



REPORT TO COUNCIL

City of Sacramento

33

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

STAFF REPORT
July 13, 2010

**Honorable Mayor and
Members of the City Council**

Title: Ordinance Amendment: Relating to the Humane Treatment of Animals
Performing in Travelling Commercial Animal Exhibitions

Location/Council District: Citywide

Recommendation: 1) Adopt an **Ordinance** amendment to Sections 9.44.020, 9.44.215, Subsection B and adding Article X, Sections 9.44.810 through 9.44.840 to the Sacramento City Code with regard to treatment, administrative penalties, permits and inspections for animals performing in travelling commercial animal exhibitions; 2) adopt **Regulations** for the humane treatment of animals pursuant to the ordinance; and 3) Adopt a Resolution establishing permit fees for inspecting performing animals.

Contact: Michelle Heppner, Special Projects Manager, 916-808-1226
Penny Cistaro, Animal Care Services Manager, 916-808-7433

Presenter: Michelle Heppner, Special Projects Manager, Office of the City
Manager, 916-808-1226

Department: Department of General Services

Division: Animal Care Administration

Organization No: 12100

Description/Analysis:

Issue: Responsible, travelling commercial animal exhibitions are fun, family-oriented attractions for city residents. However, it is important to make these venues safe environments for both the public and the animals that perform in them. The proposed amendments to Sections 9.44.020, 9.44.215, Subsection B and adding Article X, Sections 9.44.810 through 9.44.840 to the Sacramento City Code address potential concerns with regard to the treatment of animals performing in the city.

Affected organizations were notified of the ordinance amendment in early June and were invited to provide feedback. Feedback (Attachment 6) was not received in time to be considered before the ordinance was passed for publication on June 22, 2010. In addition, staff met with interested parties who requested meetings to discuss their concerns. Staff has made several amendments to the regulations to encompass concerns heard.

Policy Considerations: This ordinance amendment would empower the City of Sacramento Animal Care Services to establish conditions necessary to protect the public health and safety and to provide for the humane care and treatment of performing animals. An application and permit fee would be mandated as part of the amended ordinance. Inspections by city animal control officers would be required before all performances. Administrative penalties could apply.

Environmental Considerations: None.

California Environmental Quality Act (CEQA): Under the CEQA guidelines, continuing administrative activities do not constitute a "project" as defined in Section 15378 of the CEQA Guidelines and are therefore exempt from review.

Sustainability Considerations: None.

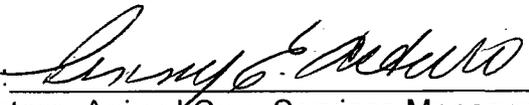
Other: None.

Commission/Committee Action: This item was scheduled to come before the city's Law & Legislation Committee on June 15, 2010. Due to lack of a quorum, that meeting did not take place. Because of the time-sensitive nature of the provisions required by these ordinance amendments, the City Manager has deemed this item urgent and is recommending that it move forward directly to the full Council without review by the Law & Legislation Committee. The item was passed for publication on June 22, 2010.

Rationale for Recommendation: Currently, there are no provisions in the city code with regard to the treatment of animals performing in travelling commercial animal exhibitions. In order to assure their humane treatment, the proposed ordinance amendment would, via an application and permit process, empower Sacramento animal care officers to perform inspections to enforce safe and compassionate living conditions, health and handling for specifically defined animals.

Financial Considerations: The travelling commercial animal exhibitions ordinance includes a permit fee to cover the cost of inspecting performing during and prior to performances. The fees are cost neutral to the General Fund and offsets the cost for on-site inspections conducted by City staff and processing the permit application. Staff estimates the cost to be approximately \$125 per day for on-site inspections and a per visit permit application fee of \$100.

Emerging Small Business Development (ESBD): No applicable.

Respectfully Submitted by: 
Penny Cistaro, Animal Care Services Manager

Approved by: 
Reina Schwartz
Director of General Services

Recommendation Approved:

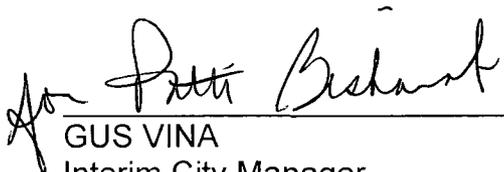

GUS VINA
Interim City Manager

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ORDINANCE NO. 2010-

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 9.44.020 AND 9.44.215 OF THE SACRAMENTO CITY CODE AND ADDING ARTICLE X TO CHAPTER 9.44 OF THE SACRAMENTO CITY CODE, RELATING TO TRAVELLING COMMERCIAL ANIMAL EXHIBITIONS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

- A. The definition of "wild animal" in Section 9.44.020 of the Sacramento City Code is amended to read as follows:

"Wild animal" means any of the following

1. Following members of the Class Reptilia:

Order Ophida (such as, but not limited to, racers, boas, water snakes and pythons) over eight feet in length, and Order Loricata (such as, but not limited to, alligators, caymans, and crocodiles) over four feet in length.

