

ORDINANCE 10-07

AN ORDINANCE AMENDING THE TOWN OF ELIZABETH MUNICIPAL CODE TO ADDRESS HORSES, LIVESTOCK, AND DOMESTICATED ANIMALS.

WHEREAS, the Board of Trustees recently amended the Town of Elizabeth Municipal Code to add a new Section 16-1-145, which added an Agriculture (A-1) Zone District, which included, by its terms, the ability to keep livestock and horse;

WHEREAS, because the ability to keep livestock and horses are permitted in the A-1 Zone District, they are therefore not a permitted use in other zone districts of the Town;

WHEREAS, the Town now desires to allow the keeping of horse and livestock in other zone districts in limited circumstances;

WHEREAS, the Town desires to address domesticated animals, dog kennels and kennel permits, and commercial animal establishments for the health and safety of the animals and town residents; and

WHEREAS, the Town desires to create a process through the use by special review for horses, livestock, commercial animal establishments, and commercial dog kennels.

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

Section 1. Section 16-1-20 of the Town of Elizabeth Municipal Code is amended by the addition thereto of new definitions as follows:

Sec. 16-1-20. Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this Chapter shall have the meaning indicated when used in this Chapter. Words, phrases and terms not defined in this Chapter but defined elsewhere in this Code shall be construed as defined elsewhere in this Code. Words, phrases and terms neither defined herein nor elsewhere in this Chapter shall be given usual and customary meanings, except where the context clearly indicates a different meaning. The words *shall* and *will* are mandatory and not permissive; the words *may* and *should* are permissive and not mandatory.

Animal means any mammal, bird, fish, reptile, amphibian or insect.

Assistance animal means an animal having received certification through an accredited program with specific characteristics, becoming a fundamental part of a person's treatment designed to improve the physical, social, emotional and/or cognitive function of the patient/owner, and may include a service animal. An assistance animal that is not otherwise

defined as a horse or livestock shall be exempt from any numerical limitations on animals set forth herein.

Commercial animal establishment means any pet shop, grooming shop, dog training facility, boarding, or breeding kennel, or other establishment which handles live animals; excluding veterinary facilities and hospital for animals.

Dog breeder means any firm, person, or corporation which is engaged in the operation of breeding and raising dogs for the purpose of selling, trading, bartering, giving away, or otherwise transferring same.

Domesticated Animals means animals accustomed to living in or about the habitation of man, but of a nature more suited to be outdoors, including but not limited to, cats, dogs, and fowl; excluding swine or pigs of any species.

Horse means a large solid-hoofed herbivorous ungulate mammal domesticated since prehistoric times and used as a beast of burden, a draft animal, or for riding. Horse includes pony, mules, and burros.

Kennel, Private means any premises, building or structure in or on which more than three (3) and less than eight (8) non-breeding dogs of more than four (4) months of age are harbored.

Kennel, Commercial means any place where more than three (3) dogs over four (4) months of age are owned, kept, boarded, bred and/or offered for sale; or eight (8) or more dogs, breeding or non-breeding are harbored, and upon which a person or persons breeds more than two (2) litters in a calendar year.

Livestock means cattle, sheep, goats, llamas, alpacas, and emus of all sizes.

Miniature horse means a smaller version of the horse determined by the height of the animal, which is usually less than 34-38 inches, as measured at the wither, and retaining horse characteristics.

Professional breeder means any person who breeds animals of any species for profit or who produces more than two (2) 'litters' or such of a similar nature, in any one (1) calendar year.

Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition. A service animal that is not otherwise defined as a horse or livestock shall be exempt from any numerical limitations on animals set forth herein.

Therapy animal means an animal provided by prescription or otherwise, that is used to provide comfort and affection to a person other than its handler and is not specifically trained to address a specific need of a disabled person. A therapy animal that is not otherwise defined as a horse or livestock shall be exempt from any numerical limitations on animals set forth herein.

Section 2. The Town of Elizabeth Municipal Code is amended by the addition thereto of Section 16-1-45 Horse and Livestock, to read as follows:

Sec. 16-1-45. Horse and Livestock.

(a) Purpose: The purpose of the horse and livestock section is to establish those locations within the Town where horses and livestock are permitted, subject to the limitations set forth herein. Provided however, compliance with the provisions of this Ordinance does not exempt any property from the nuisance ordinance.

(b) Requirements: In order to accommodate the keeping of horses or livestock, the following provisions must be satisfied by an owner or occupant of property:

(1) On properties that are a minimum of 20,000 square feet, one (1) horse is allowed.

(2) On properties that are equal to or greater than two (2) acres in size two (2) horses or livestock, plus one (1) additional horse and/or livestock for every additional one-half (1/2) acre of property are allowed.

