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OAKLAND

13 NOV 20 PM 4:41

AGENDA REPORT

TO: Public Safety Committee

FROM: Councilmember Libby Schaaf

SUBJECT: Ordinance Establishing Additional Regulations on Circuses **DATE:** 11/20/2013

RECOMMENDATION

Councilmember Schaaf recommends that the City Council receives the report and approves the proposed ordinance.

OUTCOME

Adoption of this ordinance will support public safety and raise the standards of humane care for performing circus animals by establishing a special permit and set of regulations for Circuses and/or other Animal Performance Show organizations that perform within the City of Oakland.

BACKGROUND/LEGISLATIVE HISTORY

Performing animal acts are unique from other entertainment acts and shows which travel to Oakland. The presence of wild, undomesticated animals in close proximity to audience members poses a potential public safety and health hazard to Oakland residents, as well as, raises concerns about the welfare of animals trained to perform tricks and behaviors which do not naturally occur in the wild.

There are currently three organizations that perform in Oakland annually. Nationally, there have been forty-three documented incidents of animal escape, injury or property damage over the past 10 years. In the past year there have been three incidents, including 1 tiger escape, 1 incident of a tiger injuring a trainer during a show, and an elephant injury during transport.

Additionally, many animal rights organizations including People for the Ethical Treatment of Animals (PETA), Animal Defenders International, Last Chance for Animals, Born Free, and In Defense of Animals have produced numerous undercover videos that show baby elephants being beaten or forcefully jabbed with training implements, roped or chained and forced into unnatural physical positions which will serve as the building blocks for tricks, such as headstands or balancing acts. Many of these videos also show elephants being screamed at, beaten and stabbed with training implements in sensitive areas of their body such as their head, ears, eyes and anus.

Many ex-performing elephants display unnatural repetitive behaviors such as swaying or rocking themselves, aggressive or violent behavior towards humans, and suffer continued joint problems

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resulting from years and sometimes decades of performing tricks that are antithetical to their anatomical structure.

The Humane Society of the United States (HSUS) and the American Society for Prevention of Cruelty to Animals (ASPCA) oppose circuses and the use of animals in entertainment and support stronger laws to protect wild animals, something that Oakland might consider in the future.

This proposed ordinance was developed in collaboration with and has the approval of the HSUS Department of Wildlife Protection, The Performing Animal Welfare Society (PAWS), the East Bay SPCA, and the Oakland Zoo.

In 2011, Feld Entertainment, the parent company of Ringling Brothers, paid a record settlement of \$270,000 to the USDA in a lawsuit brought by the ASPCA for allegedly violating the Animal Welfare Act multiple times from June 2007 to August 2011.

In July of 2010 the City of Sacramento passed the Traveling Commercial Animal Exhibitions Ordinance which established a special permitting process, granted access to City Staff to these exhibitions prior to and during performances for inspection, and established rules and regulations for the humane treatment of these animals.

In 2008 the City of Los Angeles Board of Animal Services Commissioners approved special requirements and regulations on all exhibits involving animals. Just this past October of 2013, the Los Angeles City Council unanimously passed a resolution banning the builhook, a large implement resembling lire poker used in training. Numerous undercover videos have surfaced that show elephants being beaten, stabbed and otherwise abused with the builhook.

Currently the City of Oakland does not require a special permit for circuses or other performing animal acts that come to perform in Oakland.

Rather, in Oakland, circuses and other animal acts receive a special events permit which is not specific to animal acts. Staff from Oakland Animal Services (OAS) has, in past years, gone out to inspect the animals. However, there are no written guidelines or regulations which for which OAS staff could compel or otherwise ensure humane care of the animals or safety for attendees. Former OAS Director Megan Webb detailed many public safety risks and humane care issues she witnessed during her past inspections of circuses. According to Webb, Circus Hermanos Vasquez had their tigers behind a 10 foot metal fence which was secured with wire and bungee cord. The enclosure had no top and employees at Circus Hermanos Vasquez told her that the tigers were too lazy to jump over it. In 2006 a Siberian Tiger scaled an 18 foot fence at the San Francisco Zoo and mauled three visitors, killing one. The Association of Zoos & Aquariums recommends minimum 16 ½ foot fences for tigers. Circus Hermanos Vasquez did not have proper tranquilization methods or any lethal control methods to control the tigers if anything were to go wrong.