2. Following members of the Class Aves:

Order Falconiformes (such as, but not limited to, hawks, eagles and vultures which are not kept pursuant to federal or state permit), and Subdivision Ratitae (such as, but not limited to, ostriches, rheas, cassowaries, and emus).

3. Following members of the Class Mammalia:

Order Carnivora, expressly excepting the domestic dog (*Canis familiaris*) and the domestic cat (*Felis catus*), but including, but not limited to, the family felidae (such as ocelots, margays, tigers, lions, jaguars, leopards and cougars), the family canidae (such as wolves, dingos, coyotes and jackals), the family ursidae (bears), the family odobenidae (walruses), the family otaridae (sea lions and fur seals), Order Marsupialia (such as kangaroos and opossums) and Order Chiroptera (bats), and

Order Edentata (such as sloths, anteaters and armadillos), and Order Proboscidea (elephants), and Order Primata (including, but not limited to, monkeys, chimpanzees and gorillas), and Order Ungulata (expressly excluding any animal which would be included within the definition of "domestic animal" in this section and including, but not limited to, antelope, deer, bison and camels).

4. Following members of the Class Actinopterygii:

Family cyprinidae (goldfish) and family osphronemidae (bettas).

4.5 Any nondomestic species when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings or to the property of human beings.

56. Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, or touch or other means, except honey producing bees.

B. The following definitions are added to Section 9.44.020 of the Sacramento City Code to read as follows:

"Travelling commercial animal exhibition" means the use or display of animals for public entertainment or amusement and includes but is not limited to circuses, rodeos, carnivals and traveling shows. "Travelling commercial animal exhibition" does not include the use or display of animals for educational purposes.

"Cruel and inhumane" means every act, omission or act of negligence whereby unjustifiable pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals.

C. Except as specifically amended in subsections A and B above, Section 9.44.020 shall remain unchanged and in full force and effect.

SECTION 2.

A. Subsection B of Section 9.44.215 of the Sacramento City Code is amended to read as follows:

B. Any person violating any section of Article X of this chapter, subsection B or (F)(3) of Section 9.44.490 of this chapter, or subsection B or (F)(3) of Section 9.44.430 of this chapter shall be subject to the following administrative penalties: upon the first violation, a fine of five hundred dollars (\$500.00) for each animal with respect to which there is a violation, and a second or subsequent violation, a fine of not less than one thousand dollars (\$1,000.00) for each animal with

respect to which there is a violation. If the person no longer possesses the animal, he or she is still responsible for any and all fines assessed to him or her.

- B. Except as specifically amended in subsection A above, Section 9.44.215 shall remain unchanged and in full force and effect.

SECTION 3.

Article X is added to Chapter 9.44 of the Sacramento City Code to read as follows:

ARTICLE X. ANIMALS IN TRAVELLING COMMERCIAL ANIMAL EXHIBITIONS

9.44.810 Permit Required.

It is unlawful for any person to operate, conduct or maintain any commercial animal exhibition in which any domestic or wild animal is displayed, used or kept without first obtaining a permit from the Animal Care Service Manager at least thirty days prior to the scheduled performance or event.

9.44.820 Permit Requirements.

A. Application requirements.

An application for a permit for a travelling commercial animal exhibition shall be made on a form provided by the Animal Care Service Manager, shall be accompanied by payment of a permit fee in an amount set by resolution of the city council, and shall include, but not be limited to, the following information: the number of days and hours of operation; the number and types of animals maintained and proof of insurance coverage in amounts and types of coverage required by the City's risk manager.

B. Permit issuance.

The Animal Care Services Manager shall issue a permit upon submission of a completed application, payment of the permit fee and proof of insurance coverage.

9.44.830 Regulations

The Animal Care Services Manager shall have the authority to promulgate regulations to protect the health, safety and welfare of the public attending travelling commercial animal exhibitions and to insure the proper and humane treatment of all wild and domestic animals displayed, used or maintained by a commercial animal exhibition. The regulations shall be effective upon approval by council resolution. Violation of the regulations promulgated pursuant to this section shall constitute a violation of this section.

9.44.840 Cruel and Inhumane Treatment of Animals Prohibited.

It shall be unlawful for a travelling commercial animal exhibition to treat, control or maintain a wild or domestic animal in a cruel or inhumane manner.

9.44.850 Inspection.

The Animal Care Services Manager or his or her designee shall have the authority at all times during the effective dates of a permit granted pursuant to this article, to inspect any commercial animal exhibition to insure proper and humane treatment of all wild and domestic animals in compliance with the regulations adopted pursuant to section 9.44.830.

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Order Falconiformes (such as, but not limited to, hawks, eagles and vultures which are not kept pursuant to federal or state permit), and Subdivision Ratitae (such as, but not limited to, ostriches, rheas, cassowaries, and emus).

