a health or safety hazard or in any other manner inconvenience or endanger persons or property shall be deemed a nuisance.
- 3-2.5. STALE OR UNCOVERED GARBAGE. Any garbage which shall be stored otherwise than in covered cans or sealed containers or which creates odor, stench, or is accessible to animals, or otherwise creates a health hazard shall be deemed a nuisance.
- 3-2.6. DUMPING OR DISPOSAL OF TRASH, GARBAGE OR DEBRIS. The storage, dumping or disposal of trash, garbage or debris within the town is deemed a nuisance; provided, that it shall be permissible for owners or occupants of property within the town to store same for periodic, routine and regular collection.
- 3-2.7. DISPOSAL OF OTHER SUBSTANCES. The filling, placing, depositing or location of any dung, carrion, dead animal, offal, garbage or any putrid or offensive substance, or the contents of any privy, vault or cesspool, on any street or alley or on or under any public or private ground or in any body of water shall be deemed a nuisance.
- 3-2.8. ABANDONED, UNATTENDED OR DISCARDED REFRIGERATORS, CONTAINERS, ETC. Any abandoned, unattended or discarded icebox, refrigerator or other airtight container shall be deemed a nuisance.
- 3-2.9. PITS, UNKEMPT WELLS, TUNNELS AND EXCAVATIONS. Any abandoned or unguarded pit, well, tunnel or excavation hazardous to life or property shall be deemed a nuisance.
- 3-2.10. DENSE SMOKE, NOXIOUS FUMES, GAS, SOOT OR CINDERS. The creation of dense smoke, noxious fumes, gas, soot or cinders in such quantities as to render the same objectionable to the public or harmful to people or property shall be deemed a nuisance.
- 3-2.11. DANGEROUS ANIMALS. Any animal, dangerous to public health or safety, maintained or allowed to come within the corporate limits of the town without adequate precautions at all times to prevent damage to property or injury to the public shall be deemed a nuisance.
- 3-2.12. DANGEROUS OR DILAPIDATED BUILDINGS, STRUCTURES, OR VEHICLES. Any building, structure, wall or vehicle which is so



decayed, broken down, disintegrated, dilapidated or poorly constructed as to constitute a fire hazard or other health or safety hazard to persons or property shall be deemed a nuisance.

3-2.13. LOUD AND DISTURBING NOISES. Any continuous or repetitious loud noise which shall disturb or disrupt the peace and quiet of a considerable number of persons shall be deemed a nuisance. Such noises shall include, but not be limited to, motorized loud speaker devices and malfunctioning or excessively noisy mufflers.

3-2.14. JUNK YARDS. Any place used or maintained as a junk yard, or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked, abandoned or inoperable automobiles, trucks, tractors, boats, house trailers or other machinery of any kind or any of the parts thereof, which places are kept in such a manner as to essentially interfere with the comfortable enjoyment of life or property by others, shall be deemed a nuisance.

3-2.15. KEEPING OF BEES. The keeping of bees in any greater number than four (4) stands at any one place is hereby declared to be a nuisance.

3-2.16. WEEDS AND BRUSH.

3-2.16.A. DUTY OF OWNER OR OCCUPANT OF PRIVATE PROPERTY TO CUT AND REMOVE. All weeds on private property, and all brush on such property, and on the alley in the rear and the sidewalk and parking areas adjacent thereto within the town limits, are hereby declared to be a nuisance and a menace to the health and safety of the inhabitants of the town, and every person owning or occupying real property within the corporate limits of the town, or his agents, are hereby required to cut to the ground all weeds and brush at least once during each of the following periods: May 15 through June 15; June 16 through July 15; July 16 through August 15; of each year, and are further required to remove the same, together with all rubbish of all kinds, from his lots, tracts or parcels of land.

3-2.16.B. DESTRUCTION AND REMOVAL BY TOWN UPON FAILURE OF OWNER OR OCCUPANT: COST TO BE LIEN ON PROPERTY. Whenever any land or lot within the town is infested with weeds or rubbish as defined in this ordinance, the town may, at its election and in addition to any other penalty provisions contained herein, and if such owner, occupant, tenant or agent shall fail or refuse to destroy and remove same as provided in this ordinance, proceed to have such weeds and brush destroyed at the expense of the owner of the land or lot.

