



**FAIRFAX
COUNTY
VIRGINIA**

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Article 20 — Commonly Accepted Pets

PUBLIC HEARING DATES

Planning Commission

November 29, 2018 at 7:30 p.m.

Board of Supervisors

January 22, 2019 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

October 16, 2018

CVJ



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STAFF COMMENT

The proposed amendment is on the 2018 Priority 1 Zoning Ordinance Amendment Work Program. The purpose of this amendment is to make modifications to the definition of “commonly accepted pets” found in Section 20-300 of the Fairfax County Zoning Ordinance. The modifications include the addition of several animals that have become more common as pets in recent years, as well as other changes intended to improve the clarity of the definition. This amendment to the Zoning Ordinance is concurrent with proposed changes to Chapter 41.1 of the Code of Fairfax County (the Code), Animal Control and Care, which seeks to revise and update the definition of “wild or exotic animal.”

Background

The proposed amendment is in response to a request by the Board of Supervisors, directing staff to update both Chapter 41.1 of the Code and Article 20 of the Zoning Ordinance, to allow certain animals that have become increasingly commonplace in recent years within the pet trade as “commonly accepted pets.” The current definition of commonly accepted pets was adopted by the Board of Supervisors on February 25, 1985 with the adoption of Zoning Ordinance Amendment ZO-85-117. As part of that amendment, a new definition for “commonly accepted pets” was established, which includes domesticated rabbits; hamsters, ferrets, gerbils; guinea pigs; pet mice and pet rats; turtles; fish; dogs; cats; domestic chickens, ducks and geese under two months old; birds such as canaries, parakeets, doves and parrots; worm/ant farms; non-poisonous spiders; chameleons and similar lizards; and non-poisonous snakes.

Under the existing provisions for the keeping of animals set forth in Section 2-512 of the Zoning Ordinance, commonly accepted pets are allowed as an accessory use on any lot, provided such pets are used for personal use and enjoyment and not for any commercial purpose. Except for dogs, there is no limitation on the number of commonly accepted pets which are permitted on a lot, provided that the keeping of such pets continues to be an accessory use to the principal use on the lot. The Board of Zoning Appeals (BZA) may approve a special permit to modify certain provisions relating to the keeping of animals, which includes allowing the ownership of an animal not identified as a commonly accepted pet, provided such animal is not considered wild or exotic as defined in Chapter 41.1 of the Code. Approval of a special permit is subject to those standards set forth in Section 8-917 of the Ordinance. In reviewing an application, the BZA considers the types and number of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location at which such animals will be kept on the lot. The BZA may impose development conditions, including screening and additional setback requirements for associated structures, to ensure that there will be no adverse impact on adjacent property and no emission of odor or noise detrimental to other property in the area.

Staff has seen an increase in inquiries related to the keeping of animals such as hedgehogs, chinchillas, and hermit crabs, as these animals are popular and routinely sold as part of the retail pet trade. In discussions with local veterinarians, the care of chinchillas was said to be most similar to the care of domestic rabbits, and the care of hedgehogs most similar to the care of domestic ferrets. Hedgehogs in particular are known to be desirable for owners with allergies, who may otherwise be unable to own other fur-bearing commonly accepted pets. Given their relatively

low-maintenance care (as opposed to other pets such as dogs or cats), hedgehogs and chinchillas have risen in popularity among pet owners.

In addition to the rising interest observed by staff, the Board of Supervisors has also received public testimony from community members regarding the inclusion of hedgehogs, in particular, as commonly accepted pets. However, since none of these particular animals are included in the definition of commonly accepted pets, special permit approval is currently required. However, while the keeping of chinchillas and hermit crabs require Special Permit approval, hedgehogs are prohibited to be kept within the County, as they have been determined to be wild or exotic per Chapter 41.1 of the Code.



Figure 1: African Pygmy Hedgehog

In 2001, the Board considered proposed amendments to the Zoning Ordinance and Chapter 41 of the Code to permit domestically bred African pygmy hedgehogs and hermit crabs as “commonly accepted pets.” While the Planning Commission unanimously recommended the adoption of this amendment, the Board voted to not adopt the proposed amendment based on concerns raised by what was then called the Fairfax County Animal Care and Control Advisory Committee. The Committee opined that both hedgehogs and hermit crabs were “wild animals,” and, as such, their use as pets would be potentially inhumane. In addition, in 2015, research was conducted and a second draft amendment to the commonly accepted pets definition was prepared by staff. At that time, the now-called Animal Services Advisory Commission’s voted to endorse the proposed amendment. However, the request for authorization to advertise a public hearing on the proposed amendment was removed from the Board’s agenda.