3. Following members of the Class Mammalia:

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5. Any nondomestic species when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings or to the property of human beings.

6. Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, or touch or other means, except honey producing bees.

B. The following definitions are added to Section 9.44.020 of the Sacramento City Code to read as follows:

"Commercial animal exhibition" means the use or display of animals for public entertainment or amusement and includes but is not limited to circuses, rodeos, carnivals and traveling shows. "Commercial animal exhibition" does not include the use or display of animals for educational purposes.

"Cruel and inhumane" means every act, omission or act of negligence whereby unjustifiable pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals.

C. Except as specifically amended in subsections A and B above, Section 9.44.020 shall remain unchanged and in full force and effect.

SECTION 2.

C. Subsection B of Section 9.44.215 of the Sacramento City Code is amended to read as follows:

B. Any person violating any section of Article X of this chapter, subsection B or (F)(3) of Section 9.44.490 of this chapter, or subsection B or (F)(3) of Section 9.44.430 of this chapter shall be subject to the following administrative penalties: upon the first violation, a fine of five hundred dollars (\$500.00) for each animal with respect to which there is a violation, and a second or subsequent violation, a fine of not less than one thousand dollars (\$1,000.00) for each animal with

respect to which there is a violation. If the person no longer possesses the animal, he or she is still responsible for any and all fines assessed to him or her.

- D. Except as specifically amended in subsection A above, Section 9.44.215 shall remain unchanged and in full force and effect.

SECTION 3.

Article X is added to Chapter 9.44 of the Sacramento City Code to read as follows:

ARTICLE X. ANIMALS IN TRAVELLING COMMERCIAL ANIMAL EXHIBITIONS

9.44.810 Permit Required.

It is unlawful for any person to operate, conduct or maintain any commercial animal exhibition in which any domestic or wild animal is displayed, used or kept without first obtaining a permit from the Animal Care Service Manager at least thirty days prior to the scheduled performance or event.

9.44.820 Permit Requirements.

C. Application requirements.

An application for a permit for a commercial animal exhibition shall be made on a form provided by the Animal Care Service Manager, shall be accompanied by payment of a permit fee in an amount set by resolution of the city council, and shall include, but not be limited to, the following information: the number of days and hours of operation; the number and types of animals maintained and proof of insurance coverage in amounts and types of coverage required by the City's risk manager.

D. Permit issuance.

The Animal Care Services Manager shall issue a permit upon submission of a completed application, payment of the permit fee and proof of insurance coverage.

9.44.830 Regulations

The Animal Care Services Manager shall have the authority to promulgate regulations to protect the health, safety and welfare of the public attending travelling commercial animal exhibitions and to insure the proper and humane treatment of all wild and domestic animals displayed, used or maintained by a commercial animal exhibition. The regulations shall be effective upon approval by council resolution. Violation of the regulations promulgated pursuant to this section shall constitute a violation of this section.

9.44.840 Cruel and Inhumane Treatment of Animals Prohibited.

It shall be unlawful for a commercial animal exhibition to treat, control or maintain a wild or domestic animal in a cruel or inhumane manner.

9.44.850 Inspection.

The Animal Care Services Manager or his or her designee shall have the authority at all times during the effective dates of a permit granted pursuant to this article, to inspect any commercial animal exhibition to insure proper and humane treatment of all wild and domestic animals in compliance with the regulations adopted pursuant to section 9.44.830.

Attachment 3

Sacramento Animal Care Services
2127 Front Street, Sacramento, CA 95818 (916) 808-7433

APPLICATION FOR PERMIT TO OPERATE A TRAVELLING COMMERCIAL ANIMAL EXHIBITION

I, _____
Name of Applicant Phone Number

of _____
Business Address City Zip Code

Mailing address if different from above _____

The name, address and telephone number of a responsible person who has access to permittee's exhibit and can be reached in an emergency at any time outside of exhibition hours.

Emergency Contact Phone Number

Address City Zip Code

Having acquainted myself with the provisions of the appropriate sections Chapter 9.44 of the Sacramento City Code I hereby apply for a permit to conduct a: _____

which shall have the business name of: _____, for the period

of _____, 20_____, and ending _____, 20_____, at the following address:

Hours of operation: _____

I hereby agree to abide by the provisions of Chapter 9.44 and general Rules and Regulations adopted by Animal Care Services. I also agree to the following special conditions, if any:

1. Have you or your partners or officers ever been arrested, convicted, or placed on probation for any offense involving the treatment or care of animals? _____ If "yes" please attach explanation.

2. Number and type of animals to be housed _____

Use additional sheet if necessary

3. Closest distance animal facilities will be located to nearest dwelling _____

4. Do you have copies of and understand Chapter 9.44 and the general Rules and Regulations? _____

If partnership or corporation, list responsible corporate officer as point of contact for Animal Care Services

Name: _____ Phone Number: _____

I certify that the above information is factual and correct to the best of my knowledge and belief. Falsification of, or deletion from this form will be grounds for withholding of this permit.

