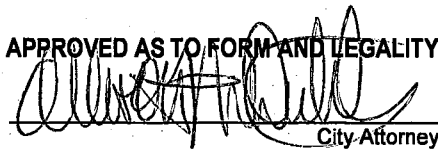


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2020 JAN 16 PM 3:54

APPROVED AS TO FORM AND LEGALITY

  
City Attorney

== 13583 ^ ==  
ORDINANCE NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY Council Member Kalb

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**AN ORDINANCE AMENDING TITLES 1 and 6 OF THE OAKLAND MUNICIPAL CODE TO ADD PROVISIONS PROHIBITING IN THE CITY OF OAKLAND PERFORMANCES OF ANIMALS FOR PUBLIC ENTERTAINMENT**

**WHEREAS**, animal protection and animal welfare is of great public concern; and

**WHEREAS**, bans on performances of wild or exotic animals have been passed in at least eleven California cities, including San Francisco, Los Angeles, Irvine, Pasadena, West Hollywood, and more, as well as the state of New Jersey; and

**WHEREAS**, California Senate Bill 313, titled "Circus Cruelty Prevention Act," was passed by the California Assembly on September 9, 2019 and by the California Senate on September 11, 2019, and was signed into law by the Governor on October 12, 2019; and

**WHEREAS**, the use of non-domesticated animals, particularly in circuses, has desensitized generations of people and perpetuates the idea that it is acceptable to treat wild and exotic animals as objects or toys; and

**WHEREAS**, lack of exercise, pressure to perform, and other physical requirements of performing force animals to act outside of their natural behaviors, sometimes in ways that make them a danger to themselves and others; and

**WHEREAS**, some so-called training techniques which are often used to make animals perform are cruel and/or stressful, causing suffering to the animals; and

**WHEREAS**, travel or confinement, as is typical for traveling circuses that use animals for performances, can impair the animals' physical and social needs; and

**WHEREAS**, numerous scientific organizations and governmental entities all assert that certain wild or exotic animals are not safe or suitable to be kept as domesticated animals, including the Association of Zoos and Aquariums, the American Veterinary Medical Association, American Animal Hospital Association, Centers for Disease Control and Prevention, and United States Department of Agriculture; and

**WHEREAS**, non-domesticated animal performances in Oakland are inconsistent with the City's ethos of treating all living beings, humans and animals alike, with kindness; and

**WHEREAS**, the wide array of circus acts not involving animal performers provides numerous opportunities for entertainment without the unnecessary cruel treatment of animals; and

**WHEREAS**, eliminating non-domesticated animal performances in Oakland will promote community awareness of animal welfare, bolster the City's stance against animal cruelty, and, in turn, foster a more humane environment in Oakland; now, therefore,

**THE OAKLAND CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

**Section 1** – The City Council does hereby find and declare that above recitals are true and correct and hereby makes them part of this Ordinance.

**Section 2** – Chapter 6.04 (Animal Control Regulations Generally) of the Oakland Municipal Code is amended as set forth below. Additions are indicated by underscored type, while deletions are indicated by ~~striketrough~~ type:

**6.04.020 – Definitions**

For the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

"Adoption group" means an organized, licensed, insured, non-profit organization whose primary function is the adoption and placement of shelter animals.

"Animal" means any mammal, poultry, bird, reptile, fish, or any other dumb creature, including, but not limited to, horse, cow, goat, sheep, pig, pigeon, chicken, goose, rabbit, dog, cat. Animals are classified by weight: large animal, over fifty (50) pounds; medium animal, between twenty-five (25) and fifty (50) pounds; small animal, under twenty-five (25) pounds.

"Animal quarters" means the premises and all buildings, hutches, pens, coops, yards, and their appurtenances used for the keeping of animals, commercial fur-bearing animals, poultry including pigeons, game and show birds, fowl and birds, or any other kind not specifically mentioned, and dogs, and cats not kept in kennels and pet shops as herein defined; including, but not limited to, stables, poultry farms, pigeon farms, and rabbit farms.

"At large" means a dog off the premises of its owner and not under restraint by leash, or chain, or not otherwise controlled by a competent person.