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Ms. Webb also explained that there were ongoing communication issues with the smaller circuses. Webb asserts that circuses seemed to be intentionally trying to avoid OAS seeing them unload the animals. On one occasion when Ms. Webb and other animal control officers were able to see them unload, the animals drank excessive amounts of water which led Webb to believe that the animals may have been deprived of water during transport. Circuses travel cross country and animals are sometimes in transport vehicles or train boxcars for hours.

Ringling Bros. Circus also did not have any lethal control methods in the event an elephant escaped. Webb asserts that Ringling employees told her that they would try to use cars to barricade an elephant in the event of a rampage. Circus visitors can go "behind the scenes" and see the elephants up close where elephants are contained only behind a few electric wires.

Circus Caballero uses Camels that are directly next to the audience. Ms. Webb detailed that the main trainer showed her a huge scar on his arm from an incident where one of the camels grabbed his arm and threw him around in the air. Circus Caballero also had its miniature horses, zebras, and a small mule standing on cement. There is a strong consensus among equine experts that cement is detrimental to the hooves and joints of horses, and prolonged exposure has been linked to lameness and other chronic health conditions.

Finally, according to Ms. Webb, many of the smaller circuses provide only frozen chicken to their tigers, which is not an adequate diet for a carnivore.

ANALYSIS

The passage of this ordinance will put in place important safety regulations on wild animal acts and exhibitions, as well as set progressive humane standards for the care and keeping of these animals.

Currently, circuses and animal performance acts apply for the general Oakland special events permit. This ordinance will establish a new special event permit which is specific to circuses and shows which feature wild animals.

in the ordinance, "Circus" is defined as any transient, traveling, or transportable show or exhibition where a variety of performances by acrobats, clowns, and/or trained animals and restricted animals is a substantial attraction of principle business.

Circus permits will be subject to stipulations already in place with City of Oakland special event permit regulations. In addition, this ordinance will require:

- An inventory of all the restricted and other animals, whether they are performing or not, that will be present in the City of Oakland during the stated duration of the permit, and any Restricted Species Permit Issued under California Code of Regulations, Title 14, section

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671.1, along with a copy of the submitted California Department of Fish and Game application form FGI312 and "Restricted Species Nonresident Exhibiting Permit Itinerary.

- The names of the on-site manager, and all persons who are the primary handlers of each type of restricted and other animal that will be present in Oakland.
- Proof of insurance in an amount which the City Administrator deems appropriate to the risk presented by the event.
- Disclosure of all restricted and other animal cruelty or abuse convictions in the preceding ten (10) years against current employees and contractors who will be present in Oakland during the event, including by not limited to the on-site manager, primary handler, trainers, performers, security staff, owners, and operators.
- Disclosure of all restricted and other animals that have caused injury to people in the preceding five (5) years, including but not limited to employees and spectators.
- Disclosure of all restricted and other animals that have caused damage to property located outside of the performance area in the preceding five (5) years.
- Copies of most recent three (3) years of USDA inspection reports, registrations, and licenses for restricted and other animals.
- Copies of all registrations and licenses for restricted and other animals.
- Identification of any restricted and other animals that are sick, injured, or under medical treatment and veterinary medical records that document each such animal's condition.
- Name and contact of the applicant's local veterinary contact while performing in the City of Oakland.
- Disclosure of prior violations of this chapter (Oakland's special event permit ordinance), including the date and type of each violation.
- Other pertinent information which the Chief of Police requests.

The City Administrator's Office will adopt additional regulations relevant to circuses and the issues that have arisen in past years discussed previously in this report. The additional regulations may include but are not limited to: facilities inspections, animal health inspections by City staff including any experts or consultants appointed by the Chief of Police, inspections of the animals' food quality and set disqualification terms for violating the regulations set forth.

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These new regulations are on par with requirements in other municipalities.

The City of Oakland has spearheaded progressive issues in the United States. However, Oakland is woefully behind the California standard on municipal circus regulation. Our own Oakland Zoo has set the bar on positive training methods and exemplary exotic animal husbandry standards. The Oakland Zoo was featured in the HBO Documentary "An Apology to Elephants" this year and has continued to set the national standard for exotic animal care and conservation. Oakland Animal Services has in past years also been a national model for humane care and housing of Oakland's homeless pets.

The passage of this ordinance will bring Oakland's performing animal welfare regulations up to standard, bring important public safety measures to circus attendees, and reflect the city's history of progressive action and policies.

