

FRANKLIN COUNTY

ORDINANCE NUMBER 1-2010

AN ORDINANCE TO BE KNOWN AS THE "FRANKLIN COUNTY LIVESTOCK MANAGEMENT ORDINANCE" ESTABLISHING STOCK RESTRICTED AREAS WITHIN THE COUNTY

WHEREAS, the Board of Franklin County Commissioners is given authority to pass regulatory ordinances under the Washington State Constitution Article 11, §11 and RCW 36.32.120(7); and

WHEREAS, pursuant to the provisions of Chapter 16.24 RCW a county legislative authority shall have the power to designate by an order made and published certain territory as stock restricted areas; and

WHEREAS, the Board of Franklin County Commissioners has previously designated various restrictions on livestock in Franklin County, by and through Franklin County Resolutions 2002-491, 86-70, and Orders dated October 19, 1970, March 29, 1965, November 23, 1964, September 3, 1963, August 17, 1959, September 17, 1956, May 2, 1955, June 21, 1954, January 16, 1950, November 1, 1948, December 1, 1947, June 4, 1945, May 5, 1942, September 6, 1939, October 7, 1938, August 27, 1938, April 5, 1934, December 30, 1920, June 26, 1920, October 6, 1919, July 7, 1919, March 3, 1919, April 1, 1918, February 4, 1918, August 9, 1917, July 5, 1917; and other range area, open range and related designations; and

WHEREAS, current Franklin County resolutions and orders designating livestock areas within the county are inconsistent with the Revised Code of Washington and should be updated; and

WHEREAS, the Ordinance herein numbered 1-2010 shall hereinafter be known as the "Franklin County Livestock Management Ordinance"; and

WHEREAS, all the aforementioned Franklin County resolutions and orders establishing range areas and livestock restriction areas are hereby **repealed and superseded** by this Ordinance Number 1-2010.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY, WASHINGTON:

Section 1: APPLICABILITY

This ordinance shall apply to Franklin County.

Section 2: FINDINGS AND PURPOSE

Livestock and related agricultural activities conducted within this "Right to Farm" county may be subject to nuisance lawsuits that diminish the economic attractiveness of raising livestock in the County, thereby constituting an undesirable economic impact on the County. It is therefore the purpose of this ordinance to help preserve the economic value of livestock operations within the County, minimize the impact of nuisance lawsuits related to livestock operations, and provide additional protection for public safety in more densely populated areas.

Franklin County Ordinance 8-2008 "Right to Farm" clearly affirms our commitment to supporting and protecting our valuable agricultural economy within applicable law.

Livestock owners and the general public have a mutual interest in the safety of our citizens, as well as livestock maintained within the County.

Approximately 96 percent of Franklin County lands are dedicated to diverse, economically important agricultural pursuits, including a variety of livestock operations.

Current Franklin County designations for livestock operations are dated and inconsistent with designations recognized in the current Revised Code of Washington (RCW).

Section 3: DEFINITIONS

When used in this Ordinance, the definitions in RCW 16.24 as hereinafter amended, shall apply.

(1) "Livestock" is defined as cattle, horses, mules, or donkeys consistent with RCW 16.24.010 as may be subsequently amended.

(2) "Stock Restricted Area" is the area designated by the legislative authority of the County where it shall be unlawful to permit livestock of any kind to run at large consistent with RCW 16.24.010 and this ordinance.

(3) "Range Area" is all areas not designated stock restricted per RCW 16.24.010.

(4) "Open Range" is an outdated term no longer recognized in the Revised Code of Washington and has no applicability or recognized meaning in this ordinance.

(5) "Livestock Restraint" is defined as the successful effort to restrict livestock from entering unauthorized places.

Section 4: STOCK RESTRICTED AREAS

Any individual city, town, township or municipality comprising two square miles or more of incorporated area within Franklin County together with any other areas wholly within the boundaries of said incorporated areas are hereby designated Stock Restricted Areas consistent with RCW 16.24.

Section 5: REASONABLE MEASURES

Livestock owners, managers and other persons responsible for livestock within all areas of Franklin County shall take reasonable measures to ensure their animals are sufficiently controlled to preclude damage to other persons or the property thereof.

Consistent with RCW 16.24.090, it shall not be necessary for any person to fence against such animals, and it shall be no defense to any action or proceedings brought pursuant to this ordinance or chapters 16.24 or 16.04 RCW that the party injured by or restraining such animals did not have his or her land enclosed by a lawful fence.

Section 6: EXCEPTIONS.

A person who owns or has possession, charge or control of livestock shall not be deemed in violation of this ordinance when it can be shown, in satisfaction of the standard of proof set for by Washington law, that "Acts of God" or other circumstances beyond the reasonable control of that person resulted in the lack of livestock control.

Section 7: SEVERABILITY.

Nothing in this ordinance is intended to conflict with or in any way amend state law. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

Section 8: EFFECTIVE DATE.

This ordinance shall take effect and be in full force upon its passage and adoption. Public notice of this action shall be published in the Franklin County newspaper of record, once each week for four successive weeks per RCW 16.24.050.

PASSED this 17 day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON



Brad Peck, Chairman



Rick Miller, Chair Pro Tem

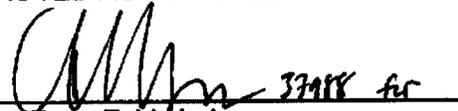


Robert E. Koch, Member

ATTEST:


Clerk of the Board

APPROVED AS TO FORM:

By:  37988 for
Ryan E. Verhulp
Deputy Prosecuting Attorney