Date: _____ Signature: _____

| | |
|---------------------|-----------------------|
| Date Received _____ | Amount Received _____ |
| Received by _____ | License Number _____ |

CITY OF SACRAMENTO
ANIMAL CARE SERVICES
RULES AND REGULATIONS FOR THE HUMANE TREATMENT OF ANIMALS IN
TRAVELLING COMMERCIAL ANIMAL EXHIBITIONS

1. When applying for a permit, the applicant shall furnish to the City of Sacramento Animal Care Services (ACS) with a list of the kinds of animals to be kept, handled or exhibited and with the estimated maximum number.
2. Animals must be supplied with sufficient good and wholesome food as often as the feeding and energy habits of such animals require. Water must be provided consistent with Section 671.2 of Title 14 of the California Code of Regulations.
3. All animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation and drainage shall be maintained.
4. Proper shelter and protection from the weather shall be provided at all times. Animals must not be overcrowded nor exposed to excessive heat or cold.
5. All facilities and exhibits must have someone in attendance 24 hours a day or provide a public notice at the facility indicating the hours no one is in attendance and an emergency telephone number.
6. Permittee shall use every reasonable precaution to insure that animals are not teased, mistreated, annoyed, harassed, or made to suffer by any person or means.
7. Permittee shall not maintain nor permit any condition to exist that is, or could be, injurious to the animals.
8. No animal shall be exhibited unless accompanied by a current Certificate of Veterinary Health or certified by the attending veterinarian to be in good physical health and condition.
9. Animals shall be handled so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal and shall be housed in enclosures that are consistent with section 671.3 of title 14 of the California Code of Regulations.
10. Providing ACS a list of any tack, equipment, devise, substance, material, or housing that shall be used for any animals listed on the permit.
11. Animals must be maintained in quarters or enclosures constructed as to prevent their escape. Permittee assumes full responsibility for recapturing any animal that escapes from the permittee's premises or possession.

12. Permittee shall take all reasonable precaution to protect the public from the animals and the animals from the public. Attention must be given to public health risks specific to the species exhibited and the nature of the exhibit.
13. Sick or diseased animals, as determined by a licensed veterinarian, shall be isolated from healthy animals at all times, and so segregated that the illness or disease shall not be transmitted to another animal or the public.
14. Working or performing animals shall be given proper rest periods. Confined or restrained animals shall be given exercise appropriate for the individual animal.
15. Animal bedding shall be sufficient in size, quantity, and of good quality to allow for proper disinfecting.
16. No animal, which has been suspended from labor by ACS shall be worked or used until released by ACS.
17. Any changes in address, owner, or management shall be reported in writing to ACS at least five (5) days prior to the change.
18. Permittee shall not tranquilize any animal except under the supervision of a licensed veterinarian or in the event of emergency, under written standing orders by the travelling commercial animal exhibition's licensed veterinarian.
19. The permittee's proof of insurance in an amount subject to approval by the City's Risk Management Department must be provided with the permit application.

RESOLUTION NO.

Adopted by the Sacramento City Council

TRAVELLING COMMERCIAL ANIMAL EXHIBITIONS ORDINANCE

BACKGROUND

- A. The city recognizes that travelling commercial animal exhibitions such as the circus, rodeos, carnivals, etc are fun, family-oriented attractions for city residents.
- B. Currently the City does not have the authority to regulate travelling commercial animal exhibitions prior to or during performances.
- C. The travelling commercial animal exhibitions ordinance will provide City staff access to these exhibitions prior to and during performances to inspect and ensure the animals are being cared for and treated humanely during their stay.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. An Ordinance amending Sections 9.44.020, 9.44.215, Subsection B and adding Article X, Sections 9.44.810 through 9.44.840 of the Sacramento City Code with regard to treatment, administrative penalties, permits and inspections for animals performing in travelling commercial animal exhibitions is hereby adopted.
- Section 2. Regulations for the humane treatment of animals pursuant to the ordinance in Section 1 above are hereby adopted.
- Section 3. The following permit and inspection fees are hereby adopted:
 - Permit Application Fee - \$100 per visit
 - On-site Inspection Fee - \$125 per day

Attachment 6



Professional Rodeo Cowboys Association

Cindy Schonholtz, Director of Industry Outreach
101 Pro Rodeo Drive
Colorado Springs, CO 80919
719-528-4794
719-264-4994 fax
cmschonholtz@prorodeo.com

June 15, 2010

Sacramento City Council
Law and Legislation Committee Members
City Hall
915 I Street
Sacramento, CA 95814-2604

Dear Members of the Law and Legislation Committee:

I appreciate this opportunity to address the proposed ordinance to regulate animal exhibitions in Sacramento. The Professional Rodeo Cowboys Association (PRCA), headquartered in Colorado Springs, Colo., is the largest and oldest rodeo-sanctioning body in the world. The recognized leader in professional rodeo, the PRCA is committed to maintaining the highest standards. The PRCA, a membership-based organization, sanctions more than 600 rodeos annually, and there are nearly 30 million fans in the U.S. Action from PRCA-sanctioned rodeos and its premier events appears on In Country Television (DirecTV channel 344 and Dish Network 230), ESPN2, ESPN Classic and ESPN Deportes. Each year, PRCA-sanctioned rodeos raise more than \$26 million for local and national charities.

