

## RECORD OF PROCEEDINGS

TOWN OF FLEMING  
ORDINANCE #2-1990

AN ORDINANCE REPEALING TOWN OF FLEMING  
ORDINANCES NO. 2, 6, 1-1976, AND SECTION 1  
OF 1-1982, REGULATING ANIMAL CONTROL WITHIN  
THE TOWN LIMITS OF FLEMING, COLORADO, INCLUDING  
FINES AND PENALTIES FOR VIOLATION.

BE IT ORDAINED BY THE TOWN COUNCIL OF FLEMING, COLORADO:

1. PURPOSE. It is the intent and purpose of this ordinance to provide a safe and healthy environment within the Town of Fleming for both pets and people. While a person may own and keep pets within the Town, the conduct of those pets and the conditions that the pets are kept in should not infringe on the surrounding homes and their inhabitants.

2. CRUELTY TO ANIMALS. (a) It shall be unlawful for any person inhumanely, unnecessarily or cruelly to beat, injure or otherwise abuse any animal.

(b) It shall be unlawful for any person to cause, instigate or encourage a fight between dogs, fowl, or other animal, in any public or private place in this town.

3. BIRD SANCTUARY. The entire area embraced within the town limits is hereby designated a bird sanctuary. 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 a menace to health or property or congregating in such numbers as to constitute a nuisance, then said birds or fowl may be destroyed in such manner as is deemed advisable under the supervision of the Mayor or Enforcement Officer.

4. 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.

5. RABIES CONTROL. (a) All dogs and cats six (6) months of age or older within the Town Limits shall be vaccinated against rabies. Such vaccinations shall be repeated annually.

(b) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate and metal tag. The vaccination tag must be worn at all times by the dog or cat.

(c) It shall be unlawful for any person within the Town Limits to own, keep, possess, harbor, or allow to remain upon premises under his control any dog or cat which has not been vaccinated as required herein.

(d) Failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. If convicted in the Municipal Court of failing to have an animal vaccinated, a person shall be fined a minimum of \$100; provided, that if the person presents the Court with proof of vaccination within seven (7) days of this conviction, the judge may reduce the fine to \$25.



## RECORD OF PROCEEDINGS

(e) It shall be unlawful for any person to counterfeit a rabies vaccination tag or certificate.

(f) It shall be unlawful for any person to willfully destroy a rabies vaccination tag or certificate.

(g) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the Fleming Town Hall or the Enforcement Officer for the Town of Fleming, and the Northeast Colorado Health Department within twenty-four (24) hours.

(h) Any person who is bitten or scratched by an animal shall report that fact to the Fleming Town Hall or the Enforcement Officer for the Town of Fleming within twenty-four (24) hours. If the person bitten or scratched is a minor under the age of eighteen (18), the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the Fleming Town Hall or the Enforcement Officer for the Town of Fleming within twenty-four (24) hours. If the bite or scratch is from an animal suspected of having rabies, such person shall also notify the Northeast Colorado Health Department.

(i) Any person who owns, keeps, harbors, or allows animals to remain on premises under his control shall report to the Fleming Town Hall or the Enforcement Officer for the Town of Fleming, within twenty-four (24) hours any incident where such animal bit or scratched any person.

(j) A Health Officer, Enforcement Officer, Police Officer, or other so designated by the Mayor or Town Council, 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 animal.

(k) All reports of dog bites, scratches or suspected rabies shall be reported by Fleming Town Officials to the Northeast Colorado Health Department.

6. IDENTIFICATION FOR ANIMALS. (a) All dogs and cats within the Town Limits shall, upon proof of rabies vaccination, be issued a license and an identification tag issued by the Fleming Town Clerk. The license shall be numbered in order of issue, and the metal tag shall bear the number of the license and date issued. The metal tag shall be attached to the collar worn by the dog or cat so licensed.

(b) There shall be no charge for Town of Fleming Identification Tags issued to a male or spayed female dog or cat.

(c) The cost of issuing a Town of Fleming Identification Tag for an unspayed female dog or cat is \$25.00.

7. LIMIT ON NUMBER OF DOGS AND CATS PER HOUSEHOLD. It shall be unlawful for any household to own, keep, harbor or otherwise have control of more than three dogs and three cats. If a dog or cat gives birth and causes the number of pets in a household to exceed these limits, the owner shall have 6 months to get back into compliance with this section.

8. RUNNING AT LARGE. (a) It shall be unlawful for any person who owns, keeps, harbors, or otherwise has control over any animal within the Town Limits, to permit such animal or fowl to run or be at large within the Town Limits.



## RECORD OF PROCEEDINGS

(b) The prohibition against an animal running at large shall not apply to a cat which has been vaccinated as required by this ordinance and which is wearing the required tags.