Charges for cutting and destroying weeds by the town, as authorized by this section, shall be billed monthly along with the monthly water charges for the premises from which the weeds were removed and shall be paid to the Town Clerk on or before the 20th day of the next succeeding month following rendition of the bill. Such charges shall constitute a lien upon the property benefited by such cutting and removal and,

Amended:  
See Ordinance  
# 1-1994



in the event such charges are not paid when due, the water connection for the premises may be severed by the town without further notice, or the Town Clerk may certify the charges to the County Treasurer to be by him placed upon the tax list of the current year, to be collected in the same manner as other taxes are collected. Such costs shall include the reasonable cost of such cutting and removal, including cost of inspection and other incidental cost in connection therewith, together with ten percent added thereto to defray the cost of collection. All laws of the state for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption of the same, shall apply to such cases. 3-2.16.C. TERMS DEFINED. The term "brush" used in this ordinance is hereby construed to be volunteer growth of brushes and such as is growing out of place at the location where growing, and shall include all cuttings from trees and bushes; also, high and rank shrubbery growth which may conceal filthy deposits.

The term "weed" used in this ordinance is hereby construed to be an unsightly, useless, troublesome or injurious herbacious plant including, without any limitation whatsoever, weeds commonly known as the dandelion, Russian thistle, bee weed, sweet clover, crab grass or other such grass, and such plant as is out of place at the location where growing, and shall include all rank vegetable growth which exhales unpleasant and noxious odors, and also, high rank vegetable growth that may conceal filthy deposits.

3-3. NUISANCES PROHIBITED. It shall be an offense and unlawful for any person being the owner, agent or occupant, or having under his control any building, lot or premise to maintain or allow any nuisance to be or remain thereon. It shall further be unlawful and an offense for any person (1) to do any act constituting a nuisance, (2) to fail to act where such failure causes or continues a nuisance, (3) to permit any activity or condition constituting a nuisance, or (4) aid or abet in the creation or maintenance of a nuisance. The prohibitions of this ordinance shall apply to persons in a position to avoid, prevent or discontinue a nuisance.

3-4. ABATEMENT OF NUISANCE. In all cases where a nuisance shall be found to exist, notice of such nuisance, together with an order directing the removal or discontinuance of such nuisance, shall be served upon any and all offending parties by the Mayor, or by the Police Chief, or any officer in his department designated by either of them. Service shall be upon the individual in person or by leaving a copy of the notice (1) at his residence with an individual over the age of eighteen being a member of the family, or (2) at his place of business with an employee of the business. If personal service cannot be effected, notice shall be given by posting the premises, if applicable, or if inapplicable, by post-



ing such notice at the town hall. Such notice shall advise of the nature of the nuisance and order elimination or discontinuance thereof within twenty-four hours from time of service. Such notice shall also advise that if elimination or discontinuance is not so accomplished, the town may forthwith proceed to abate the same, charging the expenses thereof to the individual refusing to eliminate or discontinue the nuisance. It shall be deemed sufficient notice if a copy of this complete section of public nuisances be attached to the order directing the removal or discontinuance of such nuisance. If the abatement is not made within such twenty-four period, the Mayor, Police Chief, or any other designated town official may proceed to abate the nuisance. In the case of failure of an owner or occupant to cut and remove weeds and brush, the twenty-four hour time period shall be considered enlarged to ten (10) days.

3-5. JUDICIAL ABATEMENT. If the individual responsible does not abate the nuisance within the twenty-four hour or ten day period, as specified above, the Board of Trustees of the town may elect to abate the nuisance by judicial action in a court of competent jurisdiction for a temporary restraining order, injunction or other appropriate relief.

3-6. EMERGENCY ABATEMENT. Where, in the opinion of the Mayor, Mayor Pro Tem, or in their absence, the Police Chief, a nuisance constitutes an immediate and serious danger to the public health, safety or welfare or, in the case of any nuisance in or upon any street or other public way or public ground within the town limits, the Mayor, Mayor Pro Tem, Police Chief, or other designated town official shall have authority to abate summarily the nuisance without notice of any kind.

3-7. RECOVERY OF EXPENSES. The expenses incurred by the town in abating any nuisance may be recovered from the person failing to abate the nuisance and such individual shall be liable for such expenses.

3-8. AUTHORITY TO ENTER ON PROPERTY. The Mayor or the Police Chief or any officer in his department designated by him, or any other designated town official deputized by the Mayor, Mayor Pro Tem, or Board of Trustees, may, where reasonable cause exists, with or without a warrant issued by any court of competent jurisdiction, enter upon or into any lot, house or other structure or premises, to examine the same and to ascertain whether any such nuisance exists and shall be free from any action or liability on account thereof.

