



Memorandum

Date: September 24, 2020
To: Town Council
From: Ethan J. Croce, Community Development Director
Re: CDC Recommendation re: Sec.19-40 Ordinance Amendment

Background

Staff recently received an inquiry from a property owner regarding the ability to keep hens on a house lot in the RD District. This inquiry led to staff's discovery that the section of the Zoning Ordinance (Section 19-40) that addresses the keeping of animals does not make any accommodation for the keeping of animals other than household pets¹ in the RD or HL Districts.

By way of background, the RD and HL Districts were created in July 2016. The HL District was created entirely out of land that was formerly zoned RB. The RD District was created out of land that was formerly zoned either RB or Farm and Forest. For reference purposes, the link associated with this agenda item titled "July 2016 Zoning and Growth Area Changes Map" graphically depicts the breakdown of the areas of RD (brown colored area) that were formerly zoned RB (brown with no hatching) versus the areas of RD that were formerly zoned Farm and Forest (brown with hatching).

Up until July 2016, residents who lived in the areas of town now zoned HL and RD were allowed to keep animals such as poultry in accordance with Section 19-40 of the ordinance. By virtue of not updating Section 19-40 in July 2016 to reflect the creation of the RD and HL Districts, the Town effectively prohibited the keeping of animals other than household pets in these two zoning districts. Staff believe this was an administrative oversight on the part of the ordinance drafters in 2016 rather than an intentional policy decision to prohibit the keeping of animals that are not household pets in the RD and HL Districts.

CDC Recommendation

The Community Development Committee (CDC) discussed this matter at their 8/24/2020 and 9/21/2020 meetings where support was expressed for developing a narrowly targeted ordinance amendment that would correct the apparent administrative oversight from 2016. To that end, the CDC is recommending the introduction of an ordinance amendment that would allow the keeping of animals in the RD and HL Districts in an identical manner as to how animals are allowed to be kept in the RB District.

As mentioned above, prior to July 2016 the entirety of the HL District was zoned RB. The current HL District zoning standards are substantially identical in almost all respects to the RB

¹ "Household pet" is defined as "A tame or domesticated animal living primarily within a dwelling unit and kept for the enjoyment of its occupants."

District standards that were in effect prior to July 2016. The effect of this amendment would be to restore the allowances for animals in the HL District to the same allowances that existed in that area of town until July 2016. Similarly, for the portions of the RD District that were formerly zoned RB, the effect of the amendment would be to restore the allowances for animals in those areas to the same allowances that existed in those areas until July 2016. For the portions of the RD District that were formerly zoned Farm and Forest, the effect of the amendment would be to restore most of the allowances for animals that existed in those areas until July 2016 while prohibiting those activities that are only allowed in the Farm and Forest District (e.g. keeping of swine, keeping of roosters, slaughtering of animals). Since the RD District was created as a residential growth district, more similar in nature to the RB District than the Farm and Forest District with respect to land use allowances and dimensional standards, it appeared more appropriate to treat the RD District in a manner consistent with the RB District with respect to the keeping of animals.

Other administrative changes included in the draft amendment that do not involve policy implications are as follows:

- Delete existing Section 19-40.d in its entirety – This language is superfluous because the commercial activities described therein are all included under a separate land use category of “Animal Husbandry²”. In addition to being superfluous, this language is also arguably misleading since one could mistakenly interpret this language to suggest that the RA, RB, and RC Districts are the only zoning districts in which the commercial keeping of animals is prohibited when, in fact, the commercial keeping of animals is prohibited in all zoning districts where Animal Husbandry is not allowed. (The only districts that allow Animal Husbandry are the Farm and Forest District and the Tidewater Master Planned Development District subject to Town Council approval.)
- Delete Section 19-40.e.1.c in its entirety – This language is superfluous given the parallel language in the first paragraph of existing Section 19-40.e.2.
- Amend Section 19-40.e.1.d (Proposed to become Section 19-40.d.1.c) – This language is proposed to be amended to be consistent with existing Section 19-40.e.2 which allows for no minimum lot size for the keeping of poultry in all zoning districts where poultry is allowed.
- Amend Section 19-40.e.2.a (Proposed to become Section 19-40.d.2.a) – Clarifies that a property line setback of 20 feet only applies to fencing associated with the containing of poultry.
- Amend Section 19-40.e.2.b (Proposed to become Section 19-40.d.2.b) – Clarifies that the height of other materials used to contain poultry in lieu of fencing shall be sufficient to restrict poultry from leaving the contained area.

² “Animal husbandry” is defined as “Boarding, raising, breeding or keeping or animals, fowl or birds, for commercial purposes including, without limitation, swine, poultry, cattle and horses.”