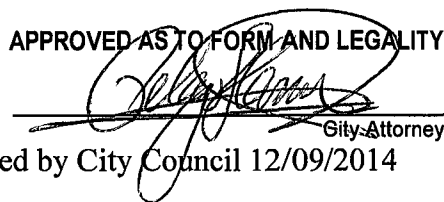


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City Attorney

As amended by City Council 12/09/2014

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY Council Members Gallo and Kalb

ORDINANCE AMENDING TITLES 1 and 6 OF THE OAKLAND MUNICIPAL CODE TO ADD PROVISIONS PROHIBITING, IN THE CITY OF OAKLAND, THE USE OF A BULLHOOK, ANKUS, OR OTHER IMPLEMENT OR TOOL DESIGNED TO INFLICT PAIN ON ELEPHANTS TO TRAIN THEM OR TO CONTROL THEIR BEHAVIOR, AND PROHIBITING THE USE OF BASEBALL BATS, AXE HANDLES OR PITCHFORKS TO TRAIN AND/OR CONTROL ELEPHANT BEHAVIOR

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

WHEREAS, federal law and California state law do not expressly prohibit or allow the use of bullhooks on animals; and

WHEREAS, California Code of Regulations Title 14 section 671.1(a)(1) expressly states that activities authorized under a California Restricted Species Permit do not supersede local laws regulating such animals; and

WHEREAS, bullhooks, also known as "ankus," are designed to, and used to, inflict pain and instill fear as a behavior compliance tool in elephant training and performance; and

WHEREAS, a bullhook is a large instrument or device resembling a fireplace poker used to poke, prod, strike, and hit elephants on their head, ears, lips, eyes, anus and other sensitive areas of their body to inflict pain for the purpose of training and controlling them; and

WHEREAS, bullhooks are routinely used in Oakland during elephant training and performances at traveling circuses or other performing animal acts; and

WHEREAS, elephants are often hooked and hit with bullhooks before performances in order to inflict pain and instill fear to ensure the tricks will be performed on command; during training to reinforce existing tricks; to punish them when they fail to perform properly; and to control elephants during routine handling; even when not in use, the bullhook is a constant reminder of the painful punishment that can be meted out at any time; and

WHEREAS, many animal rights organizations including the Oxford United Kingdom Elephant Research Center and the Scientific Advisory Committee of Southern

Kenya, the Ambroseli Trust for Elephants in Nairobi, Kenya, Elephant Voices, Performing Animal Welfare Society (PAWS), The Humane Society of the United States (HSUS), Neuropsychologist of California Pacific Medical Center in San Francisco, the American Veterinary Medical Association (AVMA), The Association of Zoos and Aquariums (AZA), The American Society for Prevention of Cruelty to Animals (ASPCA), The Eastbay SPCA, Oakland Animal Services (OAS), and The Oakland Zoo strongly oppose the use of bullhooks to train and control elephants and their behavior; and

WHEREAS, animal rights organizations have produced numerous undercover videos that show elephants being physically beaten, cruelly controlled and psychologically abused with the bullhook in circuses during training and while performing animal acts; and

WHEREAS, the link between animal abuse and human abuse and domestic violence has been well documented and scientifically proven and several states including California have laws requiring reporting of animal abuse cases.

WHEREAS, on April 30, 2014, the Los Angeles City Council adopted an ordinance banning the use of a bullhook and other implements or tools designed to inflict pain for the purpose of training or controlling the behavior of an elephant; and

WHEREAS, Oakland continues to strive towards becoming a truly humane city that protects the rights of both human beings and animals; and

WHEREAS, in order to protect animal welfare, public health and safety, the use of bullhooks on elephants in the city of Oakland needs to be prohibited for all of the above aforementioned reasons; and

WHEREAS, the City Council urges persons and businesses which use bullhooks and similar implements or tools, to investigate, develop, and use, humane methods of handling elephants that do not involve the use of a bullhook or any other implement that relies on physical, psychological, or emotional pain as negative reinforcement for behavior control; 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 ~~strikethrough~~ type:

6.04.020 – Definitions

“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.

6.04.365 – Use of Bullhooks Prohibited; Prohibited tools for controlling Elephants

- A. It shall be unlawful for any person to use, or direct the use of, a bullhook, ankus, or any other implement or tool designed to inflict pain on elephants, for the purpose of training or controlling an elephant.
- B. It shall be unlawful for any person to use, or direct the use of, a baseball bat, axe handle, pitchfork or similar implement as a means of training or of controlling an elephant.
- C. For purposes of this section, the term “use” shall include brandishing, exhibiting or displaying a bullhook or other implement prohibited by this section, in the presence of an elephant within the City of Oakland for the purpose of training or controlling the behavior of the elephant.
- D. For purposes of this section, the term “person” includes a corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to elephants transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee.
- E. 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 ~~strikethrough~~ 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:
1. Public Safety
 - a. Chapter 15.32. Dangerous Structures
 - b. Chapters 5.62, 8.36; Sections 8.40.120—8.40.170, 12.64.190. Accident Prevention
 - c. Section 15.04.780. Grading, Excavations and Fills
 - d. Chapter 15.64, Bedroom Window Security Bar and Smoke Detector Permit Requirements
 - e. Chapter 8.44.040. Activities prohibited within the parking facility
 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), 6.08.120, 6.08.130, 6.08.150-6.08.180, and 6.08.200, (Potentially Dangerous and Vicious Deogs), 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

NOTICE AND DIGEST

ORDINANCE AMENDING TITLES 1 and 6 OF THE OAKLAND MUNICIPAL CODE TO ADD PROVISIONS PROHIBITING, IN THE CITY OF OAKLAND, THE USE OF A BULLHOOK, ANKUS, OR OTHER IMPLEMENT OR TOOL DESIGNED TO INFLECT PAIN ON ELEPHANTS TO TRAIN THEM OR TO CONTROL THEIR BEHAVIOR, AND PROHIBITING THE USE OF BASEBALL BATS, AXE HANDLES OR PITCHFORKS TO TRAIN AND/OR CONTROL ELEPHANT BEHAVIOR

This ordinance adds provisions to the Oakland Municipal Code to prohibit the use of a bullhook, ankus, or other tool designed to inflict pain on elephants, as well as the use of baseball bats, axe handles, pitchforks or other similar tools, to train or control elephants in the City of Oakland. A violation of this section is punishable as a misdemeanor. This Ordinance shall become effective on September 1, 2017.