"Bullhook" or "Ankus" means any instrument or device consisting of a spike, hook, or any combination thereof, attached to a shaft or handle made of wood, fiberglass, metal, or other solid or flexible material.

"Cause a Performance" means to be responsible for the management of a Performance even if such management does not result in financial benefit to any Person, to financially benefit as an owner or operator from a Performance, or to sponsor a Performance even if no financial benefits are derived from such sponsorship.

"Chipping" means the injection of a microchip below the skin of an animal by a veterinarian, registered vet technician or other qualified shelter staff.

"Circus" means a performance before a live audience in which entertainment consisting of a variety of acts, such as acrobats, aerialists, clowns, jugglers, or stunts, is the primary attraction or principal business.

"Dog" means and includes female as well as male dogs. Dogs are classified by weight: large dog: over fifty (50) pounds, medium dog: between twenty-five (25) and fifty (50) pounds, small dog: under twenty-five (25) pounds.

"Foster" means a person who is willing to temporarily take and care for an animal until the time that animal becomes suitable for adoption as recognized by an adoption group and/or animal shelter management.

"Horse" means and includes mule, burro, pony, jack hinny, or jenny.

"Kennel" means any person, firm or corporation engaged in breeding, buying, selling, distributing or boarding dogs and/or cats.

Owner.

1. "Owner" means any person, firm or corporation owning, having an interest in, or having control or custody or possession of, any animal.
2. Any person keeping or harboring a dog for fifteen (15) consecutive days shall be deemed to be the owner thereof, within the meaning of this title.

"Performance" means any showing, presentation, display, exposition, fair, act, Circus, ride, trade show, carnival, parade, race, photographic opportunity, exhibition, or similar undertaking in which Animals are required to perform tricks, fight, or participate as accompaniments. "Performance" shall not include:

1. "Rodeo" as defined in California Penal Code section 596.7; and
2. Nonprofit educational or scientific events, such as academic conferences, children's wildlife outreach events sponsored by a school or museum, and petting zoos.

"Person" means and includes any person, partnership, corporation, trust, and association of persons.

"Pet shop" means any person, firm, or corporation operating an establishment where live animals and/or birds are kept for sale, for hire, or sold.

"Unlicensed dog" as used in this title means a dog for which the license for the current year has not been paid, or to which the tag provided for in this title is not attached.

“Wild Animal” means any animal not ordinarily and customarily domesticated, including, but not limited to, skunk, raccoon, opossum, squirrel, fox.

Whenever any reference is made to any portion of this title, such reference applies to all amendments and additions thereto now or hereinafter made.

The present tense includes the past and future tenses and the future, the present. Each gender includes the other two genders.

The singular number includes the plural and the plural, the singular.

Whenever a power is granted to, or a duty is imposed upon the Animal Control Center, the power shall be exercised or the duty shall be performed by the Senior Animal Control Officer and/or the Animal Control Officer, or by any person or organization, its officers, agents, and employees, designated by contract or otherwise to enforce this title

#### **6.04.500 – Performances of Animals for Public Entertainment Prohibited.**

- A. It shall be unlawful for any Person to Cause the Performance of any Animal, except a domestic Dog, a domestic cat or a domesticated horse, for public entertainment, amusement or benefit on any public or private property within the City of Oakland.
- B. Any Person who violates this section shall be guilty of a misdemeanor pursuant to Chapter 1.28 of this Code. The remedies set forth by this section are not intended to limit the application of federal and state law.

#### **6.04.510 – Exemptions.**

- A. Veterinarians in the ordinary course of a Veterinarian’s practice of business.
- B. The Oakland City Zoo,
- C. The otherwise lawful use of Animals for therapeutic purposes by Persons who are physical or mentally disabled, or
- D. Any institution accredited by the Global Federation of Animal Sanctuaries, American Zoological Association, or Association of Sanctuaries.

#### **6.04.520 – Veterinarians at Rodeos**

- A. Any person promoting, conducting, or holding a Rodeo or Rodeo-like Animal event in the City of Oakland shall have a licensed Veterinarian physically present throughout the duration of each event using Animals.
- B. The Veterinarian in attendance shall be licensed by the state and shall be experienced in the treatment of the types of Animals used in these Animal events.