3-9. ENFORCEMENT BY NORTHEAST COLORADO HEALTH DEPARTMENT. Upon consent by the town Board of Trustees, the provisions of this section may be enforced by the Northeast Colorado Health Department or one of its designated officials.

#### GENERAL MISCELLANEOUS OFFENSES AND UNLAWFUL ACTS

##### 4-1. ALCOHOLIC BEVERAGES.

4-1.1. ALCOHOLIC BEVERAGES. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES. It shall be unlawful for any person to carry or have in his possession any open con-



tainer or containers of intoxicating liquor or fermented malt beverage on any street, sidewalk, alley or other public place in town or in any automobile in the town or on the grounds of any public school, in said town, or to consume any intoxicating liquor or fermented malt beverage in or on any of the above enumerated places in the town. The Town Board of Trustees may, upon application, grant limited exceptions, by resolution.

4-1.2. ALCOHOLIC BEVERAGES. INTOXICATION. It shall be unlawful for any person who shall appear in any public place manifestly under the influence of alcohol, narcotics or other drugs, not administered pursuant to medical advice.

4-2. ASSAULT AND BATTERY. It shall be unlawful for any person to commit an assault or an assault and battery, or cause, engage in, instigate, or encourage a riot, rout, affray or fight.

4-3. ASSEMBLY.

4-3.1. ASSEMBLY. LAWFUL. It shall be unlawful for any person to disturb any lawful assemblage of people.

4-3.2. ASSEMBLY. RELIGIOUS. It shall be unlawful for any person to disturb any congregation or assembly met for religious worship, by making a noise or by rude or indecent behavior, or profane discourse, within their place of worship, or so near the same as to disturb the order of solemnity of the meeting.

4-4. BRIDGES AND PUBLIC BUILDINGS. It shall be unlawful for anyone to injure or destroy or assist in injuring or destroying any bridge or its appurtenances or any public building or property.

4-5. CONCEALED WEAPONS. It shall be unlawful for any person to carry concealed on his person, any pistol, bowie knife, dagger, or other deadly weapon; provided this section shall not apply to duly constituted officers of the police department when executing their legitimate duties.

4-6. DISCHARGING WEAPONS. It shall be unlawful to discharge any firearm, airgun, BB gun, bow and arrow, or any toy gun projecting lead or missiles, except in a regularly established shooting gallery and except that any home owner may discharge such firearm or airgun on any practice range located in the basement of his residence and may practice archery so long as such practice is confined to his own property. Nothing in this section shall be construed to prohibit any officer of the law from discharging his firearm in the performance of his duty.

4-7. DISORDERLY CONDUCT. It shall be unlawful for any person, intentionally, knowingly, or recklessly; or

4-7.1. Makes a coarse and obviously offensive utterance, gesture, or display in a public place; or

4-7.2. Abuses or threatens a person in a public place in an obviously offensive manner; or

4-7.3. Makes unreasonable noise in a public place, or in or near a private residence that he has no right to occupy; or



- 4-7.4. Fights with another in a public or private place; or
- 4-7.5. Not being a peace officer, discharges a firearm other than at a shooting gallery or rifle range; or
- 4-7.6. Not being a peace officer, displays a deadly weapon in a manner calculated to alarm.

The commission of any of the above acts constitutes disorderly conduct. It is an affirmative defense to prosecution under subsection 4-7.2., that the actor had significant provocation for his abusive or threatening conduct.

4-8. DISORDERLY DANCE. Any dance at which unseemly, noisy or obstreperous conduct is permitted, or which disturbs the peace of adjoining property owners, or at which there are drunk and disorderly persons, is hereby declared to be a nuisance. The Mayor or police officer may, if he deems it necessary for the immediate protection of the peace and good order, stop such dance.

4-9. DISTURBING THE PEACE. It shall be unlawful for any person to disturb or to tend to disturb the peace of others by violent, tumultuous, offensive or obstreperous conduct, or by loud or unusual noises, or by unseemly, profane, obscene or offensive language calculated to provoke a breach of the peace; or by assaulting, striking, or fighting another, or for any person to permit such conduct in any house or upon any premises owned or possessed by him or under his management or control, when within his power to prevent, so that others in the vicinity are or may be disturbed thereby.

