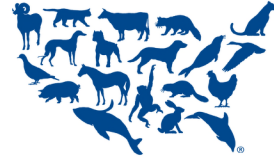


PERFORMING ANIMAL
WELFARE SOCIETY



pawsweb.org

PETA
FOUNDATION



**THE HUMANE SOCIETY
OF THE UNITED STATES**

November 7, 2019

Mr. Dov Lesel
Assistant City Attorney
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: Additional comments on Council File 16-1357, An ordinance to limit the exhibition of wild or exotic animals in the city

Dear Mr. Lesel:

On behalf of the Performing Animal Welfare Society, the Humane Society of the United States, PETA and the PETA Foundation, and our collective supporters, we express our strong support for an ordinance to effectively address the permitting of wild or exotic animals in exhibitions in Los Angeles. We expressed concerns regarding the proposed language for the ordinance in our letter of September 30, 2019, as well as at the PAW Committee meeting on October 2, 2019.

On October 10, 2019, we participated in a meeting you organized during which attendees were asked to address these items: definition of dangerous animal and definition of a performing animal act. We offer the following recommendations for that language, along with a definition of "circus," which is not included in the current ordinance language. In addition, we must stress the importance of the additional language we originally proposed in our September 30 letter: *the City should not permit dangerous animals to be used in educational/conservation presentations and the City should not permit any public contact with dangerous animals*. Please see our suggested language and explanations below.

Proposed Definition of Dangerous Animal

Dangerous Animal. A Wild or Exotic Animal that poses an inherent risk of harm to human safety or health, or property because of its strength, size, physical characteristics, instinctual behavior, or risk of disease transmission. Dangerous Animal includes, but is not limited to, the following Wild or Exotic Animals, regardless of age:

1. Bears
2. Nondomestic canids

3. Crocodiles and alligators
4. Elephants
5. Nondomestic feliforms
6. Kangaroos and wallabies
7. Marine mammals
8. Primates
9. Sharks
10. Venomous snakes
11. Nondomestic ungulates (such as hippopotamuses, giraffes, zebras, rhinoceroses, tapirs)

Explanation:

During the October 10, 2019, meeting, City officials explained that they are using a list of Dangerous Animals provided by the U.S. Department of Agriculture (USDA). However, it is not clear where the USDA maintains this list of animals since “dangerous animal” is not defined in the federal Animal Welfare Act or its regulations. One regulation, 9 C.F.R. § 2.131(d)(3), lists dangerous animals to include “lions, tigers, wolves, bears, or elephants.” Elsewhere, at 9 C.F.R. § 3.127(d), the list includes “large felines (e.g., lions, tigers, leopards, cougars, etc.), bears, wolves, rhinoceros, and elephants.” Moreover, the USDA does not regulate reptiles, birds, or fish.

These vague, non-exhaustive lists have led to ad hoc, inconsistent implementation of federal law. For example, the USDA deems elephants dangerous and cautions its own inspectors against approaching or touching them, yet it allows exhibitors to offer elephant rides to the public. Los Angeles can avoid making these same mistakes by delineating Dangerous Animals and ensuring that those animals are not used for public contact or off-site exhibition.

In recognition that it must clarify and update existing regulations, the USDA recently sought public input on which animals it should bar from public contact and which animals it should consider dangerous. In its [request for comments](#),¹ the agency explained that it considers the following characteristics when classifying an animal as dangerous:

- The “size, strength, and instinctual behavior of an animal”
- The “risk of disease transmission between animals and humans (i.e., zoonoses such as Herpes B)”
- The “ability to safely and humanely handle (or control) the animal in all situations”

We suggest that the City use these factors as well. For a full discussion of how these factors apply to the taxa that we have suggested for inclusion in the definition of Dangerous Animal, please see PETA’s [comments to the USDA](#), authored by captive wildlife veterinarian Dr. Heather Rally.

Use of Dangerous Animals in Off-Site Exhibits/Public Contact

We propose the following additional amendments pertaining to Dangerous Animals.

¹ The agency has not yet proposed draft rules.