PUBLIC OUTREACH/INTEREST

Over the past two years we have worked extensively with stakeholder groups including: The Oakland Zoo, Oakland Animal Services, The East Bay SPCA, and The Performing Animal Welfare Society.

During the creation of this ordinance we also consulted with the City of Sacramento and the City of Los Angeles which have similar ordinances already in place. Over the summer our office spoke with executives at UniverSoul Circus and met with executives at Ringling Brothers Circus regarding this upcoming ordinance.

COORDINATION

We have worked extensively with Arturo Sanchez on the amendments to the permitting process for circuses and animal performance shows to ensure Oakland can implement the regulations effectively and with existing staff resources.

COST SUMMARY/IMPLICATIONS

No costs associated. Permit fee will cover all administrative costs.

SUSTAINABLE OPPORTUNITIES

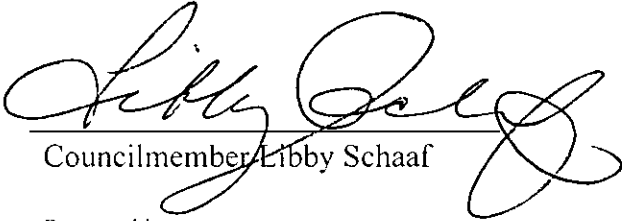
Economic: There are no economic opportunities associated with enacting this ordinance.

Environmental: There are no environmental opportunities associated with enacting this ordinance.

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Social Equity: Enacting a permitting process and increasing regulations on animal performing acts and circuses will increase public safety for attendees and humane standards for performing animals.

Respectfully submitted,



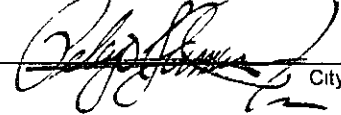
Councilmember Libby Schaaf

Prepared by:
Lillian Mano
District 4 Animal Welfare Fellow

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APPROVED AS TO FORM AND LEGALITY


City Attorney

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ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER SCHAFF

AN ORDINANCE AMENDING CHAPTER 9.52 OF THE OAKLAND MUNICIPAL CODE TO PROVIDE ADDITIONAL REQUIREMENTS FOR SPECIAL EVENT PERMITS TO OPERATE CIRCUSES PERFORMING IN THE CITY OF OAKLAND

WHEREAS, Performing animal shows are unique from other forms of entertainment which feature only human performers; and

WHEREAS, Using animals as entertainment has raised concerns about the welfare of the animals trained to perform tricks and behaviors which do not naturally occur in the wild; and

WHEREAS, Performing animals pose a potential public safety threat to the citizens and property of Oakland; and

WHEREAS, Nationally, there have been forty-three documented incidents of animal escape, property damage and both animal and human injury over the past ten years; and

WHEREAS, Many animal rights organizations have produced numerous videos which show performing animals being abused; and

WHEREAS, The Humane Society of the United States, The American Society for Prevention of Cruelty to Animals, People for the Ethical Treatment of Animals, Animal Defenders International, Last Chance for Animals, Bom Free, In Defense of Animals, Performing Animal Welfare Society, The East Bay Society for Prevention of Cruelty to Animals, and The Oakland Zoo oppose circuses and the use of animals in entertainment and support stronger laws to protect animals; and

WHEREAS, The City of Oakland has not previously required a unique type of special events permit for circuses or other performing animal acts which come to perform in Oakland; and

WHEREAS, The City of Oakland has been a spearhead of progressive animal issues in the United States; and

WHEREAS, The Oakland Zoo has set the national standard for positive training methods and exemplary exotic animal husbandry standards; and

WHEREAS, Oakland Animal Services has in past years been a national model for humane care and housing of Oakland's homeless pets; and

WHEREAS, The passage of this ordinance will bring Oakland's performing animal welfare regulations up to standard, bring important public safety measures to circus attendees, and reflect the city's history of progressive action and policies; now, therefore,

THE OAKLAND CITY COUNCIL DOES ORDAIN AS FOLLOWS:

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

Section 2 – Chapter 9.52 (SPECIAL EVENTS PERMITS) of the Oakland Municipal Code is amended as set forth below. Additions are indicated by underscored type, while deletions are indicated by strikethrough type:

9.52.010 Title.

This chapter shall be known as the Oakland special events ordinance.

9.52.020 Purpose.

This chapter establishes the procedures for applying for extraordinary police services for special events in the city, and authorizes the Chief of Police to deny permit applications or impose additional permit conditions to protect the public from potential adverse impacts, and to provide for additional penalties and for the recoupment of extraordinary police services expended in enforcing permit requirements.

