

1 [Health Code - Wild or Exotic Animals for Public Entertainment or Amusement]

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3 **Ordinance amending the Health Code to prohibit the performance of wild or exotic**
4 **animals for public entertainment or amusement.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Environmental Findings. The Planning Department has determined that the
14 actions contemplated in this ordinance comply with the California Environmental Quality Act
15 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
16 the Clerk of the Board of Supervisors in File No. 150191 and available on the Board's
17 website and is incorporated herein by reference. The Board affirms this determination.

18 Section 2. The Health Code is hereby amended by adding Article 1B, consisting of
19 Sections 1B.1-1B.9, to read as follows:

20 **ARTICLE 1B: PERFORMANCE OF WILD OR EXOTIC ANIMALS**

21 **FOR PUBLIC ENTERTAINMENT OR AMUSEMENT**

22 **SEC. 1B.1. Statement of Purpose.**

23 **SEC. 1B.2. Definitions.**

24 **SEC. 1B.3. Performance of Wild or Exotic Animals Prohibited.**

25 **SEC. 1B.4. Exemptions.**

1 **SEC. 1B.5. Implementation and Enforcement.**

2 **SEC. 1B.6. Penalties.**

3 **SEC. 1B.7. Undertaking for the General Welfare.**

4 **SEC. 1B.8. No Conflict With Federal or State Law.**

5 **SEC. 1B.9. Severability.**

6
7 **SEC. 1B.1. STATEMENT OF PURPOSE.**

8 The purpose of this Article 1B is to protect wild and exotic animals from cruel and inhumane
9 treatment and to protect the public from the danger posed by the use of wild and exotic animals for
10 entertainment.

11
12 **SEC. 1B.2. DEFINITIONS.**

13 For purposes of this Article 1B:

14 “Cause a Performance” means to be responsible for the management of a Performance, to
15 financially benefit as an owner or operator from a Performance, or to sponsor a Performance.

16 “Companion Animal” means any type of animal that is commonly kept by persons as a pet or
17 for companionship and includes but is not limited to (a) domesticated dogs, (b) domesticated cats, (c)
18 ferrets, (d) gerbils, (e) guinea pigs, (f) hamsters, (g) horses, (h) mice, (i) rabbits, and (j) rats.

19 “Domestic Animal” means any animal that is Livestock, a Companion Animal, or both.

20 “Educational Activities” means teaching or instructing with the intent of imparting knowledge
21 to others.

22 “Livestock” means (a) poultry, (b) cattle, (c) swine, (d) sheep, (e) goats, (f) horses, (g) donkeys,
23 and (h) mules.

24 “Performance” means any public showing, presentation, display, exposition, fair, act, circus,
25 ride, trade show, petting zoo, carnival, parade, race, photographic opportunity, exhibition, or similar

1 undertaking in which animals are required to perform tricks, fight, or participate as accompaniments
2 for the entertainment, amusement, or benefit of an audience.

3 “Person” means any individual, establishment, firm, association, organization, partnership,
4 trust, corporation, or company.

5 “Wild or Exotic Animal” means any non-Domestic Animal. “Wild or Exotic Animal” includes
6 but is not limited to the following orders or families, or similar orders or families, whether bred in the
7 wild or in captivity, and any hybrid with Domestic Animals. The examples identified in parentheses are
8 not intended to be an exhaustive list and do not limit the generality of each group of animals, unless
9 otherwise specified:

10 (a) Non-human primates and prosimians (chimpanzees and monkeys)

11 (b) Felidae (except domesticated cats)

12 (c) Canidae (except domesticated dogs)

13 (d) Ursidae (bears)

14 (e) Proboscidea (elephants)

15 (f) Cetacea (whales, dolphins, porpoises)

16 (g) Crocrodilia (alligators, crocodiles)

17 (h) Marsupialia (kangaroos, opossums)

18 (i) Reptilia

19 (j) Perissodactyla (rhinoceroses, tapirs, zebras, but not horses, donkeys, or mules)

20 (k) Artiodactyla (hippopotamuses, giraffes, camels, but not cattle, swine, sheep, or
21 goats)

22 (l) Hyaenidae

23 (m) Mustelidae (skunks, weasels, otters, badgers)

24 (n) Procyonidae (raccoons, coatis)

25 (o) Edentata (anteaters, sloths, armadillos)

1 (p) Viverridae (mongooses, civets, genets)

2 (q) Pinnipedia (seals, sea lions, walruses)

3 (r) Struthioniformes (ostriches)

4 (s) Casuariiformes (emus)

5 Notwithstanding the above, reptilia under 8 feet in length and snakes and reptiles of non-venomous
6 variety are not Wild or Exotic Animals.