Add the following prohibition to Sec. 53.39.1:

- **Prohibition – Dangerous Animals.**
 - No person shall exhibit, and the Department shall not issue a permit for, a Dangerous Animal in connection with an off-site Conservation or Educational Presentation.
 - No person shall allow public contact with a Dangerous Animal.
- Delete paragraph 6 from Sec. 53.39.1(c)(6) (pertaining to permit requirements for off-site Conservation or Educational Presentations using Dangerous Animals)

Explanation

We understand that City Council specifically requested an exemption for conservation-related programs or presentations and are not asking for that exemption to be removed. However, the resolution states that only *legitimate* presentations are to be exempted. The current definition of Conservation or Educational Presentation does not provide guidance on what is “legitimate.” We’ve seen agencies across the country struggle with making this kind of determination. There is no accrediting body or certification program that evaluates the use of wild animals as teaching tools. In most cases, as long as the exhibitor *says* their show is educational, an agency will take that assurance at face value. As a result, exploitative exhibitors have rebranded their acts as “educational” shows *specifically* to get around ordinances like this one.

As a solution, we propose that the City prohibit the use of Dangerous Animals in off-site exhibition or for public contact. The animals represented in the narrowly tailored list are primarily exploited for *entertainment*; they are not used in legitimate conservation education programs because their presence in a classroom or other uncontrolled setting endangers humans, animals, and property.

By prohibiting the use of Dangerous Animals in off-site Conservation or Educational Presentations the ordinance would more fully support Councilmember Ryu’s aim to prohibit wild animals at house parties, which have exhibited dangerous animals such as a lion and an elephant. Our proposed language prevents anyone from bringing a dangerous animal to an in-home event, together with an “educator,” and claiming to provide an education/conservation presentation.

The current language of the ordinance would also avoid problems likely to arise by the proposed split permitting that would allow exhibitors to obtain an annual permit for an exhibition that does not include a dangerous animal, but requires them to get a separate permit for the exhibition of dangerous animals. There is no guarantee that an exhibitor would in fact seek a separate permit – and Animal Services will never know, unless there is an incident.

The reasons that dangerous animals should not be allowed for off-site Conservation or Educational Presentations should be obvious, but they include:

- Educational/conservation presentations are held in venues that include schools, libraries, assemblies, birthday parties, school festivals, science nights and community events – all of which are highly uncontrolled situations.

- The public and the animals are in close proximity, with no barriers or other safety elements required, increasing risk for the public and the animals.
- Exhibitors may use educational/conservation presentations as a cover to bring a dangerous animal to a private event, as they can charge more for these animals.

It should be noted that conservationists generally do not feature animals at their presentations or fundraisers. For example, Dr. Jane Goodall does not use chimpanzees as an accompaniment for her presentations.

Proposed Definition of Performing Animal Show

Performing Animal Show. Any traveling exhibition, fair, act, ride, or similar undertaking in which animals are required to perform tricks, give rides, or are used as accompaniments for the entertainment, amusement, or benefit of a live audience, whether or not a fee is charged. “Traveling” means any display of animals where such animals are transported to, from, or between locations for the purpose of such display.

Explanation

This definition echoes the definitions that have been adopted in several states to ban the use of wild animals in traveling entertainment acts.

For example, New Jersey’s Nosey’s Law, N.J. Stat. Ann. § 23:2A-16(a), uses the following language:

“Performance” means any animal act, carnival, circus, display, exhibition, exposition, fair, parade, petting zoo, presentation, public showing, race, ride, trade show, or similar undertaking in which animals perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of a live audience.

“Traveling animal act” means any performance which requires an animal to be transported to or from the location of a performance in a mobile or traveling housing facility.

Likewise, New York’s Elephant Protection Act, N.Y. Agric. & Mkts. Law § 380(4)(b), uses the following language:

“Entertainment act” means any exhibition, act, circus, trade show, carnival, ride, parade, race, performance or similar undertaking which is primarily undertaken for the entertainment or amusement of a live audience.

And Illinois’ ban on the use of elephants for entertainment, 720 Ill. Comp. Stat. Ann. 5/48-11(a), includes these definitions:

“Performance” means an exhibition, public showing, presentation, display, exposition, fair, animal act, circus, ride, trade show, petting zoo, carnival, parade, race, or other similar undertaking in which animals are required to perform tricks, give rides, or participate as accompaniments for entertainment, amusement, or benefit of a live audience.