9.52.030 Permit required.

It is unlawful for any person, entity, business or group (including community, social, fraternal, religious and charitable groups), to conduct a special event unless there exists a valid permit therefor, granted and existing in compliance with the requirements set forth herein. The investigating official referred to in this chapter, to whom the application is referred, shall be the Chief of Police.

9.52.040 Definitions.

As used in this chapter:

"Applicant" means any person, firm, association, corporation, organization, club or ad hoc committee who or which seeks a special event permit from the city, through the Chief of Police, to conduct or sponsor a special event governed by this chapter. An applicant must be eighteen (18) years of age or older. The applicant shall be the individual who is directly responsible for organizing and/or conducting the event and/or the facility manager.

"Attended bicycle parking" means a service provided by the event sponsor or qualified bicycle parking service provider where at least one attendant is present throughout the event to receive, return and guard bicycles, and where a safe and sufficiently large area has been set aside for event attendees to leave their bicycles.

"Circus" means any transient, travelling, or transportable show or exhibition where a variety of performances by acrobats, clowns, and/or trained animals and restricted animals is a substantial attraction or principle business.

"Entertainment" means providing to the public food and/or beverages; live or recorded music; dancing; mechanical, animal or carnival rides; games of chance; performances and/or plays; animal or restricted animal performances; audiovisual presentations; amplified sound; competitive or sporting events; and/or promotional events.

"Event Sponsor" means any person, entity, business, or group who operates or conducts, or shares in the revenue of, an event subject to this Chapter.

"Chief of Police" means the Chief of the Oakland Police Department or his or her designee.

"Extraordinary police services" means responsive police services which are in addition to and in excess of the normal police services provided to the facility or off-site as a direct result of the event at the facility.

"Facility" means the building, room or place where the special event is to take place.

"On-Site Manager" means an employee, agent, or representative of an event sponsor who is physically present at the facility and has the authority to make immediate decisions regarding the conduct of the event.

"Open to the public" means an event not limited to invitees and otherwise open to any member of the public with or without an admission fee or charge.

"Permit application fee" means the nonrefundable fee to be paid by the permit applicant at the time the application is filed with the Chief of Police. A fee schedule shall be set by the City Council and shall cover the actual costs of processing and ~~investigating~~ special event applications, and administering the special events permit program.

"Responsible party" means, for the purpose of determining liability for damage to city or public facilities as a result of a special event and liability for the cost of extraordinary police services pursuant to Section 9.52.120G, any event sponsor(s) and/or promoter(s) and/or facility operator(s) and/or facility owner(s) and their respective designees.

"Restricted Animal" shall have the same meaning as set forth in Fish and Game Code section 2119 and Title 14, California Code of Regulations section 671 et seq.

"Security officer" means a person who possesses a valid state guard permit and who is currently licensed by the city as a private watchman in accordance with the Oakland Municipal Code.

"Special event" (hereinafter "event") means, for the purpose of this chapter, an event sponsored by any person, entity, business or group including but not limited to the Oakland Unified School District, the Port of Oakland, the Oakland Coliseum complex, the Paramount Theater, and at any event venue within the city and open to the public:

- A. Which is held in any public park and/or facility or on any property and/or facility which is open to the public, and
- B. At which fifty (50) or more participants (including sponsors and guests) are present, and
- C. At which entertainment is provided by or for any person, and/or made available to any person, and/or
- D. For-profit entertainment activities of persons, entities and businesses who or which are currently licensed to regularly provide specified entertainment activities at fixed locations in the city but which holds an event that will foreseeably result in impacts on public safety, health, welfare, and police resources, or
- E. Any circus event involving a performance by any trained animal or restricted animal.

Exclusions: "Special Event," as defined in this section, shall not include:

- A. An event held in a private residence where no admission is charged, the event is not open or advertised to the public, and no extraordinary police services are required;
- B. An event held in a members-only facility at which the only participants are the members (and their invited nonpaying guests) and no extraordinary police services are required;
- C. Events sponsored by religious entities held in the religious entity's facility which only members by permission attend and no extraordinary police services are required;
- D. For-profit entertainment activities of persons, entities and businesses such as cabarets who or which are currently licensed to regularly provide specified entertainment activities at fixed locations in the city and no extraordinary police services are required;
- E. Any entertainment for which other City special permits have previously been obtained, such as, but not limited to, parade permits, dance permits, short-term encroachment permits and city sponsored events otherwise permitted when the Chief of Police determines such other permits are more appropriate for the particular event.
- F. Any event, series of events and/or specific type of event may be exempted at the discretion of the Chief of Police, based upon evidence that the event or events will not impact police services and will not affect public health, safety

and welfare, or animal or restricted animal health or safety if the event is a Circus.

