

ADMINISTRATIVE -

Authorization to Advertise a Public Hearing to Consider the Adoption of Amendments to Chapter 41.1 of the Fairfax County Relating to Animal Control and Care

ISSUE:

Authorization to advertise a public hearing to consider amendments to Chapter 41.1 of the Fairfax County Code, governing Animal Control and Care. The proposed amendments to Chapter 41.1 will (i) allow wildlife rehabilitators, exhibitors and other individuals who have valid permits from the Virginia Department of Game and Inland Fisheries to possess wildlife in the County, (ii) revise the definition of wild or exotic animal, (iii) revise rabies control provisions, (iv) revise provisions related to traveling animal exhibitions (v) remove provisions related to euthanizing wildlife at the County's animal shelter (vi) update the animal shelter's fee schedule, and (vii) make other minor revisions to Chapter 41.1.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the proposed amendments to County Code Chapter 41.1.

TIMING:

Board action is requested on _____, to provide sufficient time to advertise the proposed public hearing on _____ at ___ p.m. If approved by the Board, these provisions will become effective immediately.

BACKGROUND:

This agenda item is in response to a Board matter dated January 14, 2020, directing County staff to review the current provisions in Chapter 41.1 regarding possession of wildlife in the County by individuals and organizations that have valid permits from the Virginia Department of Game and Inland Fisheries (DGIF). This item also includes other proposed or required amendments to Chapter 41.1 as further described below.

Wildlife Rehabilitators and Exhibitors

The proposed revisions to Section 41.1-4-1 allow individuals who have permits from the Commonwealth of Virginia or the federal government to keep wild or exotic animals in the County, specifically including wildlife rehabilitators and exhibitors. Current provisions in Chapter 41.1 prohibit the possession of wild or exotic animals, as those terms are defined in Section 41.1-1-1. The County's Zoning Ordinance also prohibits possession of animals that are not permitted under Chapter 41.1. DGIF issues permits to individuals and organizations allowing possession of wildlife for certain purposes, and the federal government issues permits for some other species including migratory birds. Approximately fifty (50) individuals in the County have DGIF permits. Permittees include trained wildlife rehabilitators, exhibitors (including county, regional and state park nature

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centers), local conservation education organizations, and falconers, among others. DGIF provides comprehensive oversight of these permittees including setting conditions for wildlife care and housing, conducting inspections, and placing restrictions on species and their uses. As a result of this current prohibition in Chapter 41.1, DGIF has considered revoking permits issued to County residents because they do not comply with the local ordinance. The proposed amendments to Section 41.1-4-1 will ensure that the County residents who have valid permits can continue to provide valuable rehabilitation and educational services under the supervision of DGIF. The proposed amendments to this section further clarify that residents cannot keep any animal in violation of state or federal law.

The proposed amendments also revise the definition of a wild or exotic animal found in Section 41.1-1-1. The current language defines a wild or exotic animal as any animal normally found in the wild state and contains a mix of examples of such animals with a narrow set of exceptions for ferrets, hedgehogs, chinchillas, non-poisonous snakes, rabbits and laboratory rats. This definition has generated confusion and required interpretation from staff as to which animals are classified as wild or exotic and thus prohibited in the County. The revised definition classifies as wild or exotic those animals that are naturally occurring or normally found in the wild state, either within the continental United States or elsewhere in the world, regardless of whether such animal has been bred in captivity, and also specifically includes all animals, spiders, insects and scorpions that are venomous to humans. The new definition then creates a set of exceptions from the definition that will cover animals that have become common pets, including chinchillas and other small rodents, hedgehogs, birds and non-venomous reptiles and amphibians. The proposed amendments to Section 41.1-4-2 revise the notice provisions required at places where exotic animals are sold to match the new definition.

Rabies

The proposed amendments to Sections 41.1-1-1 add definitions for rabid and suspected rabid animals as well as potential exposure to rabies to include situations other than animal bites, all adapted from state regulations. The revisions to Section 41.1-2-1, 2-2 and 2-3 allow for exemptions to the rabies vaccination requirement pursuant to Virginia law, and Section 41.1-2-1 sets forth a detailed definition of currently vaccinated. The revisions to Sections 41.1-2-8 through 2-11 set forth more detailed provisions related to confinement and isolation of animals that are suspected of being rabid, have potentially exposed persons to rabies, or have been potentially exposed to rabies. These sections set forth the different responses to different species of animals, and reflect the availability of a recognized rabies vaccine for dogs, cats and ferrets and the lack of a recognized vaccine for other companion animals and livestock. The revisions to Section 41.1-2-10 provide for titer amnestic response to demonstrate a rabies vaccine history for animals potentially exposed to rabies. The proposed new definition of animal provides that for certain sections, animal means any animal susceptible to rabies and is also based on the Code of Virginia. The amendments delete the provisions of Section 41.1-2-14 related to the oral rabies vaccination program; the County has not conducted this program for several years and staff has no plans to recommend resuming it. These revisions further designate the Director of Health as the point of contact for rabies incidents in accordance with the Code of Virginia.

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Department of Animal Sheltering

The proposed amendments add the Department of Animal Sheltering to the definitions in Section 41.1-1-1, along with revising the definition of the animal shelter from pound to public animal shelter. The proposed amendments to Section 41.1-2-16 remove provisions related to the euthanasia of otherwise healthy wildlife brought to the shelter. Shelter staff have not performed this service for several years. The Department of Animal Sheltering believes such euthanasia runs counter to its mission and negatively affects the emotional and psychological well-being of shelter staff. Private companies are available to perform this service for County residents. The proposed amendments to Section 41.1-2-5 update the fee schedules and will allow the Director of Animal Sheltering to waive shelter fees for good cause shown. Because the Department of Animal Sheltering is now an independent agency, the amendments remove the requirement that the Director follow certain procedures for waiving fees established by the Police Department.

Animal Services Division

The proposed amendments change the definition of animal control officer to refer to the County's Animal Protection Police, and also revise the definition of animal based on the Code of Virginia. The amendments will allow for officer discretion to charge owners of unrestricted dogs in Section 41.1-2-4 and unvaccinated dogs in Section 41.1-2-1. The enforcement provisions of Section 41.1-1-2 will be revised to allow enforcement as otherwise provided by law to clarify that citizens may seek a warrant for misdemeanor violations without law enforcement involvement in accordance with Virginia law. Section 41.1-1-5 is updated to match current Virginia law.

Traveling Animal Exhibitions

The proposed amendments will require these exhibitors to obtain current certificates of health for each animal to be exhibited. The amendments remove the requirement for an inspection prior to the issuance of a permit. Because these exhibitors are normally based outside of the County, these inspections are impractical. However, these exhibitors will be required to observe the appropriate standards of care established under Virginia law and will be prosecuted for providing inadequate care. The definitions of adequate care, adequate feed, adequate water and adequate space have been removed and replaced by a reference to current Virginia law.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS

Attachment 1 – Proposed Amendments to Chapter 41.1, Animal Control and Care (markup)

Attachment 2 – Proposed Amendments to Chapter 41.1, Animal Control and Care (clean)

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