Over the past ten years, the BZA has reviewed approximately 45 special permit applications for the modification to the limitations on the keeping of animals. Of these applications, only one application involved the keeping of a chinchilla, and no applications were processed for the keeping of hermit crabs. All but six of the special permit requests involved the keeping of dogs in excess of the number permitted on-site, or the keeping of chickens on lots less than two acres in size. In the case of animals such as hedgehogs, chinchillas, and hermit crabs, it is likely that most county residents are unaware of zoning and other county regulations concerning these pets.



Figure 2: Chinchilla

Proposed Amendment

The proposed Zoning Ordinance Amendment seeks to add certain animals to the definition of “commonly accepted pets,” and make other minor editorial changes to existing regulations.

As proposed, hedgehogs, chinchillas, and hermit crabs would be added to the definition of commonly accepted pets and would therefore be permitted in Fairfax County without special permit approval by the BZA. This revised definition is in keeping with the proposed changes to Chapter 41.1 of the Code, which will explicitly exclude “hedgehogs” from the definition of a “wild or exotic animal.” It has been a longstanding interpretation of animal control services that hermit crabs, as an invertebrate species, are not considered to be “animals” for the purposes of these regulations, and therefore are not specifically prohibited by Chapter 41.1. A copy of the proposed revisions to Chapter 41.1 of the Code will be provided in connection with a request to authorize advertisement of a public hearing on the amendments, which is expected on December 4, 2018.



Figure 3: Hermit crab

The amendment also seeks to replace the term “non-poisonous” with “not venomous to people” in regards to spiders and snakes. This proposed change is made in consultation with animal experts and is consistent with the technical definitions of “poisonous” and “venomous.” Venomous organisms deliver or inject venom into other organisms, using a specialized apparatus of some kind (usually fangs or a stinger), while poisonous organisms do not deliver their toxins directly. The entire body, or large parts of it, may contain the poisonous substance and may be harmful when eaten or touched.¹

Finally, the amendment also proposes to revise Section 2-512 of the Ordinance as it pertains to the age of fowl counted towards the maximum number permitted on a lot. Currently, only domestic fowl six months in age or older are counted towards the bird unit calculation. However, the current definition of “commonly accepted pet” permits domestic fowl under two months old. This change from six months or older to two months or older would ensure that the limitations in Section 2-512 are consistent with the age limitations in the commonly accepted pets definition. As a result, all domestic fowl two months in age or older would need to be kept on lots of two acres or more, or a special permit would be required.

Outreach

Staff has worked with multiple agencies and individual staff during the review of this amendment, including the Animal Services Division, representatives from the Animal Shelter, the County’s wildlife biologist, and the Health Department. While there are no health concerns with the keeping of chinchillas or hermit crabs, staff representing these agencies raised concerns about hedgehogs and the potential spread of zoonotic diseases, which are infections shared between animals and people. An example of a zoonotic disease is salmonella, which is the primary concern related to

¹ Source: <http://insects.about.com/od/insects101/f/venomous-or-poisonous.htm>

hedgehogs and other pets deemed to be exotic. However, according to the Center for Disease Control and local exotic animal veterinarians, pet owners are equally likely to contract salmonella from any commonly accepted pet that consumes a plant-based diet. While approximately 30 people in the United States were reported to have contracted salmonella from 2011-2013 from the contact with hedgehogs, these numbers are significantly lower than the reported contraction rates from turtles, lizards, and chickens. Thorough hand-washing following contact with any animals and their habitats can prevent salmonella infection. From a communicable disease standpoint, the Health Department has no objections to the proposed amendment.