(3) Horses and/or livestock shall not be kept in an enclosure/ corral that are closer than 40-feet to a neighboring adjacent dwelling unit and no closer than ten (10) feet to the dwelling unit on the property.

(c) Livestock, if part of an approved and regulated 4-H program or similar youth developmental/animal husbandry program; shall be allowed on properties that are at least 20,000 square feet in size; proof must be provided to the Town Administrator or his/her designee; and is limited to a period of seven (7) months per each animal, per calendar year. Such livestock shall be further limited to one animal per individual up to a maximum of two animals

Section 3. Section 16-1-50 subsection (a) of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new sub-subsection (7) to read as follows:

(7) Kennel, private; by permit.

Section 4. Section 16-1-50 subsection (j) of the Town of Elizabeth Municipal Code is amended by the addition thereto of new sub-subsection (3) and (4) to read as follows:

(3) Kennel, commercial.

(4) Livestock on less than two (2) acres; or more than one (1) horse or two (2) miniature horses on less than two (2) acres but more than 20,000 square feet; or one (1) horse or two (2) miniature horses on less than 20,000 square feet.

Section 5. Section 16-1-60, subsection (a) of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new sub-subsection (3) to read as follows:

(3) Kennel, private; by permit.

Section 6. Section 16-1-60, subsection (i) of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new sub-subsection (3) to read as follows:

(3) Kennel, commercial.

Section 7. Section 16-1-100 of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new subsection (g), to read as follows:

(g) Uses by special review:

(1) Kennel, commercial.

(2) Commercial animal establishment.

Section 8. Section 16-1-110 of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new subsection (g), to read as follows:

(g) Uses by special review:

(1) Kennel, commercial.

(2) Commercial animal establishment.

Section 9. Section 16-1-120 of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new subsection (c), to read as follows:

(c) Uses by special review:

(1) Kennel, commercial.

- (2) Commercial animal establishment.

Section 10. Section 16-1-140 of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new subsection (i), to read as follows:

- (i) Uses by special review:
 - (1) Kennel, commercial.
 - (2) Commercial animal establishment.

Section 11. Section 16-1-145 subsection (d) of the Town of Elizabeth Municipal Code is amended by the addition thereto of new sub-subsections (3) and (4) to read as follows:

- (d) Uses by special review:
 - (3) Kennel, commercial.
 - (4) Commercial animal establishment.

Section 12. The Town of Elizabeth Municipal Code is amended by the addition thereto of a new Section 16-1-155. Domesticated animals permitted, to read as follows:

Sec. 16-1-155. Domesticated animals permitted.

(a) Domesticated animals are permitted within town limits as long as the property can accommodate the animals; does not constitute a nuisance; and is in compliance with Section 7-7-200 of the Elizabeth Municipal Code.

(b) Keeping, care for, ownership, or possession of more than three (3) dogs over four (4) months of age in the town without a kennel permit, as defined in Section 16-1-20, is prohibited.

(c) The keeping of swine of any species, including any species of pigs, is not permitted within the corporate limits of the town, unless otherwise provided by this code.

Section 13. Section 16-1-160 of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new subsection (c), to read as follows:

(c) Horses or livestock located within all Residential and PD Zoning Districts, unless defined as allowed, existing on property as of March 9, 2010, shall be deemed a legal nonconforming use until such time as the property transfers ownership. All horse and livestock must be registered as nonconforming with the Town.

Section 14. Section 16-9-20 of the Town of Elizabeth Municipal Code is amended by the addition thereto of new subsections (c) and (d), to read as follows:

(c) In addition to the requirements in paragraph (a) above, generally, all commercial animal establishments shall meet the following conditions:

(1) Animal housing facilities shall be provided for the animals and shall be structurally sound, constructed of nontoxic materials, maintained in good repair, and designed so as to protect the animals from injury. Each animal shall be provided with adequate floor space to allow it, according to species and breed, to breathe and turn about freely and to easily eat, eliminate wastes, stand, sit and lie in a comfortable normal position and sanitary environment.

(2) Electrical power shall be supplied in conformance with applicable electrical codes adequate to supply heating, ventilation and lighting.

(3) Water shall be supplied at sufficient pressure and quantity to clean housing facilities and enclosures of debris and excreta.

(4) Adequate food and bedding shall be provided and stored in facilities which provide protection against rot, mildew, and infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.

(5) Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors and disease.

(6) Washroom facilities, including sinks with hot and cold water and toilets, shall be conveniently available to maintain cleanliness among animal caretakers and for the purpose of washing utensils and equipment.