- G. An event held at an East Bay Regional Park facility which is subject to existing permit application procedures adopted by the East Bay regional park district, provided the East Bay regional park district notifies all applicants that any person or entity issued a permit for an event at an East Bay regional park facility is liable for the provision by the Oakland Police Department of extraordinary police services that may be required as a result of the event.

9.52.050 Application procedure—Fee.

- A. Application shall be made to the Oakland Police Department, at least twenty-one (21) calendar days prior to the event; however, if the event will require extraordinary police services, the applicant must apply to the Chief of Police for a permit thirty (30) days in advance of the special event, and must execute a written agreement in which applicant agrees to pay the costs of such services, pursuant to Section 9.52.110
- B. Application forms submitted pursuant to subsection A of this section shall be fully and truthfully completed by the applicant. Failure to fully and truthfully complete the application form shall be grounds for denial or revocation;
- C. If admission fees or donations are to be collected and/or food, liquid refreshments or physical articles are to be sold at the event, the applicant must present proof of federal and/or state tax exemption status or present a copy of a valid city of Oakland business license and tax certificate and a food handling permit if applicable before the permit may be issued;
- D. If music, dance or any other form of entertainment activity requiring sound amplification equipment is to be provided or allowed at the event, the applicant must so state on the application form and must provide assurance that the city's noise ordinance will not be violated as a result of the activity.
- E. Upon application, the applicant shall state the name and address of the facility, and identify the type of facility, where the event will take place. Before the permit may be issued, the applicant shall be required to present a photocopy of a valid city of Oakland dance hall, cabaret, or other applicable permit or license which authorizes the use of the facility for this type of activity or event. Further, the applicant shall complete the portions of the application which require identification of any occupancy restrictions or other conditions for use imposed by the city on the designated facility; and
- F. Upon application, the applicant shall pay a fee as established by the city master fee schedule. The Chief of Police shall have the discretion to waive this fee for nonprofit organizations.

9.52.060 Contents of application form.

The application for a special event shall provide the following information:

- A. All events: The name, address, telephone number, and date of birth of applicant and an alternative contact person. If the special event is proposed to be sponsored by one or more organizations, the name, address and telephone number of the organizations, and the president(s) of the organization. If requested by the Chief of Police, written authorization to apply for the special event shall be provided by an officer of the requesting organization;
- B. The name, address and telephone number of the person who will be present and in charge at the time of the special event;
- C. The nature and purpose of the event;
- D. The proposed date, location and estimated starting and ending time of the event;
- E. Estimated number of persons anticipated at the event;
- F. Description of any sound amplification equipment which will be used at the event;
- G. Whether any food or alcoholic and/or nonalcoholic beverages will be sold at the event;
- H. Whether monitors or security persons will be utilized at the event;
- I. Parking contingencies planned for the event;
- J. A description of the provisions to be made for attended bicycle parking, pursuant to Section 9.52.080
- K. Any supplementary information which the Chief of Police shall find reasonably necessary, under the particular circumstances of the special event application to determine whether to approve or conditionally approve the permit.

9.52.065 Contents of permit applications for circuses which include entertainment by a trained animal or a restricted animal.

In addition to the requirements of Section 9.52.060, applicants seeking a permit for a circus event which includes any performance or entertainment by trained animals or restricted animals shall also provide:

- A. An inventory of all the restricted and other animals, whether they are performing or not, that will be present in the City of Oakland during the stated duration of the permit, and any Restricted Species Permit Issued under California Code of Regulations, Title 14, section 671.1, along with a copy of the submitted California Department of Fish and Game application form FG1312 and "Restricted Species Nonresident Exhibiting Permit Itinerary.
- B. The names of the on-site manager, and all persons who are the primary handlers of each type of restricted and other animal that will be present in Oakland.