(c) An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord, or other suitable material attached to a collar or harness, or not on the property of the owner. An animal is considered to be in control of its owner without a leash if the animal stays within ten (10) feet of its owner and is obedient to its owner's commands. An animal inside a vehicle parked in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

(d) The Enforcement Officer for the Town of Fleming may impound any animal observed to be at large, whether the animal is on public or private property. If the Enforcement Officer observes an animal on property which is owned by a person other than its owner, and follows the animal back to the property of its owner, the Enforcement Officer may impound the animal or issue a citation for the animal running at large.

(e) Proof that an animal was found at large in violation of this ordinance, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.

9. IMPOUNDMENT. If an animal is found running at large, and no Town of Fleming Identification Tag is attached, it shall be assumed that the owner of the animal resides outside Town Limits, and the animal shall be taken to the Animal Shelter in Sterling. If an animal is found running at large, and there is a Town of Fleming Identification Tag attached, the animal shall be returned to its owner, and a citation issued.

10. ANIMAL IN HEAT. Any person who owns, harbors, or keeps any female dog or cat shall, during the period that such animal is in heat, or in estrus, shall keep such dog or cat in a secured area that prevents a male dog or cat from having access to such female, except for controlled breeding permitted by the owner of the female. Additionally, the female dog or cat shall not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.

11. TETHERED ANIMALS. It shall be unlawful for any person to tether, chain, or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street, or to leave it unattended while tethered, chained, or fastened on public property. It shall be unlawful to tether, chain, or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food and water.

12. ANIMAL DEFECACTION PROHIBITED. (a) It is unlawful for the owner or person in control of an animal to allow or permit such animal to defecate on any public property or private property, other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.



## RECORD OF PROCEEDINGS

(b) It shall be a defense to prosecution under the provisions that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from the public or private property.

13. WILD ANIMALS OR WILDLIFE. (a) No person shall possess, keep or have care, custody or control of a wild animal or wildlife within the Town Limits except that such wild animal or wildlife being kept was an infant or injured animal which was not capable of surviving on its own. Once the animal is capable of surviving on its own, the animal must be released.

14. NUISANCE ANIMALS. As used in this section, a nuisance animal shall be defined as any animal which commits any of the acts listed herein:

1. Molests or chases pedestrians, passerby or passing vehicles, including bicycles.
2. Makes unprovoked attacks on other animals of any kind.
3. Is repeatedly at large, specifically three or more times during a twelve month period.
4. Damages private or public property.
5. Defecates on property not belonging to or under the control of its owner.
6. Barks, whines, howls, crows, cackles or makes any noise excessively and continuously, and such noise disturbs a person or ordinary sensibilities. No person shall be charged with a violation of this section unless he has within the twelve (12) month period immediately preceding the date of the issuance of a summons and complaint charging a violation thereof, received at least two warnings by an Enforcement Officer or 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.
7. Is unconfined when in heat.
8. Unconfined fowl, unidentified cats, skunks, rodents, and other such animals are deemed to be a nuisance and may be trapped and disposed of in a humane manner.

If the Enforcement Officer determines that any animal is a nuisance, he may issue a warning or citation requiring that the owner meet certain remedial requirements to correct the conduct of the animal. In addition, persons residing within 600 feet of a person who harbors or keeps an animal which they believe to be a nuisance, may initiate an action before the Municipal Court of Fleming.

15. REMEDIAL REQUIREMENTS. Remedial requirements may include:

1. Leash and Muzzle. The owner shall not permit the animal to go outside the kennel or pen unless such animal is securely leashed with a leash no longer than four (4) feet in length which is in the physical control of a person eighteen (18) years of age or older. Such animal may not be leashed to inanimate objects such as trees, posts, buildings, etc. Additionally, such animal must be muzzled by a muzzling

## RECORD OF PROCEEDINGS

device sufficient to prevent the animal from biting persons or other animals.

2. Confinement Outdoors. The animal shall be securely confined in an enclosed and locked pen or kennel, except when on a leash and muzzled or when confined indoors. Such pen or kennel must have secure sides and a secure top attached, or have sides that measure eight (8) feet from the ground. The structure must be locked with a key or combination lock if an animal held to be dangerous is within the structure. The structure must have a secure bottom or floor attached to the sides of the structure or the sides of the structure must be embedded in the ground no less than two (2) feet. All structures erected to house the animal must comply with all zoning and building regulations. Such structures must also be adequately lighted and ventilated and be kept in a clean and sanitary condition.

3. Relocation of Confinement Area. The owner may be required to relocate on his property the confinement area in which the animal is kept so that the animal does not annoy, disturb, or in some other manner offend neighbors.

