
From: David Reynolds <davereynoldslaw@gmail.com>
Sent: Wednesday, February 1, 2023 12:40 PM
Subject: Re: Another horse hit Crash report, feeding ordinance,

It seems like whenever critical horse events are going on, I am getting ready for a trial, which I am now, so I don't have time to thoroughly consider the proposed wildlife feeding ordinance. However, what jumps out at me, as an attorney and just from common sense, is that there are no factors that have to be considered by the P&Z director in determining whether to grant, deny, or renew a feeding permit. The ordinance just says that the director "may" grant a permit and that applicants "may" request renewal of a permit. And there is no appeal provision when a permit is granted, or denied.

I think that in order to withstand legal challenge, the ordinance needs to include mandatory considerations, including impact on traffic, nature of area, impact on other wildlife, impact on pedestrians and other users of the area of the proposed feeding, public notice of an application and opportunity for neighbors to object to it. There has to be an "articulable basis" for the agency's action on the permit application.

Also, in section 14-42, the phrase "or other nutrients" is used. What's a nutrient? If I recall correctly, water is a nutrient. So is it unlawful to provide water without a permit? It should be, and it should clearly list "water" in the list of "nutrients" so that there is zero ambiguity. As we all know, one trough of water that is provided consistently will bring horses in daily, even if there is no food provided. One trough of water allowed a herd of 14 to reside on, and destroy much of the ecosystem on, the Placitas Open Space over a period of two years (2012-2014).

There's also a potential problem with how this ordinance would apply to things like quail blocks. I used to put them out for years, but this summer the horses discovered them and our place has been on their "stop by and check" list ever since, so I stopped putting them out. If a horse zealot scatters a bunch of quail blocks by their house "for the quail" and not "for the horses" (wink wink, nod nod), is that a violation of this ordinance?

I like the idea of an ordinance like this but this was poorly thought out and poorly drafted.

Gotta run...

Dave