

RECORD OF PROCEEDINGS

ORDINANCE #3-1993

AN ORDINANCE CONCERNING BURNING, REFUSE AND TRASH
REMOVAL WITHIN THE TOWN OF FLEMING, COLORADO.

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

1. **PURPOSE:** It is the purpose of this ordinance to promote and protect the public health and safety of the residents of Fleming, Colorado.

2. **AUTHORITY AND POWER:** The Fleming Town Council has the authority to promulgate rules, regulations and specifications concerning burning, refuse and trash removal. The provisions of this ordinance may be enforced by an Enforcement Officer, Law Enforcement Officer, or such other persons as are designated by the Mayor or Town Council.

3. **DEFINITIONS:** For the purpose of this ordinance, the following definitions are given:

A. Refuse, Rubbish, and Trash are used interchangeably, and shall mean and include, but not be limited to any dead vegetation, grass clippings, leaves, hay straw, shavings, excelsior, paper, clothing, animal waste, ashes, containers, boxes, glass, cans, bottles, garbage waste, discarded building and construction materials, and any other worthless or discarded material or object; and any other materials commonly known as rubbish or refuse or trash of any kind or character or by any means known.

B. Brush shall mean and include, but not be limited to a volunteer growth of bushes or shrubs growing out of place or planted bushes or shrubs that have high or rank growth. Brush shall also include all such plants that have become unsightly or obstacles to public passage or safety.

C. Weeds shall mean and include, but not be limited to any vegetation commonly referred to as a weed, or any unsightly, useless, troublesome or injurious herbaceous growing plant, or any vegetation which has been designated a noxious weed by the Colorado Commissioner of Agriculture.

BURNING: No person shall burn or allow the burning of refuse, rubbish, trash, wastepaper, wood, or other flammable material on any open premises, or on any public street, alley, or other land adjacent to such premises, or in any barrel or other trash receptacle, except by special permission of the Town Council or its appointed officer, when such burning shall be done under such proper safeguards as he may direct as to time and weather.

LITTERING PROHIBITED: It shall be unlawful for any person, corporation, firm or association to throw, sweep, deposit or cause to be deposited any refuse of any kind whatsoever in, upon or along any street, avenue, right-of-way, alley, vacant lot, public property, or other property within the town.

RIGHT OF ENTRY: In order to accomplish the purpose of this ordinance, the town's appointed officer has the authority to enter onto private property for the purpose of enforcing this ordinance.

ENFORCEMENT: Violation of any section of this ordinance will result in a notice being served upon the owner, tenant, occupant or user of such property on which the violation occurs. Such notice shall state the violation, the work required to remedy the violation, the reasonable time within which to do the work required, and state that if the work required is not done within the time specified, the town will

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cause the same to be done at the expense of the property owner, tenant, occupant or user.

Such notice may be served by delivering a copy of such notice at such owner, tenant, occupant or user's usual place of abode with some member of his family over the age of eighteen years. In case there is more than one owner, tenant, occupant or user, upon any such person shall be adequate service. If the owner, tenant, occupant or user cannot be found in the town, service may be made by mailing a copy thereof to such owner, tenant, occupant or user, postage prepaid, certified mail, addressed to his last known address, and by posting a copy of such notice in a conspicuous place on the premises involved. Service by mail shall be completed five days after the date the notice is deposited in the mail and posted on the premises.

COMPLIANCE WITH NOTICES: It shall be unlawful for any person to fail to comply with the requirements of any notice given pursuant to this ordinance within the time specified in such notice

FAILURE OF PROPERTY OWNER TO DO REQUIRED WORK: If any work required is not accomplished within the time specified in the notice, the Town Council or its appointed officer shall cause the work to be done and the cost of the same shall be collected from the property owner, tenant, occupant or user. If the town causes the work to be done, it shall submit the cost thereof to the Town Clerk, who shall send a statement in such amount to the property owner, tenant, occupant or user at his last known address. Any such statement shall be paid within thirty days and any unpaid amount shall bear interest at the legal rate.

ABATEMENT OF DELINQUENT COSTS: The Town Clerk shall, not later than the first of July of each year, report to the Town Council as to any costs for work done by the town under the provisions of this ordinance, which have not been paid. Notice shall be mailed by the Town Clerk to each property owner, tenant, occupant or user, which notice shall state the amount claimed to be due, the date, place and time that the report will be made to the Town Council, the description of the property to be assessed, a description of the work performed, and that the Town Council will be asked to assess the costs of the work, together with an amount to cover interest, advertising fees and costs of collection against the property on which such violation has occurred. Such notice will be mailed at least ten days, and not more than forty-five days before the date the report will be made to the Town Council. Such assessment shall be certified by the Town Clerk to the County Treasurer and shall be on a parity with the tax lien for general state, county, city, town or school taxes. Such assessment shall become delinquent on the first day of September, after the date of assessment; and after the same becomes delinquent, shall be advertised and sold by the county treasurer at the same time or times, and in the same manner and under all the same conditions, penalties and with the same effect as prescribed by the general laws of the state for the sale of real estate in default of payment of general taxes.

PENALTIES, CLAIMS AND APPEALS: Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to the provisions of this ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$500 for each separate offense. Each day during which any violation of the provision of this ordinance shall occur or continue shall be a separate offense.

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EXCLUSIONS: If any part of any section of this ordinance is found to be unconstitutional, it shall not invalidate any other portion of this ordinance.

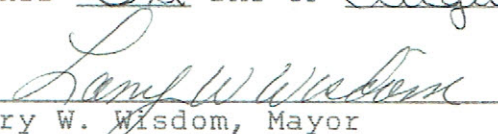
ENACTMENT: The proceeding sections of the above ordinance of the Town of Fleming, Colorado, are enacted in accordance with the Constitution of the State of Colorado. The Town Council of the Town of Fleming, Colorado, have determined that these matters are matters of local and municipal concern, and the provisions of this ordinance shall be effective upon second reading and adoption.

INTRODUCED, READ AND ORDERED POSTED IN THE FOLLOWING THREE PLACES THIS 6th DAY OF JULY, 1993.

1. Fleming Town Hall
2. Fleming Post Office
3. First National Bank of Fleming

POSTED THIS 6th DAY OF JULY, 1993.

SECOND READING AND ADOPTED THIS 3rd DAY OF August 1993.


Larry W. Wisdom, Mayor

ATTEST:


Susan J. Einspahr, Town Clerk