4. Confinement Indoors. The animal may not be kept on a porch, patio, or in any part of a house or other structure that will allow the animal to exit such building or structure on its own volition. In addition, no such animal, except a cat, may be kept in a house or structure when the windows or screen doors are the only obstacle preventing the animal from exiting the structure.

5. Signs. The owner of an animal held to be dangerous shall display in prominent places on the premises where the animal is kept a sign easily readable by the public which states "Beware of \_\_\_\_\_." A similar sign shall also be posted on the kennel or pen of the animal.

6. Insurance. The Town Council may require that the owner acquire insurance in an amount deemed reasonable to insure against bodily injury or property damage caused by the animal.

7. Restitution. The Town Council may require the payment of restitution for damages or injury caused by the animal.

8. Training. The Town Council may require that the person and animal engage in training necessary to eliminate the problem. The Town Council may designate a specific training program to be followed or utilized.

9. Removal from Town. For an animal other than one held to be dangerous, the Town Council may require that the animal be removed from Town limits.

10. Prohibit Animal Ownership. The Town Council may prohibit the person from acquiring and keeping within the Town limits any other animal for a period of time of up to five (5) years. They may also require the person to either sell, give away, or otherwise humanely dispose of the animal at issue in the hearing.

11. Destruction. The Town Council may order that an animal shall be humanely destroyed.



## RECORD OF PROCEEDINGS

In requiring that remedial requirements be followed, the Town Council shall also state a time frame within which the owner must comply with the required action. For good cause, the time period to comply may be extended by the Town Council.

16. VIOIOUS 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 Enforcement Officer and Police Officer, whether such dog is licensed, registered and numbered, or otherwise.

17. HONEYBEES. No person shall construct, place, or maintain any beehive within three hundred (300) feet of any residence other than that of the owner, except with the consent of the occupants of all such residences.

18. PENS AND COOPS. (a) All fowl and rabbits shall be kept within a pen, coop or hutch. A fenced yard shall not qualify as a pen or coop.

(b) Any person keeping or harboring any animal, other than livestock, shall locate any pen, coop, hutch, or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals.

19. LIVESTOCK. It shall be unlawful for any person owning or having care, custody or control over any livestock to cause or permit any livestock (including cattle, horses, mules, asses, swine, sheep, goats, etc.) to be kept, pastured, herded, staked or tied within the Town Limits.

20. ENFORCEMENT. (a) The provisions of this ordinance may be enforced by Enforcement Officer, Law Enforcement Officer, and such other persons as are designated by the Mayor or Town Council.

(b) It shall be unlawful for any person to interfere with, obstruct, resist, or oppose any Enforcement Officer, Police Officer, or other person authorized to enforce the provisions of this ordinance while such person is apprehending an animal or performing any other duties. It shall be unlawful to take or attempt to take any animal from the Ordinance Enforcement Officer or from any vehicle used by the officer to transport any animal, or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal without proper authorization.

(c) In all instances of a violation of any provision of this ordinance whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has authority to enforce this ordinance for any violation of this ordinance.

(d) In the enforcement of this ordinance, enforcement officers shall have the authority to shoot any animal to protect themselves, to protect a third person, or to protect another animal from attack or threat of imminent injury, or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock, or wildlife.

(e) In the enforcement of this ordinance, enforcement officers shall have the authority to enter upon any private property for the purpose of determining compliance with this ordinance.

## RECORD OF PROCEEDINGS

(f) In the event an animal is delivered to the animal shelter in Sterling, an enforcement officer shall have the authority to sign any release papers required by them.

\*\* add (g) See #4-1993

21. PENALTIES. Any person found guilty of violations of this ordinance, or any part thereof, shall be punished for each violation by a fine not to exceed \$300.00 or incarcerated not to exceed 90 days, or both, in the discretion of the Court.

22. REPEALER. Ordinances No. 2, 6, 1-1976, and Section 1 of 1-1982, are hereby repealed. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

23. 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. The Town Council of the Town of Fleming, Colorado have determined that these matters are matters of local and municipal concern, and the provisions of this ordinance shall be effective upon second reading and adoption.

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 Town Council 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.


INTRODUCED, READ AND ORDERED POSTED IN THE FOLLOWING THREE PLACED BY RESOLUTION ADOPTED UPON FIRST READING THIS 3rd DAY OF APRIL, 1990.

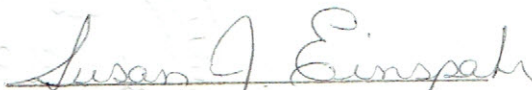
1. FLEMING TOWN HALL
2. FLEMING POST OFFICE
3. FIRST NATIONAL BANK OF FLEMING

POSTED THIS 4th DAY OF APRIL, 1990.

SECOND READING AND ADOPTED THIS 1st DAY OF MAY, 1990.

ATTEST:

  
Mayor

  
Town Clerk