- C. Proof of insurance in an amount which the City Administrator deems appropriate to the risk presented by the event.
- D. Disclosure of all restricted and other animal cruelty or abuse convictions in the preceding ten (10) years against current employees and contractors who will be present in Oakland during the event, including by not limited to the on-site manager, primary handler, trainers, performers, security staff owners, and operators.
- E. Disclosure of all restricted and other animals that have caused injury to people in the preceding five (5) years, including but not limited to employees and spectators.
- F. Disclosure of all restricted and other animals that have caused damage to property located outside of the performance area in the preceding five (5) years.
- G. Copies of most recent three (3) years of USDA inspection reports, registrations, and licenses for restricted and other animals.
- H. Copies of all registrations and licenses for restricted and other animals.
- I. Identification of any restricted and other animals that are sick, injured, or under medical treatment and veterinary medical records that document each such animal's condition.
- J. Name and contact of the applicant's local veterinary contact while performing in the City of Oakland.
- K. Disclosure of prior violations of this chapter (Oakland's special event permit ordinance), including the date and type of each violation.
- L. Other pertinent information which the Chief of Police requests.

9.52.070 Action on application.

- A. The Chief of Police shall approve, conditionally approve, or deny the application based on the grounds specified in Sections 9.52.080 to 9.52.090. Such action shall be taken not later than fifteen (15) calendar days after the filing of a complete application. The applicant shall be notified of any conditions of approval pursuant to Sections 9.52.080 and/or 9.52.085 at the time the action on the application is taken.
- B. If the application is denied or conditionally approved, at the time of taking action on the application, the Chief of Police shall inform the applicant in writing of the grounds for denial, or of the reason for the imposition of conditions.
- C. If the Chief of Police relied upon information regarding the event other than that which was contained in the application, he or she shall inform the applicant of the additional information considered.

9.52.080 Conditional approval of permit.

The Chief of Police may impose additional conditions to a permit in the exercise of his or her reasonable discretion when conditionally granting a permit, including but not limited to:

- A. Requiring the applicant to retain or hire one or more security officers to provide security at and during the event, said security officers present and on duty at all times during the event;
- B. Requiring the applicant to be personally present at all times during the event;
- C. Requiring the applicant to provide a working telephone where he or she can be reached directly at all times during the event;
- D. Requiring the posting of the event permit at the event facility;
- E. Requiring a refundable security deposit before issuance of the permit toward the costs of city services and/or cost of damages to public facilities that may be associated with such an event;
- F. Requiring provision of medical services on-site on a case-by-case basis and/or in consideration of the applicant's previous history;
- G. Requiring in the case of live performances the actual name and stage name of every act performing;
- H. Requiring the submission of copies of all promotional materials simultaneously with the posting or distribution of said materials. All promotional materials must identify the promoter, and must not be posted or affixed to or on city or public property;
- I. Requiring a proof of liability insurance in the amount required by the city;
- J. Requiring the event promoter to provide attended bike parking service for events that expect five thousand (5,000) or more attendees, and for smaller events at the discretion of the Chief of Police. The promoter must advertise the service to potential attendees in all outreach and advertising materials and media, and place the bike parking area in an accessible location;
- K. Requiring such other additional conditions as are reasonably believed to be necessary to protect the public health, safety, welfare and order, as well as the health and welfare of restricted and other animals, and to minimize adverse impacts upon the surrounding neighborhood and the general community.

9.52.085 Power to impose regulations and conditions on circus events

- A. In addition to Section 9.52.080, the Chief of Police shall have the power to impose additional conditions on a circus event permit covered under section 9.52.065 in the exercise of his or her reasonable discretion, to provide for the welfare of all animals and restricted animals and for the health and safety of the public.
- B. The City Administrator shall have the power to adopt regulations relevant to circus events covered under section 9.52.065, to enforce this chapter and to provide for the welfare of all animals and restricted animals and for the health and safety of the public. These regulations shall include, but are not limited to: facilities inspections, restricted and other animal health inspections by City staff including any experts or consultants appointed by the Chief of Police, and inspections of the restricted and other animals' food quality, the production of veterinary medical records, the production of test results for disease, and other health-related information.
- C. Violation of any regulations enacted to enforce this chapter, or of conditions imposed on a circus event permits, shall constitute a violation of this chapter.