“Traveling animal act” means any performance of animals where animals are transported to, from, or between locations for the purpose of a performance in a mobile or traveling animal housing facility.

Proposed Definition of Circus

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

Explanation:

This is the definition of the term given in Senate Bill 313, the Circus Cruelty Prevention Act, which was signed into law on October 12, 2019, and goes into effect on January 1, 2020.

As requested, accompanying each signatory below are brief credentials. We look forward to working with you further on this important animal protection measure.

Sincerely,

Catherine Doyle, MS
Director of Science, Research and
Advocacy
Performing Animal Welfare Society
323-301-5730

Cdoyle@pawsweb.org

17+ years of experience in captive wildlife welfare. Holds a master’s degree in Anthrozoology with a research focus on animal behavior. Leads PAWS’ college-level educational program. Serves on the Steering Committee for the Big Cat Sanctuary Alliance and Advisory Board for The Whale Sanctuary Project; founding member of the Bear Education and Resource Alliance.

Nicole G. Paquette
Chief Programs and Policy Officer
The Humane Society of the United States
Attorney with 20+ years of experience in the animal protection field, with a focus on legislation, litigation, campaigns, and organizational governance. Has introduced and passed laws relating to dangerous wild animals in private possession, animals in entertainment and a range of wildlife issues.

Ed Stewart
President and Co-Founder
Performing Animal Welfare Society
35+ years of experience managing captive wild animals, including elephants, big cats, primates, bears and other species at PAWS’ three sanctuaries. Serves on the Director's Advisory Committee on the Humane Care and Treatment of Wild Animals for the California Department of Fish & Wildlife, and on the Advisory Committee for the Detroit Zoological Society’s Center for Zoo Animal Welfare.

Rachel Mathews, Esq.
Deputy Director
Captive Animal Law Enforcement
PETA Foundation
Attorney with approximately seven years of experience in captive wildlife law and policy, with a focus on circuses and other itinerant wild animal exhibits. Leads effort to ensure enforcement of local, state, and federal laws with respect to wild animals in entertainment.

Julia Galucci
Senior Officer and Primatologist
Corporate Responsibility
PETA

Primatologist with approximately 20 years of experience in the captive management of apes and other primates. Consultant for a number of primate-care facilities in the U.S. Member of the Global Federation of Animal Sanctuaries' Primate Scientific Advisory Group, and the North American Primate Sanctuary Alliance's board of professionals.

Dr. Heather Rally, DVM
Supervising Veterinarian
Captive Animal Law Enforcement
PETA Foundation

Veterinarian with training in wildlife medicine and forensic pathology and a background in marine mammal rescue and rehabilitation. Serves as an adjunct professor at Vermont Law School, co-teaching a course on Animal Welfare Law.

Lisa Wathne
Senior Strategist
Captive Wildlife Protection
The Humane Society of the United States

Close to 30 years of experience in animal protection, with a focus on captive wild animal issues to monitor, educate, and enact policy regarding traveling wild animal exhibits, roadside zoos and the private possession of wild animals.

Debbie Leahy
Senior Strategist
Captive Wildlife Protection
The Humane Society of the United States

25 years of experience in captive wildlife protection with a focus on roadside and traveling zoos, circuses, and exotic pets. Experience include advocacy campaigns, regulatory and legislative policy reforms, and coordinating rescues.

Rebecca Smudzinski, MS
Captive Wildlife Specialist
Captive Animal Law Enforcement
PETA Foundation

Seven years of experience as a caregiver and veterinary technician at accredited sanctuaries and zoos. Worked with mammals, birds, and reptiles, including great apes and other primates, big cats, elephants, ungulates (including giraffes and rhinoceroses), and nondomestic canids (including African wild dogs and foxes). Holds a master's degree in conservation biology.

cc: Brenda Barnette, General Manager, LA Animal Services
Councilmember Paul Koretz
Councilmember John Lee
Councilmember Curren Price
Councilmember David Ryu
David Hersch, Deputy Chief of Staff for Councilmember Koretz
Justin Orenstein, Director of Policy & Legislation for Councilmember Ryu