Representatives from the Animal Services Division, Animal Shelter, and the County's wildlife biologist also raised the concern of the increase in animal abandonment of hedgehogs and chinchillas, which would have an impact on the Fairfax County Animal Shelter and its resources. By allowing these animals, Animal Shelter and Animal Services staff worry that people will adopt them without knowing the time and monetary commitments needed to properly care for these animals, therefore resulting in the surrendering of the animals. However, this concern can be applied to any of the pets included in the "commonly accepted pet" definition. While staff cannot predict the potential abandonment statistics, staff did conduct outreach with other local jurisdictions within Northern Virginia to gain insight on their policies and experiences with the animals being proposed in this amendment. The following table summarizes where hedgehogs, chinchillas, and hermit crabs are and are not permitted:

Jurisdiction	Animal	Permitted?
Arlington	Hedgehog	Yes
	Chinchilla	Yes
	Hermit Crab	No specific language in Ordinance
Fairfax City	Hedgehog	No
	Chinchilla	No
	Hermit Crab	Unclear
Falls Church	Hedgehog	No
	Chinchilla	No
	Hermit Crab	No
Loudoun	Hedgehog	Yes
	Chinchilla	Yes
	Hermit Crab	Yes
Prince William	Hedgehog	No
	Chinchilla	Yes
	Hermit Crab	Yes

Arlington County most recently adopted a Wild and Exotic Animal Ordinance in September 2017. While Arlington County shelters periodically receives hedgehogs and chinchillas as surrenders, they have never received complaints for these animals "at large" or as strays. The chinchillas surrendered to the shelter are adopted out, and the hedgehogs are placed through a specialized

rescue group. Since the adoption of the Wild and Exotic Animal Ordinance, they have not seen an increase in surrendered hedgehogs or chinchillas. Since 2013, the shelter has received two surrendered hedgehogs. Loudoun County, which also permits hedgehogs and chinchillas, receives relatively few hedgehogs and chinchillas in their shelters, and those that are received are quickly adopted.

Staff also has been in contact with local exotic veterinarians to gain insight on the long-term care of hedgehogs and chinchillas. While care for these animals typically involves a recommended annual examination, some veterinarians are concerned that if these animals remain illegal to own, owners may be less likely to bring their animal into the veterinarian when care is needed, which leads to poor animal welfare. Many Fairfax County residents already own hedgehogs, and while many bring their animals into the veterinarians for care, other residents have been hesitant to bring them in or to provide contact information in fear of being reported to the County for owning an illegal animal. Because of these reasons, the veterinarians staff has been in contact with support this amendment.

On September 13, 2018, the amendment was presented to the Animal Services Advisory Commission. The Commission did not endorse the amendment. Commission members questioned whether enough data was available to fully evaluate the amendment, including whether there is enough public interest to justify it. Commission members also expressed concerns that the amendment could foster an exotic pet fad resulting in irresponsible care for these animals.

Conclusion

The changes proposed as a part of the Commonly Accepted Pets amendment would bring the definition of commonly accepted pets into accord with the proposed definition of wild or exotic animals found in Chapter. 41.1 of the Code, and it would permit county residents to keep these pets without the need of a special permit. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of October 16, 2018, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, as other amendments may be adopted prior to action on this amendment. In the case of such an event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions,**
2 **by revising the definitions as follows:**

3
4 PETS, COMMONLY ACCEPTED: Any of the following animals that have been bred or
5 raised to live in the habitation of humans, and are dependent upon the same for food and
6 shelter: ~~Domesticated~~ rabbits; hedgehogs; chinchillas; hermit crabs; hamsters; ferrets;
7 gerbils; guinea pigs; ~~pet~~-mice; and ~~pet~~ rats; turtles; fish; dogs; cats; domestic chickens,
8 ducks and geese under two (2) months old; birds such as canaries, parakeets, doves and
9 parrots; worm/ant farms; ~~non-poisonous~~ spiders; chameleons and similar lizards; and ~~non-~~
10 poisonous spiders and snakes not venomous to people. The BZA may allow other ~~pets~~
11 animals to be kept as commonly accepted pets in accordance with the provisions of Part 9
12 of Article 8.

13
14
15 **Amend Sect. 2-512, Limitations on the Keeping of Animals, Par. 3 as follows:**

16
17 B. The number of domestic fowl kept on a given lot shall not exceed the ratio of one (1)
18 bird unit per one (1) acre, with a bird unit identified as follows:

19
20 32 chickens = 1 bird unit

21 16 ducks = 1 bird unit

22 8 turkeys = 1 bird unit

23 8 geese = 1 bird unit

24
25 In determining the number of domestic fowl permitted, only fowl ~~six (6)~~ two months or
26 older in age shall be counted.