9.52.090 Grounds for denial of application.

Permits for special events will be granted at the discretion of the Chief of Police. A special events permit application may be denied upon evidence that:

- A. Information contained in the application, or supplementary information requested from the applicant, is false in any material detail; or
- B. The applicant has failed to provide a complete application form after having been notified of the requirement of producing additional information or documents; or
- C. The applicant has not submitted a completed application form in the time provided pursuant to Section 9.52.050
- D. The applicant has previously had a permit revoked, in Oakland or in another jurisdiction, for violation of permit conditions or for unlawful conduct relating thereto and it is reasonably believed that similar violations or unlawful conduct will again occur;
- E. The granting of the permit will have a substantial adverse impact upon the public health, safety, or order; and/or
- F. The granting of the permit will result in substantial adverse impacts (including, but not limited to, noise, litter, traffic and congestion) upon the surrounding neighborhood or the community in general.
- G. Another complete special event application has been previously tiled for a different event at the same time and place requested by the applicant, or so close in time and place as to cause traffic congestion or a demand for police services which the Police Department is unable to meet; or
- H. The time or size of the event will substantially interrupt the safe and orderly movement of pedestrian or vehicular traffic in the immediate vicinity of the event, or disrupt the use of a street at a time when it is usually subject to great traffic congestion; or
- I. The concentration of persons, animals and vehicles at the site of the event will prevent proper police, fire, ambulance, or other essential public services to areas contiguous to the event; or
- J. The size or duration of the event will require diversion of so great an amount of city police services that providing for the minimum level of police services to other areas of the city is jeopardized; or
- K. The event will substantially interfere with construction or maintenance work scheduled to take place upon or along the city streets or a previously granted encroachment permit; or
- L. The event will occur at a time and place where the noise created by the activities of the event will substantially disturb or disrupt the activities of such institutions as schools and hospitals; or
- M. Sponsors have failed to pay the city for previous special events or parade fees and costs.
- ~~N. The applicant has previously had a permit revoked, in Oakland or in another jurisdiction, for violation of permit conditions or for unlawful conduct relating~~

~~thereto and it is reasonably believed that similar violations or unlawful conduct will again occur;~~

- N. ~~Ø-~~ The sponsor fails, or has failed in the past, to make provisions for attended bicycle parking, pursuant to Section 9.52.080; or
- O. ~~P-~~ The granting of the permit is likely to result in substantial negative impacts upon the delivery of city-wide police services and therefore pose a threat to the public health, safety and order due to the likelihood of the special event resulting in a call for a police emergency response.
- P. A circus event permit applicant, circus on-site manager, or circus event sponsor fails to comply with any regulations or conditions imposed pursuant to Section 9.52.085, or is subject to mandatory denial pursuant to section 9.52.115.
- Q. A circus event permit applicant, including the circus event sponsor, circus on-site manager, or circus primary animal handler, has been convicted of acts constituting cruelty or abuse on a restricted or other animal within the preceding ten (10) years.
- R. The Chief of Police shall state, in writing, the reasons for any denial of the event permit. Any applicant whose application is denied shall have the right to request reconsideration of the denial. Reconsideration must be submitted to the Chief of Police or his designee within five days of issuance of the denial. Said request for reconsideration shall be in writing and shall state any and all reasons of any nature why the Chief of Police's stated reasons for denial are in error. Within five days of receipt of said request for reconsideration, the Chief of Police shall send written notice of his/her decision and or notice of hearing on the reconsideration request to the applicant.

9.52.100 Revocation of event permit.

An event permit may be revoked at any time, including during the event, by the Patrol Division Commander, or his designee, for;

- A. Violation of any of the imposed permit conditions; or
- B. Failure to obtain and post any permit required by the State Alcoholic Beverage Control Board to serve alcoholic beverages; or for
- C. The occurrence of unlawful or criminal activity during the event.
- D. Any ground stated in section 9.52.090.

Revocation shall be immediately effective upon public announcement of the revocation thereof by any police officer designated by the Patrol Division Commander to so act.

9.52.110 Penalties for violation of event permit requirements.

- A. Any violation of this chapter, or of regulations implementing this chapter, may be charged as a civil penalty or an infraction, as provided for in Title 1 of the Oakland Municipal Code, except as specified in subsection B of this section. Enforcement action specifically authorized by this section may be utilized in conjunction with, or in addition to, any other statutory, code,

administrative or regulatory procedure applicable to this chapter or under state or federal law. In addition, nothing in this section shall be interpreted to preclude or limit the City from seeking injunctive or other judicial relief

- B. ~~It shall be a misdemeanor; for the event sponsor or his or her designee:~~
1. For an event sponsor, on-site manager, or his or her designee, to refuse to terminate or suspend any event for violation of a City event permit conditions, or for holding an event without benefit of a City event permit; or
 2. For any person, applicant, event sponsor, or on-site manager of a circus, to deny, delay, and/or interfere with City inspections attempted or conducted under this Chapter.