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8 **SEC. 1B.3. PERFORMANCE OF WILD OR EXOTIC ANIMALS PROHIBITED.**

9 It shall be unlawful for any Person to Cause a Performance of any Wild or Exotic Animal on
10 any public or private property within the City and County of San Francisco.

11
12 **SEC. 1B.4. EXEMPTIONS.**

13 (a) The following are exempt from the provisions of this Article 1B:

14 (1) The involvement of animals in animal-related Educational Activities.

15 (2) The involvement of animals in activities or enterprises endorsed or accredited by
16 any of the following: the Association of Zoos and Aquariums, the ~~American Sanctuary Association~~
17 Global Federation of Animal Sanctuaries, and the American Alliance of Museums.

18 (3) The diagnosis or treatment of animals by veterinarians in the course of a
19 veterinarian's practice of veterinary medicine.

20 (4) The otherwise lawful use of animals for therapeutic purposes by persons who are
21 physically or mentally disabled.

22 (b) In its discretion, the Animal Care and Control Department may on a case-by-case basis
23 grant an exemption from the provisions of this Article 1B following a written application for an
24 exemption, where the proposed activity or enterprise is substantially similar in nature or purpose to an
25 exemption provided in this Section 1B.4.

1 **SEC. 1B.5. IMPLEMENTATION AND ENFORCEMENT.**

2 Section 1B.3 shall be implemented and enforced by the Animal Care and Control Department
3 with the support of the Police Department in the exercise of its ordinary law enforcement duties, and
4 the support of other City agencies as appropriate. The Animal Care and Control Department may
5 issue rules, regulations, or guidance consistent with this Article 1B to further the purpose of the Article.

6
7 **SEC. 1B.6. PENALTIES.**

8 (a) Any Person who violates Section 1B.3 shall be guilty of a misdemeanor. The penalty upon
9 conviction shall be imprisonment in the County Jail for a period not to exceed one year or by a fine not
10 exceeding \$1,000, or by both fine and imprisonment.

11 (b) The City Attorney may maintain an action for injunction to enforce Section 1B.3, to cause
12 the correction of any such violation, and for assessment and recovery of a civil penalty for such
13 violation pursuant to subsection (c).

14 (c) Any Person who violates Section 1B.3 may be liable for a civil penalty not to exceed \$1,000
15 for each violation. Each Wild or Exotic Animal in each Performance shall constitute a separate
16 violation. Such penalty shall be assessed and recovered in a civil action brought in the name of the
17 people of the City and County of San Francisco by the City Attorney in any court of competent
18 jurisdiction. In assessing the amount of the civil penalty, the court may consider any one or more of the
19 relevant circumstances presented by any of the parties to the case including, but not limited to, the
20 following: the nature and seriousness of the violations, the number of violations, the persistence of the
21 violations, the length of time over which the violations occurred, the willfulness of the Person charged
22 with the violations, and the assets, liabilities, and net worth of the Person charged with the violations.
23 The City Attorney also may seek recovery of the attorney's fees and costs incurred in bringing a civil
24 action for injunction or civil penalties pursuant to this section.

1 **SEC 1B.7. UNDERTAKING FOR THE GENERAL WELFARE.**

2 In enacting and implementing this Article 1B, the City is assuming an undertaking only to
3 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
4 obligation for breach of which it is liable in money damages to any person who claims that such breach
5 proximately caused injury.

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7 **SEC. 1B.8. NO CONFLICT WITH FEDERAL OR STATE LAW.**

8 Nothing in this Article 1B shall be interpreted or applied so as to create any requirement,
9 power, or duty in conflict with any federal or state law.

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11 **SEC. 1B.9. SEVERABILITY.**

12 If any section, subsection, sentence, clause, phrase, or word of this Article 1B, or any
13 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
14 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
15 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
16 passed this Article and each and every section, subsection, sentence, clause, phrase, and word not
17 declared invalid or unconstitutional without regard to whether any other portion of this Article or
18 application thereof would be subsequently declared invalid or unconstitutional.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor’s veto of the ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 BRADLEY A. RUSSI
5 Deputy City Attorney

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