The State of California has a rich tradition in rodeo and has currently has nearly 50 rodeos sanctioned by the PRCA. 60 rules govern the care and handling of the livestock at PRCA sanctioned events. In addition, California State law has many provisions similar to PRCA rules to protect the livestock. It is the goal of the PRCA to insure that the sport of rodeo continues to thrive in California while offering the opportunity for those who wish to participate in or attend rodeos. The livestock that participate in PRCA rodeos are valuable, specially bred and well suited to the competition and we share the goal of those proposing the ordinance to afford proper care and handling to them. The attached Animal Welfare Booklet outlines more about the care and handling of livestock at PRCA sanctioned events.

After reviewing the proposed ordinance and rules and regulations we would ask that those involved in conducting exhibitions of animals be given more input and further opportunity to offer expertise. As submitted the ordinance and rules do not take into account current state and federal laws and regulations regarding exhibiting animals and some provisions could actually cause harmful situations to the animal exhibited. Additionally a high permit cost and vague regulations may cause those organizing animal exhibitions to choose other locals, which could hurt the City of Sacramento economically. On the following page I have outlined the PRCA's specific concerns that we have been able to identify in the short time we have had to review the materials.

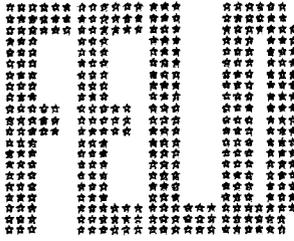
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Following are specific concerns the PRCA has with the language of the ordinance and proposed rules:

1. No reference to the existing state law governing rodeo and how these will be incorporated into the enforcement of the city regulations proposed. This is of specific concern in that there is no definition of rodeo in the proposed ordinance and it seems to include all rodeo in the definition of "commercial animal exhibition" whether it is truly a commercial operation or only a youth event or other event organized for sport purposes not for commercial gain.
2. It allows for Animal Care Services to inspect any wild or domestic animals included in permitted animal exhibitions. The PRCA would ask that those inspecting will have the necessary training and expertise to know the proper care and handling procedures for the particular animals they are inspecting.
3. Under the proposed "rules and regulations" item number 2 states that animals must be provided water at all times. This would put many performing animals at risk as veterinarians will advise that some animals should not consume water for a certain period of time before they compete and water consumption after strenuous activity should be monitored carefully.
4. Under the proposed "rules and regulations" item number 4 states that proper shelter and protection shall be provided and animals must not be overcrowded or exposed to excessive heat or cold and quarters shall be draft free. We would ask that this be designated per species of animal and commonly accepted practices for each species be used as a guide.
5. Under the proposed "rules and regulations" item number 6 states that reasonable caution should be used to insure that animals are not "teased, mistreated, annoyed, harassed, or made to suffer by any person." These terms are not defined and the vagueness of these terms could leave a lot to interpretation of those enforcing the ordinance.
6. The proposed "rules and regulations" item number 10 would not allow "any tack, equipment, devise, substance, material, or housing that has been condemned by ACS. Is there a list of items that the ACS has condemned? Is there a process to condemn these items? We would ask that this proposed rule be clarified or stricken.
7. The proposed "rules and regulations" item number 13 addresses diseased animals. We would ask that state regulations regarding health certificates and diseased animals be referenced and that the determination of a "sick or diseased" animal be made by a veterinarian with experience with the species of animal in question.
8. The proposed "rules and regulations" item number 18 states that a licensed veterinarian must administer any tranquilizer. In the case of an escaped animal or other emergency there may be the need to administer tranquilizer by the owner or others working to capture an escaped or injured animal. This rule should be modified to allow for this or stricken.

We are committed to answering any questions you may have or helping you address any specific concerns regarding animal handling at rodeo events in the City of Sacramento. If there are concerns with rodeo events held in the City of Sacramento, we would be interested in hearing that information and being a part of the solution. Thank you for taking the time to review our concerns.

Sincerely,
Cindy Schonholtz
Director of Industry Outreach
Professional Rodeo Cowboys Association



ENTERTAINMENT, INC.