- C. The Veterinarian in attendance shall not be a contestant or otherwise participate in any Animal events, and the Veterinarian and any City animal control officer in attendance shall be allowed access to all areas of the Rodeo facility.
- D. Any Person who violates this section shall be guilty of a misdemeanor pursuant to Chapter 1.28 of this Code. The remedies set forth by this section are not intended to limit the application of federal and state law.

**Section 3** – Chapter 1.28 (General Penalty) of the Oakland Municipal Code is amended as set forth below. Additions are indicated by underscoring type, while deletions are indicated by ~~striketrough~~ type:

**1.28.020 Violations as infraction.**

- A. Any person violating any of the provisions or failing to comply with any of the regulatory requirements of the following code sections shall be guilty of an infraction:
2. Public Welfare, Morals and Policy
    - a. Chapter 8.18. Public Nuisances
    - b. Chapter 5.18. Charities and Relief
    - c. Sections 9.04.030—9.04.060, 9.08.210. Fraud and Deceit: Section 9.04.050: Defacing Notices. Violations of other provisions of Sections 9.04.030—9.04.060, 9.08.210 shall be a misdemeanor.
    - d. Chapters 6.04, 6.08. The Animal Control Ordinance, with the exception of Sections 6.04.365 (Use of Bullhooks Prohibited), 6.04.500 (Performances Of Animals for Public Entertainment), 6.04.520 (Veterinarians at Rodeos), 6.08.120, 6.08.130, 6.08.150—6.08.180, and 6.08.200, (Potentially Dangerous and Vicious Dogs), the violation of which shall be a misdemeanor.

**Section 4** – The City Council finds and determines that the adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”), including under section 15061(b)(3) of the State CEQA Guidelines, and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

**Section 5** – If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional.

**Section 6** – This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes as provided by Section 216 of the City Charter, Otherwise, this ordinance shall become effective upon the seventh day after final adoption.

**Section 7** – This Ordinance is enacted pursuant to the City of Oakland’s general police powers, Section 106 of the Charter of the City of Oakland, and Article XI of the California Constitution.

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 18, 2020

**PASSED BY THE FOLLOWING VOTE:**

AYES- *Bas, Gallo, McElhaneey, Kabb, Reed, Thao and Presiden Kaplan* - 7

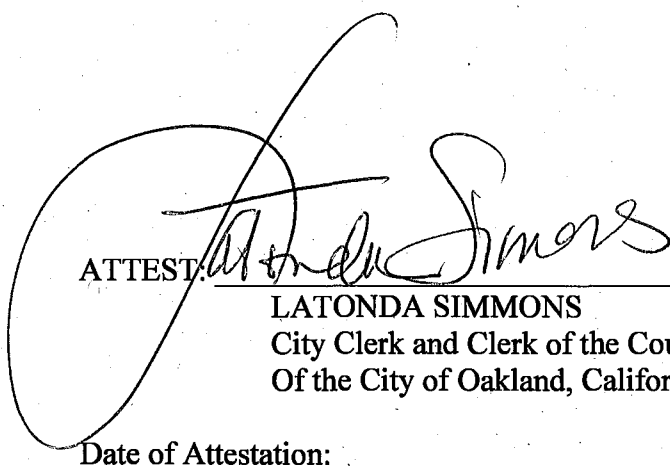
NOES - *0*

ABSENT - *0*

ABSTENTION - *0*

*Excused - 1 Taylor*

Introduction Date  
FEB 04 2020

ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
Of the City of Oakland, California

Date of Attestation:

## **NOTICE AND DIGEST**

### **ORDINANCE AMENDING TITLES 1 and 6 OF THE OAKLAND MUNICIPAL CODE TO ADD PROVISIONS PROHIBITING IN THE CITY OF OAKLAND, PERFORMANCES OF ANIMALS FOR PUBLIC ENTERTAINMENT**

This ordinance adds provisions to the Oakland Municipal Code to prohibit the performance of Animals, except a domestic dog, a domestic cat or a domesticated horse, for public entertainment in the City of Oakland, and to require the attendance of a licensed Veterinarian at any Rodeo or Rodeo-like event. A violation of these provisions is punishable as a misdemeanor.