9.52.115 Denial of Future Circus Event Permits based on past violations.

In addition to any fine, penalty, or other enforcement action available under this Code, state law, or federal law, the Chief of Police shall not issue a circus event permit, for a certain length of time in the future, to an applicant who has committed a violation of this chapter. The length of time that such an application must be denied will be no less than 24 months for less serious violations, and no longer than 60 months for the most serious violations, measured from the date the violation was committed. The City Administrator shall enact regulations to enforce this section, and the regulations shall include criteria describing types of violations, along with corresponding mandatory denial periods, depending on the seriousness of the past violations and/or the number of past violations.

9.52.120 Extraordinary police costs and/or traffic control fees.

- A. Prepayment of Fees. Before a special event permit may be issued the Chief of Police shall provide the applicant with a statement of the estimated cost of providing extra police officers for the event. The applicant/sponsor shall be required to pay these fees at a minimum two weeks in advance of the event.
- B. Computing Extra Police Services. The extra police services shall be computed by determining the number of police officers who will be required for the special event beyond that which would otherwise be required at that time, multiplied by the number of hours for which such additional service is rendered at the rate of the city's full cost of providing officers on an hourly basis as established by the master fee schedule. Such personnel to perform the additional police services shall be determined by the Chief of Police in the number he or she determines is reasonably necessary for the event. Police personnel assigned to special events are city employees while so engaged and are under the sole direction of the Chief of Police.
- C. Refunds or Additional Charges. If the actual cost for extra police services on the date of the event is less than the estimated cost pursuant to subsection A of this section, the applicant/sponsor will be promptly refunded the difference by

the city from the general fund. If more police hours are required than originally charged, the event sponsor will be billed the additional costs. Payment of additional costs shall be due within fifteen (15) days of the date the bill is deposited in the mail. If full payment is not received within the required time for payment, the event sponsor is subject to interest charges at the maximum legal rate computed from the date the payment period expires. If the event is cancelled less than five business days prior to the scheduled event, a cancellation fee will be assessed.

- D. Failure to Reimburse for Additional Police Services. The cost of any additional extraordinary police services pursuant to subsection C of this section shall be collected from the event sponsor in any manner prescribed by law, including but not limited to placement of a lien on the event sponsor's property and/or an action in small claims court. This remedy is in addition to all other civil and criminal remedies available to the city.
- E. The costs assessed against an event sponsor and/or promoter and/or facility operator for recoupment of the cost of additional extraordinary police services pursuant to subsection C of this section shall include: (1) the actual cost of salaries, benefits, and administrative overhead of the police personnel providing the services; (2) the cost of medical treatment for police personnel injured while providing services; (3) the cost to replace or repair city property damaged while providing the services; and (4) the cost incurred in making arrests while providing the services.
- F. Any event sponsor and/or promoter and/or facility operator billed for additional extraordinary police services pursuant to subsection C of this section may request a hearing on the matter before a hearing examiner designated by the City Manager. In order to obtain a hearing, the event sponsor shall file a written request therefor within ten days of the date of the invoice mailed to the sponsor that shall state the grounds for appeal. When a written appeal is filed by the applicant, a hearing shall be set at a date and time not less than ten and not more than forty-five (45) days following the filing of the appeal. The event sponsor shall be notified of the date, time and place of the hearing. Upon conclusion of a hearing, the hearing examiner shall render a decision within fifteen (15) days. The hearing examiner's decision shall be final.
- G. The event sponsor(s) and/or promoter(s) and/or facility operator(s) and/or facility owner(s) and their respective designees are all and each severally liable for the cost of additional extraordinary police services.

Section 3 – Within one hundred eighty (180) days of the effective date of this Ordinance, the City Administrator or her designee shall prepare and present to the City Council's Public Safety Committee for public review and comment, an informational report on the draft Regulations setting forth the regulations and standards set forth as adopted by the City Administrators Office.

The City Administrator and his/her designee shall take into account such public review and comment before finalizing such Regulations for publication. A delay in enacting regulations and standards shall not prohibit enforcement of other terms of this Ordinance.

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, _____, 20__

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES –

ABSENT –

ABSTENTION –

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

Date of Attestation: