

ORDINANCE NO. 10-06

TITLE: AN EMERGENCY ORDINANCE EXTENDING THE TEMPORARY MORATORIUM ON THE ENFORCEMENT OF HORSE AND LIVESTOCK REGULATIONS APPLICABLE TO RESIDENTIAL ZONE DISTRICTS FOR AN ADDITIONAL ONE HUNDRED TWENTY (120) DAYS IN DURATION; DIRECTING THE PLANNING COMMISSION TO CONTINUE TO EVALUATE FOR THE CONSIDERATION OF THE BOARD OF TRUSTEES THE TOWN'S OPTIONS REGARDING THE REGULATION OF HORSES AND LIVESTOCK; DECLARING THE INTENTION OF THE BOARD OF TRUSTEES TO PROMPTLY CONSIDER THE ADOPTION OF APPROPRIATE TOWN REGULATIONS WITH RESPECT TO SUCH HORSES AND LIVESTOCK, AND DECLARING AN EMERGENCY

WHEREAS, the Board of Trustees is aware that for the past several years, there has been a question regarding whether horses and livestock are allowed within the residential zone districts of the Town;

WHEREAS, the question is based in part on the fact that when the Town's ordinances were updated in 1992, provisions in Ordinance No. 183, approved October 11, 1983, regarding the keeping of horses and livestock in residential areas with certain conditions were deleted, and it is unclear whether the deletion in 1992 was intended by the Board of Trustees at that time;

WHEREAS, the official codification by the Town in 2001 repealed all ordinances not included within the codified Town of Elizabeth Municipal Code, and thus to the extent that Ordinance No. 183 may have had any validity between 1992 and 2001, it was repealed as of 2001.

WHEREAS, horses and livestock are an allowed use in the Agricultural Zone (A-1) District, but are not an allowed use in any other zone district within the Town;

WHEREAS, the Board of Trustees is aware of several horses that are being kept in residential areas;

WHEREAS, the Board of Trustees is also aware of questions regarding the keeping of small, non-domesticated animals such as rabbits and fowl;

WHEREAS, the Board of Trustees therefore determined to impose a moratorium of one hundred and twenty (120) days to allow for the Planning Commission, in conjunction with Town staff, to investigate and make recommendations to the Board for its consideration of regulations regarding the keeping of horses and livestock, and other animals as the Planning Commission deems appropriate, so that the Board of Trustees may consider comprehensive animal regulations to address all of the issues and questions described above;

WHEREAS, the initial one hundred and twenty (120) days has been insufficient to complete the task;

WHEREAS, an additional one hundred twenty (120) days is a reasonable length of time and no longer than necessary for the Town to properly evaluate, consider, and, if appropriate, adopt and implement comprehensive animal regulations including regulations applicable to horses and livestock; and

WHEREAS, no individuals will be unduly prejudiced by the imposition of such moratorium.

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF ELIZABETH, COLORADO, THAT:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board of Trustees of the Town of Elizabeth.

Section 2. Extension of Imposition of Temporary Moratorium on Enforcement of Regulations Applicable to Horses and Livestock. Upon the adoption of this Ordinance, an extension of the existing moratorium that would otherwise expire on July 7, 2010 for a duration of an additional one hundred twenty (120) days from July 7, 2010, is imposed upon the enforcement of horse and livestock land use regulations, but such moratorium shall only be applicable horses and livestock that exist in residential zone districts as of February 23, 2010. Nothing in the Ordinance, however, shall be constructed to prevent the Town from enforcing its nuisance regulations if the keeping of such horses and livestock are deemed to create a public nuisance as the same is defined by the Town of Elizabeth Municipal Code.

Section 3. Staff to Investigate and Prepare Proposed Regulations. Before the expiration of the moratorium imposed by this Ordinance, the Town staff, working with the Planning Commission, shall prepare appropriate regulations for consideration by the Board of Trustees.

Section 4. Authority. The Board of Trustees hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29 C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); and (iv) Section 31-15-401, C.R.S. (concerning municipal police powers).

Section 5. Emergency Declared; Effective Date; Expiration. The Board of Trustees finds, determines and declares that passage of this Ordinance is necessary for the immediate preservation of the public peace, health and safety in order to prevent the enforcement of horse and livestock regulations during the pendency of this analysis by the Planning Commission and Town staff, and allows the Town a reasonable opportunity to determine: the type of comprehensive animal regulations that should apply within the residential zone districts of the Town, including regulations applicable to horses and livestock, and specifically addressing the nature and extent of any legal nonconforming uses within the Town. The Board of Trustees further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of

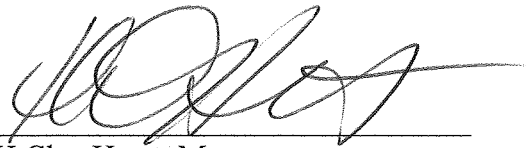
Elizabeth. The extension of the moratorium imposed by the Ordinance shall commence on July 7, 2010, and shall expire one hundred and twenty (120) thereafter, unless repealed prior to that date.

Section 6. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Elizabeth, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 7. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 8. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED by a vote of 6 for and 0 against AND ORDERED PUBLISHED ONCE IN FULL this 22nd day of June, 2010.



H Clay Hurst, Mayor

ATTEST



Serena L. Brooks, Town Clerk