June 14, 2010

Members
Law & Legislation Committee
Sacramento City Council
City Hall
915 I-Street
Sacramento, CA 95814-2604

Dear Members of the Committee:

Feld Entertainment, Inc. is the world’s leading producer of live family entertainment and the parent company of *Ringling Bros. and Barnum & Bailey*[®], *Disney On Ice!*[®] and *Disney Live!*[®], and Feld Motor Sports. *Ringling Bros.* is the most well-known, traveling exhibitor of live animals in the world, with 140 years of experience working with a wide array of animals. Each year our circus entertains thousands of families from Sacramento at the Arco Arena.

We understand that the Committee is considering an ordinance amendment regarding the regulation of animals in circuses, rodeos and other exhibitions. We fully support what we understand the purpose and intent of the proposed ordinance to be: ensuring animal welfare. Further, we urge the Committee to extend that goal to all animals not just those in “commercial exhibitions.”

Since the proposed ordinance would impact our circus engagements and because we are experienced with such ordinances elsewhere, we feel we are uniquely positioned to provide you with correct, factual information regarding the care and treatment of animals in circuses and other traveling exhibitions. Furthermore, we are attaching suggested amendments to the draft ordinance and regulations that we believe will more effectively further the Committee’s objective of ensuring animal welfare while at the same time ensuring that *Ringling Bros.* and other licensed exhibitors will be able to continue to visit and do business in Sacramento.

Comments of Ringling Bros. and Barnum & Bailey

All circuses and other traveling exhibitors with animals are required to be licensed by the United States Department of Agriculture (USDA) and are open to regular, unannounced inspections by USDA seven days a week. The USDA frequently inspects licensed exhibitors

such as *Ringling Bros.* to ensure they at all times comply with requirements of the Animal Welfare Act (AWA), the same law that governs zoos like the Sacramento Zoo. *Ringling Bros.* has never been found to have violated the AWA.

In addition to federal regulation, our circus is subject to state laws governing the care and well being of animals. In California we obtain a permit each year from the Department of Fish and Game and are subject to its regulatory oversight. We obtain permits in and are regularly inspected in almost every one of the cities we perform in by local animal control agencies, humane associations, and state agencies. This includes inspections during our annual Sacramento circus engagements by the City's Animal Care Services. Such inspections consistently find that *Ringling Bros.*' animal care is excellent and meets or exceeds all applicable requirements.

We pride ourselves on the excellent care that all of our animals receive and the fact that our animals are healthy, thriving, vigorous and content. *Ringling Bros.* animals live and travel in facilities specifically designed for their comfort and safety, where they have time to exercise and socialize. They consume fresh, nutritious food that is purchased locally and delivered to each performance site. We have a team of full time veterinarians, veterinary technicians and animal caregivers who oversee all aspects of the animals' care and well-being. Furthermore, our veterinary team, four of whom are board certified, includes leading experts in the areas of elephant health and reproduction and are regularly called upon for assistance by zoos and other facilities throughout the United States.

Notwithstanding the propaganda and emotionally charged rhetoric espoused by animal rights activists the facts are that our animals are very well-cared for and treated humanely. For us to do otherwise would be both wrong and foolhardy.

When it comes to elephants our motto says it all: "Endangered Species? Not if we can help it." Our herd includes more than 50 Asian elephants, the largest outside of Asia, with approximately 20 actively traveling and performing at any time on our various circus units. The majority are cared for at the *Ringling Bros. and Barnum & Bailey Center for Elephant Conservation* (CEC) in central Florida. The *Ringling Bros.* CEC is a state-of-the-art facility dedicated to the research, reproduction and retirement of Asian elephants and is home to the most successful Asian elephant breeding program outside of Asia, having celebrated twenty-three (23) births since 1992. It is completely funded by *Ringling Bros.* with a portion of every circus ticket sold going to support our efforts.

In reviewing the draft ordinance and regulations, we note that in several respects they include provisions that are somewhat vague and thus create the possibility that they will be construed incorrectly or arbitrarily. As with any public regulation it is important and legally necessary that both the required conduct and prohibited conduct be reasonably clear to the regulated individuals and those responsible for enforcement. If too much is left to the discretion and opinions of those responsible for enforcement, then the provisions can be applied inconsistently and may in fact be unenforceable. To that end the committee should review the draft ordinance and draft regulations to ensure that they do not allow for excessive discretion or

subjectivity that will make them difficult to enforce. In particular, we urge you to incorporate existing California state law and regulations regarding performing animals as a means of ensuring both clarity and consistency. Some suggested amendments are attached for your consideration. In addition, it should be noted that no one has greater expertise and understanding of how to properly care for animals than those who do it 24 hours a day, 7 days a week. To that end, we urge the Committee to direct the ACS to seek the input of those exhibitors, including circuses and rodeo events, that will be impacted by these regulations before finalizing them, to ensure that the regulations effectively achieve the Committee's objectives.