4-10. FALSE FIRE ALARM. It shall be unlawful for any person intentionally to give or make a false alarm of fire.

4-11. HARASSMENT. It shall be unlawful for any person, with intent to harass, annoy or alarm other people, who,

- 4-11.1. Directs obscene language or an obscene gesture at another person on public property or on privately owned property open to the public; or

- 4-11.2. Engages in conduct or repeatedly commits acts that alarm or seriously annoy another person and that serves no legitimate purpose; or

- 4-11.3. Repeatedly insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

The above acts are deemed to be harassment.

4-12. INDECENT EXPOSURE. It shall be unlawful for any person to perform any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public, which acts shall be deemed public indecency:

- 4-12.1. An act of sexual intercourse; or

- 4-12.2. An act of deviate sexual intercourse; or

- 4-12.3. A lewd exposure of body; or

- 4-12.4. A lewd fondling or caress of the body of another person.

4-13. LOITERING.

- 4-13.1. DEFINITION. The word "loiter", shall mean to stand idly around, to linger, delay, or wanton about, to remain, abide, or tarry in a public place. It shall be unlawful for any person who:



4-13.1.A. Loiters for the purpose of begging; or  
4-13.1.B. Loiters for the purpose of unlawful gambling with cards, dice, or other gambling paraphernalia; or  
4-13.1.C. Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse; or  
4-13.1.D. Loiters with one or more persons for the purpose of unlawfully using or possessing a narcotic or dangerous drug; or  
4-13.1.E. Loiters for the purpose of interfering with the normal operations of a lawfully operating business; or  
4-13.1.F. Loiters for the purpose of interfering with the normal use of sidewalks, parks or other publicly owned or operated property.

4-13.2. Lawful acts in the course of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes, or otherwise, shall not be held to be in violation of this section.

4-14. OBSCENE WRITING. It shall be unlawful for any person who shall

4-14.1. write, draw, paint, stain, cut, carve, mark, scratch, brand, engrave, or otherwise mark any gross, indecent, or obscene word or words, language, picture or device whatsoever, so that the same shall be exposed to public view, upon any wall, fence, or other thing, in any highway, street, avenue, alley or public place, visible to persons in such public place; or

4-14.2. stick or put up on any or in any place aforesaid, any paper, wood or other thing, on which, or from which any word or language, picture, or device shall have been expressed, shaped, or made, in any of the ways aforesaid.

4-15. PERMANENT DEPRESSIONS. All holes, depressions, excavations, or other dangerous places that are or shall be below the natural or artificial grades of the surrounding or adjacent highway, street, avenue, or alley shall be properly enclosed with fences or walls, or be filled up so as to prevent persons and animals from falling into them, and it shall be unlawful for any person to cause or permit such dangerous places to exist.

4-16. POISON. It shall be unlawful for any person to vend, give, or deliver any deadly poison, knowing the same to be such, without marking the same in legible characters "Poison".

4-17. POLICE OFFICERS.

4-17.1. POLICE OFFICERS. OBSTRUCTING, RESISTING, ETC., It shall be unlawful for any person to knowingly and wilfully obstruct, resist, interfere with or oppose any police officer, or other person duly authorized to serve with or assist any police officer or any person duly appointed to serve as a special or extra officer, when such officer is engaged in the performance of his duties.

4-17.2. POLICE OFFICERS. DUTY TO ASSIST. It shall be the duty of all persons when called upon by any police officer or other member of the police department, to promptly aid and assist him in the discharge of his duties. It shall be unlawful



for any person to refuse to give such aid or assistance.

4-17.3 POLICE OFFICERS. IMPERSONATION. It shall be unlawful for anyone to falsely represent himself to be an officer of this town or shall, without being duly authorized, exercise or attempt to exercise any of the duties and functions, powers, or privileges of a town officer.

4-18. PUBLIC FACILITY. AFTER-HOURS ENTRY. It shall be unlawful for any person to enter, remain or be present on the grounds used for or connected with a municipally owned or operated public facility at any time without prior thereto having obtained permission from the Mayor or his authorized agent, except during the hours when such public facility is open to the public.

4-19. RAILROADS.

4-19.1. RAILROADS. OBSTRUCTING TRACKS AND STREETS. It shall be unlawful for any person to place or cause to be placed any obstruction upon the track or tracks of any railway company or in any street, alley or sidewalk.