(7) Each animal shall be observed daily. Reasonable efforts shall be made to separate sick, diseased or injured animals from those appearing healthy and normal. Sick, diseased or injured animals shall be removed from display and sale and kept in isolation quarters. Ventilation of quarters for sick or diseased animals shall be arranged to avoid contamination of healthy animals.

(8) During the hours any facility is open, there shall be an employee or keeper on duty at all times, whose responsibility shall be the care and supervision of the animals in that facility whether held for sale or display.

(9) An employee, keeper or owner shall make provision to feed, water and provide other necessary care for animals on days the store or establishment is closed.

(10) No person shall knowingly misrepresent an animal to a consumer in any way. No person shall knowingly sell a sick or injured animal. Adequate care and feeding instructions shall be given, in writing, to each animal purchaser.

(11) Animals which are caged, closely confined or restrained shall be permitted to exercise daily, for an appropriate length of time as determined by their size, age and species, in an area suitable for that purpose.

(12) Facilities shall be clean and sanitary at all times.

(13) Commercial Kennel shall also comply with the following standards:

a. Purpose Statement. A statement regarding the specific purpose or purposes of the proposed kennel facility, including the specific category or categories of animal facility designated by the rules and regulations of the Colorado Pet Animal Care Facilities Act (CRS 35-80-101 – 117 *et seq.*, the Colorado Division of Wildlife, and/or the U.S. Department of Agriculture.

b. Type and Number of Animals. A statement regarding the type(s) and number(s) of animals for which the Kennel Permit is requested. The number of dogs allowed in a kennel will be determined on a case by case basis, based on location, size of property and number of dogs.

c. Animal Management Plan. Kennels will not be allowed to become unsightly or a public nuisance or create health or environmental hazards for surrounding properties. The Animal Management Plan shall clearly state how Applicant will address the following:

1. Animal waste and wastewater disposal.
2. Potential for groundwater contamination.
3. Flies and insects.
4. Emergency evacuation of animals.
5. Isolation of sick, injured, or aggressive animals, or females in season (estrus).
6. Noise mitigation.
7. Odor mitigation.
8. Escape prevention.
9. On-site supervision.
10. Veterinary services.
11. Record keeping, including but not limited to immunizations, births, sterilizations, etc.

(d) In addition to the requirements in paragraph (a) above, to allow livestock on less than two (2) acres; or more than one (1) horse or two (2) miniature horses on less than two (2) acres, but more than 20,000 square feet; or one (1) horse or two (2) miniature horses on less than 20,000 square feet, the following standards shall apply:

(1) One-half (½) acre is required per each additional animal on properties more than 20,000 square feet.

(2) Plot plan of the property showing location of corral and shelter with appropriate setbacks.

(3) Feeding of the animal(s) is required with only limited periodic grazing, vegetation permitting; overgrazing prohibited.

(4) Regular removal or spreading of manure is required to prevent the property from becoming a nuisance.

Section 15. Article VII, Division 4 of Chapter 7 of the Town of Elizabeth Municipal Code is amended by the addition thereto of a new Section 7-7-250, Kennel permit, to read as follows:

Sec. 7-7-250. Kennel permit.

(a) A kennel permit is required for a private kennel that consists of more than three (3) and less than eight (8) dogs of more than four (4) months of age, harbored on any premise, building or structure. Dogs are required to be licensed with the Town.

(b) A permit shall be issued by the Town upon completion of an application containing the following information:

- (1) Name and phone number of the applicant;
- (2) Address of the kennel site;
- (3) Copy of verification of Town dog license for all dogs;
- (4) Veterinary information; and
- (5) Emergency contact number.

(c) Kennel permits may be revoked for cause by the Town Administrator; cause may include, but is not limited to, excessive nuisance complaints, a charge and conviction of cruelty to animals, excessive number of dogs, or dogs being unlicensed.

Section 16. Severability. If any section, paragraph clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 17. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, 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.

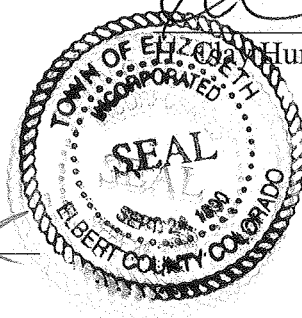
Section 18. This Ordinance shall become effective thirty (30) days after publication.

Read and approved at a meeting of the Board of Trustees of the Town of Elizabeth, Colorado, this 28th day of December, 2010.

Passed by a vote of 5 for and 2 against and ordered published.

[Handwritten signature]

Hurst, Mayor



ATTEST

[Handwritten signature]

Serena L. Carter, Town Clerk