Allegations Regarding Use of Elephant Guides

We know the animal rights group Born Free has contacted some of you with allegations about our handling and care of our elephants, including videos. This comes as no surprise since Born Free and other radical animal rights organizations like PETA are opposed to, among other things, elephants and other animals in circuses and zoos. Their video footage does not accurately represent how elephants are handled on a daily basis at *Ringling Bros.* and in fact has been substantially edited and purposely presented out of context to fulfill their agenda. All of the *Ringling Bros.* elephants, including those in the video, are in good health. Nothing on this video resulted in any harm or injury to the animals, and this was confirmed by over 60 veterinary examinations over the time period implicated on the video as well as a thorough examination at the time of the video's release.

Further, you may be interested to know that within the last year PETA filed a complaint with the Department of the Interior's U.S. Fish and Wildlife Service ("FWS") about *Ringling Bros.* and attached another version of the same highly-edited video snippets. After an investigation by FWS, which included review of the videotapes and other information collected, FWS closed that investigation with the conclusion that there was no violation of federal law.

Much of the attention from activist groups like Born Free is focused on the use of guides or "bullhooks" and tethering elephants with chains. Yet these are proven and humane animal management practices accepted by the USDA under the AWA, and approved by the International Elephant Foundation (IEF), the Association of Zoos and Aquariums (AZA) and the Elephant Managers Association (EMA). Our elephant management practices are consistent with those outlined in the *Elephant Husbandry Resource Guide*, which was published by the IEF and endorsed by the AZA and the EMA. This book reflects the recognized, state-of-the-art, industry standards for the safe and humane care and management of elephants.

Versions of what we call a guide have been used by elephant handlers for thousands of years. Its size and function have evolved over time, and its use now is primarily to lead and direct animals by elephant handlers in zoos, preserves and circuses all over the world. Tethering of elephants is also part of responsible elephant care and governed by existing laws and regulations. USDA policies require that when tethered the elephants must have room to lie down, move around and interact with each other. Tethering ensures that the elephants respect each other's physical space – especially during meal times. *Ringling Bros.* elephants actually

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spend most of their waking hours freely moving about their enclosures within compatible groups, exercising and learning new behaviors.

Finally, you should know that Feld/*Ringling Bros.* was the target of a longstanding lawsuit brought against it by Born Free and others regarding allegations about the handling of our elephants and in particular the use of guides and tethers. This lawsuit consumed nine years and in a 56 page Memorandum Opinion a Federal judge concluded that the former circus employee whose claims were the basis for the lawsuit had been paid by Born Free and other organizations and thus was “essentially a paid plaintiff and fact witness *who is not credible, and therefore affords no weight to his testimony*” As a result, the Court entered judgment in our favor.

Conclusion

For millions of families, the opportunity to see elephants and other animals up close in a performance setting is a unique and treasured experience. It is well-established that the opportunity to experience animals up close in zoos and circuses is a crucial aspect of conservation education and significantly contributes to the public’s awareness of and interest in preserving these magnificent animals. We urge the Committee to ensure that experience is preserved while ensuring the welfare of the animals involved.

Please feel free to contact me at (703) 448-4000 or visit www.Ringling.com or www.ElephantCenter.com if you would like more information about *Ringling Bros.* and our animals.

Sincerely,



Thomas L. Albert
Vice President

Ordinance Section 1. B. (amending Section 9.44.20)

B. The following definitions are added to Section 9.44.020 of the Sacramento City Code to read as follows:

"Commercial animal exhibition" means the use or display of animals for public entertainment or amusement and includes but is not limited to circuses, rodeos, carnivals and traveling shows. ~~"Commercial animal exhibition" does not include the use or display of animals for educational purposes.~~

~~"Cruel and inhumane" means every act, omission or act of negligence whereby unjustifiable pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals.~~

"Cruel and inhumane" means any act, omission or act of negligence which would constitute a violation of Section 597 of the California Penal Code.

Ordinance Section 3.(adding Article X to Chapter 9.44)

9.44.850 Inspection.

The Animal Care Services Manager or his or her designee shall have the authority ~~at all times during the effective dates of a permit granted pursuant to this article, to inspect any commercial animal exhibition to insure proper and humane treatment of all wild and domestic animals in compliance with the regulations adopted pursuant to section 9.44.830.~~

Amendments to Rules and Regulations for the Humane Treatment of Animals in Commercial Animal Exhibitions

2. Animals must be supplied with sufficient good and wholesome food as often as the feeding and energy habits of such animals require. ~~Water must be provided at all times. Potable water must be accessible to the animals at all times or provided as often as necessary for the health and comfort of the animal as directed by a licensed veterinarian. All water receptacles shall be clean and sanitary.~~

4. Proper shelter and protection from the weather shall be provided at all times. Animals must not be overcrowded nor exposed to excessive heat or cold. ~~Quarters shall be draft free.~~

8. No animal may be exhibited unless accompanied by a current Certificate of Veterinary Health and certified by the attending veterinarian to be in good physical health and condition. ~~Animals which are worked, kept for sale or exhibited shall be strong, healthy and in good condition.~~

9. ~~Animals which are enemies by nature, or are temperamentally unsuited, shall not be quartered together or so near each other as to cause animals fear, torment, or annoyance.~~ Animals shall be handled so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal and shall be housed in enclosures that are consistent with Section 671.3 of Title 14 of the California Code of Regulations.

