



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 22, 2008**

DATE: April 11, 2008

SUBJECT: Request to Advertise Amendments to Chapter 2, Animals & Fowl, of the Arlington County Code.

C. M. RECOMMENDATION:

Advertise for public hearing on May 17, 2008, proposed ordinance amendments to Chapter 2 of the Arlington County Code, contained in Attachment A, regulating poisonous and dangerous reptiles.

ISSUES: Should the County Board amend Chapter 2, *Animals and Fowl*, of the Arlington County Code to prohibit the possession, keeping, and permitting of poisonous or dangerous reptiles in Arlington County?

SUMMARY: The proposed ordinance amendments would prohibit the possession of poisonous or dangerous reptiles 60 days after the adoption of the ordinance.

BACKGROUND: Current County Code regulates reptiles in terms of prohibited behaviors. Subsection 2-19 states: "It shall be unlawful for the owner or keeper of any reptile to keep any such reptile in any manner that will not sufficiently confine any such reptiles as to prevent its escape or to knowingly permit such reptile to run at large." Subsection 2-20 provides that "It shall be unlawful for any person or persons to display, exhibit, handle, or use any poisonous or dangerous reptile in such a manner as to endanger the life or health of any person."

Recently County police, animal control, and code enforcement staff responded to a report of numerous venomous snakes in a single family house in Arlington. After a multi-agency investigation it was determined that there was no violation of any law, ordinance or regulation. There is no prohibition of possession of poisonous or dangerous reptiles and it can be difficult to prove violations of regulations governing handling of these animals.

The Virginia Department of Game and Inland Fisheries (VDGIF) has the authority to regulate native (indigenous) wildlife in Virginia, with the primary purpose of protecting wildlife. Its mandate is not oriented to the health and safety of humans. Generally, regulations prohibit the

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Staff: Erica Bidgood and Richard Cole, Department of Human Services,
Environmental Health

buying or selling of native wildlife, but do not appear to cover most non-native (exotic) wildlife. VDGIF prohibits the possession and importation of a number of specified non-native (exotic) animal species without a special permit from the State, including crocodiles and alligators but not including exotic venomous snakes. There is a statute that states that exotic reptiles may not be kept in a manner that will permit escape, language similar to County Code section 2-19. The State issues permits to licensed pet stores and captive breeders to sell three species of captive-bred non-venomous snakes. Other than these, no other snake native to Virginia may be bought or sold in the State.

The Virginia Department of Agriculture and Consumer Services (VDACS) regulates dogs, cats, and other domestic animals, such as fowl and livestock. There are no VDACS regulations that ban possession and sale of exotic animals.

The Code of Virginia authorizes the County to regulate animals, other than dogs and cats, when it is necessary to preserve the public health. It further provides that the County may determine that such animals shall not be kept within certain areas. Those animals are defined to include native, as well as exotic wild animals.

Regulation of exotic animals varies widely from State to State and from jurisdiction to jurisdiction. Some ban possession of all wild and exotic animals (except for specific authorized entities such as zoos and research centers). In our area, the District of Columbia and Prince Georges's County generally prohibit all wild or exotic animals. Prince William and Fairfax Counties and the City of Falls Church also prohibit wild, exotic or vicious animals. These jurisdictions define wild or exotic animals by listing them. Falls Church, on the other hand, defines wild or exotic animals by excluding animals generally thought of as typical pets. A summary and comparison of regulations of area jurisdictions are contained in Attachment B.

DISCUSSION: A number of issues are raised in determining how to deal with the subject:

1. **Which animals should be regulated?** The County may choose to: (a) ban only poisonous and dangerous snakes because of the danger to public health and safety; (b) ban a longer list of dangerous animals, specifically identifying the animals that inherently endanger public health and safety; or (c) ban all or most of native and exotic animals, based on the concept that these constitute inappropriate pets in a densely populated urban area.
2. **Should there be waivers or exemptions for specified circumstances or grandfathering of animals currently residing in the County?** There would need to be exemptions for certain entities such as properly licensed zoos, animal parks, circuses and traveling animal exhibitions, wildlife rehabilitation or research facilities, shelters, and animal rescue groups. Beyond those "authorized" entities, one question is whether currently owned animals should be grandfathered (presumably for the life of a banned animal). There may also be limited circumstances that would call for an exception to the rule, for example for certified service animals such as a monkey. This is more of an issue the broader the scope of the ban. If exceptions are to be granted, a system for granting these exceptions would be needed, as well a means for registering, monitoring, and tracking these exceptions.

3. **How will the ordinance be enforced?** The Animal Control Officer or Game Warden would be granted the authority for enforcement. Such authority would include responding to complaints, entering and inspecting premises subject to probable cause determinations and search warrant requirements.
4. **How will the public and appropriate parties be informed about the requirements?** As with any new requirement, there would need to be public education so that all potential animal owners and property owners understand the requirements before they make decisions on acquiring and keeping prohibited animals. Some ordinances also require pet stores and breeders to notify animal purchasers of the requirements for the local jurisdiction. Voluntary compliance would be critical in making any requirement effective.
5. **How will current situations be handled?** Once an ordinance amendment is enacted, there would need to be a period to allow compliance by current owners.

Staff in Fairfax County has indicated a desire to make changes in their ordinance, which was basically copied from Prince William County. Alexandria, which like Arlington does not ban wild or exotic animals, is investigating the need for an ordinance. The whole area of wild or exotic pets has grown over the years, with increased availability of more exotic species at the same time that animal advocacy groups are lobbying for increasing restrictions. Therefore a wide ban on wild or exotic animals is likely to be complicated and possibly difficult.

If such a wide ban were desired, County staff would like to initiate a regional collaboration effort to determine best practices and craft a regional approach to the issue. Efforts would be made to involve the range of local agencies involved as well as appropriate State and federal agencies to prevent conflict and overlap and ensure coordination across jurisdiction boundaries. Appropriate constituencies, such as pet owners, pet stores, animal advocates, and wildlife experts would need to be consulted.

Such an effort, however, would take some time. In the meantime there is a need to deal with immediate public health and safety issues. Therefore staff is recommending proceeding with a limited ban on poisonous or dangerous reptiles, including snakes, which would be effective 60 days after adoption. This will amend the current code which regulates reptiles in terms of prohibiting behaviors. The grandfathering of poisonous or dangerous reptiles is not recommended. Staff will report back to the County Board with further recommendations regarding regulation of other wild or exotic animals.

In addition, staff will work with current owners of poisonous or dangerous reptiles to ensure proper disposition of animals.

FISCAL IMPACT: None. Staffing and other resources needed to enforce a ban on poisonous or dangerous reptiles would be absorbed within current budgets. As proposed, the owner or custodian of a poisonous or dangerous reptile found would bear the financial burden of its capture and disposal.