4-19.2. RAILROADS. SPEED. It shall be unlawful for any person or persons or any railroad company or corporation, or any person or persons in their employ, to move, propel or cause to be moved, propelled or driven, any railroad car or locomotive engine by means of steam or other power, on any portion of the railroad of said person, company or corporation within the corporate limits of the Town of Fleming at a rate of speed exceeding the railroad posted rate of speed for such crossing.

4-19.3. RAILROADS. BLOCKING. It shall be unlawful for a street to be blocked more than fifteen(15) minutes by any person persons, railroad company or corporation by blockade or obstruction of the free passage of any street or public highway within the Town of Fleming, by means of any railroad car or cars or signal devices, or locomotive engines, or permit the same to remain in, across or along which any railroad may be constructed or operated.

4-20. SCHOOLS. UNLAWFUL ACTS.

4-20.1. It shall be unlawful for any person to annoy, disturb, or otherwise prevent the orderly conduct of activities, administration or classes in or about any school facility or at the site of any school sponsored function.

4-20.2. It shall be unlawful for any person to annoy, disturb, assault or molest any student or employee of any school while in or about any school facility or at the site of any school sponsored function.

4-20.3. It shall be unlawful for any person to loiter, idle, wander or play on or in any school grounds or buildings, either on foot or in or on any vehicle, unless in connection with bona fide school activities.

4-20.4. It shall be unlawful for any person to conduct himself or herself in lewd, wanton or lascivious manner in speech or behaviour in or about any school building, school ground, or at the site of any school sponsored function.

4-20.5. It shall be unlawful for any person to participate



in any action, whether by speech or behavior, creating a nuisance in, about or on any school building, school grounds, or at the site of any school sponsored function.

4-20.6. It shall be unlawful for any person to park or move a vehicle in the immediate vicinity of, or on the grounds of any school facility or at the site of any school sponsored function, for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice, or invite students into the vehicle for the purpose of inducing truancy or immoral purposes.

4-21. THROWING STONES. It shall be unlawful for any person to throw any stone, or any other missile upon, or at any building, tree or other public or private property or upon or at any person in any street, avenue or alley, public place or in enclosed or unenclosed grounds.

4-22. TREE TRIMMING. It shall be unlawful for anyone to fail to remove all trash, clippings, debris, and waste of any kind and nature resulting from the trimming of trees within the limits of the town of Fleming, from the premises upon which said work is done to the town dump. Such removal shall be at the expense of the person removing such waste.

4-23. TRESPASS AND UNAUTHORIZED USE OF PROPERTY. It shall be unlawful for any person who knowingly uses, occupies or remains on any privately owned property or in any vehicle without the permission of the owner or person entitled to the possession thereof. Such person so doing commits trespass.

#### PENALTIES

5-1. PENALTIES. Any person found guilty of violation of these ordinances, or any part hereof, or of other ordinances the violation of which has no prior specific penalty and assessment, shall be punished for each violation by a fine of not to exceed \$300.00 or incarcerated not to exceed 90 days, or both, in the discretion of the Court.

#### REPEALER

6-1. Ordinance No. 2-1979, adopted August 6, 1979, is hereby repealed. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

#### ENACTMENT

7-1. ENACTMENT. The proceeding sections of the above ordinances of the Town of Fleming, Colorado are enacted in accordance with the Constitution of the State of Colorado, and, the Town Trustees of the Town of Fleming, Colorado have determined that these matters are matters of local and municipal concern.

7-2. If any part, section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, following its adoption, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees of the Town of Fleming, Colorado hereby declare that it would have passed this ordinance in each part, section, sub-section,



sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, sub-sections, sentences, clauses or phrases be declared invalid.

POLICE POWER

8-1. In the opinion of the Board of Trustees of the Town of Fleming, Colorado, an emergency exists, and, these ordinances are necessary for the immediate preservation of the public peace, health and safety; therefore these ordinances shall be in full force and effect immediately upon their passage.

INTRODUCED, AND READ, AND ORDERED POSTED IN THE FOLLOWING THREE PLACES BY RESOLUTION ADOPTED UPON FIRST READING THIS 10th DAY OF June, 1982:

1. Town Hall
2. Mary's Cafe
3. First National Bank

POSTED THIS 25th DAY OF June, 1982,

SECOND READING AND ADOPTED THIS 6th DAY OF July, 1982.

Ralph A. Deines, Mayor

Ralph A. Deines

ATTEST: Alberta Acott  
Town Clerk