10. ~~No~~Any tack, equipment, devise, substance, material, or housing that has been condemned by ACS ~~shall not be used~~ prohibited by California or federal law may be used with any animal.

14. Performing animals shall be given a rest period of at least 4 hours per day. Confined or restrained animals shall be given exercise appropriate for the age, species, and condition, of each animal.

16. ~~No animal which has been suspended from labor by ACS shall be worked or used until released by ACS.~~ No animal for which a permit has not been issued by ACS may be exhibited within the City.

18. Permittee shall not tranquilize any animal except under the supervision of a licensed veterinarian. Except in the case of an animal escape or other emergency, permittee shall not tranquilize any animal except under the supervision or direction of a veterinarian.

Changes to Application For Permit to Operate a Commercial Animal Exhibition

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~~If partnership or corporation, list partners or officers~~

If partnership or corporation, list responsible corporate officer as point of contact for ACS:



June 15, 2010

Honorable Members of the Law and Legislation Committee
City of Sacramento
915 I Street
Sacramento, CA 95814

Dear Members of the Committee:

On behalf of the over 10,000 family businesses involved in the mobile amusement industry, we would like to register our comments regarding the proposed ordinance on commercial exhibition of wild animals in the City of Sacramento.

Since 1965 the OABA has represented carnivals, circuses, food and game concessionaires and others associated with the mobile, outdoor amusement business, which operate at state and county fairs, festivals and other civic, religious or philanthropic activities such as Shrine Temple fundraising events. In addition to our agricultural exhibitors, OABA also represents approximately 60 circuses, animal acts and petting zoo members, providing safe, affordable, "G" rated, family entertainment and education at venues throughout the U.S. The vast majority of these exhibitors are small, family owned operators, many of whom represent several generations of animal trainers working with exotic and domestic animals. They are experienced in their craft and dedicated to the care and well being of the animals that are, in many respects, part of their extended families. It is a 24/7 commitment where no one sits down to a meal until the animals have been fed and no one goes to bed at the end of the day until the animals are cared for.

The OABA supports comprehensive regulations that protect the health and well being of all animals and we appreciate the opportunity to provide our comments to the committee.

As a threshold matter, however, we feel it is necessary to point out that animal exhibitors are already regulated at the federal level as USDA-licensed exhibitors under the Animal Welfare Act, as well as at the state level by the California Department of Fish and Game. Both entities require permits and inspections and subject exhibitors to myriad rules and regulations governing housing, care, transport and other requirements designed to ensure the health and well-being of the animals on exhibit.

Should, however, the committee decide that there is a need for additional oversight and regulation at the local level, we would suggest that it should apply to ALL animals exhibited – commercial or otherwise -- rather than singling out "wild" animals and commercial exhibitors, as we do not completely understand the distinction.

With regard to the specific proposal before the committee, we respectfully submit the following comments regarding the proposed ordinance:

Sec. 9.44.820 – Permit Requirements

The 30-day requirement for a permit application may cause unnecessary hardship for some of our member exhibitors. As many of our members are small businesses who will be adversely impacted if forced to turn away potential engagements under this requirement, we ask that the committee reconsider a shorter application time period.

Sec. 944.830 –Regulations

OABA members support responsible animal ownership and exhibition and we, therefore, support efforts to enact and enforce comprehensive animal welfare regulations. Given the level of expertise and experience of our members, many of whom represent multiple generations of animal handlers and trainers, we would ask that the Animal Care Service Manager engage all stakeholders in the process of promulgating effective and enforceable regulations.

Sec 9.44.850 – Inspections

The U.S. Department of Agriculture (USDA) requires that individuals and organizations that exhibit animals to the public be licensed and regulated under the federal Animal Welfare Act (AWA). Under the AWA, the Animal Plant and Health Inspection Service (APHIS) conducts regular, unannounced inspections of licensees. The rules governing the hours of inspection and the requirements for the housing and care of animals are outlined in the regulations accompanying the AWA and we ask that, to the fullest extent possible, the Committee conform its inspection authority to a similar sets of rules – or in the alternative, provide more specifics about the appropriate times and means of inspection and requirements for housing and care so that exhibitors will be better able to comply and inspections can be conducted effectively without disrupting normal business activities, exhibitions or husbandry routines.

Thank you for your time and consideration of our comments. Should you need any additional information about the OABA or its activities, or any of the comments submitted today, please do not hesitate to contact me.

Sincerely,



Robert Johnson
President

Outdoor Amusement Business Association, Inc.
1035 S. Semoran Blvd #1045A * Winter Park, FL 32792
407-681-9444 * fax 407-681-9445 * 1-800-517-OABA
oaba@aol.com * www.oaba.org