Nancy E. Glowa
City Solicitor

Arthur J. Goldberg
Deputy City Solicitor

Vali Buland
First Assistant City Solicitor

Assistant City Solicitors

Paul S. Kawai
Samuel A. Aylesworth
Keplin K. U. Allwaters
Anne Sterman
Sean McKendry

CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

October 19, 2015

Richard C. Rossi
City Manager
City Hall
Cambridge, MA 02139

Re: Policy Order No. O-12 of 9/15/14 re: Request for a Legal Opinion on the Proposed Amendment to the Municipal Code entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses."

Dear Mr. Rossi:

This legal opinion is provided relative to a proposed amendment to the Cambridge Municipal Code to add an ordinance pertaining to wild and exotic animals used in traveling shows and circuses. On March 17, 2014, a citizen group submitted to the City Council a petition to amend the Cambridge Municipal Code by adding a new Section 6.18 that would be entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses" (hereinafter "Proposed Ordinance"), a copy of which is attached hereto as Exhibit "A." The Proposed Ordinance purports to "protect the public against hazards that wild and exotic animals used in traveling shows and circuses pose to society and to protect wild and exotic animals from cruel and inhumane treatment." The Proposed Ordinance provides that it "shall be unlawful for any person to conduct, sponsor, or operate a traveling show or circus that includes wild or exotic animals on any public or private land within the City of Cambridge . . . ."

I. Background

Policy Order Resolution No. O-12 of 9/15/14 states that "the City Manager be and hereby is requested to instruct the City Solicitor to provide a legal opinion to the City Council on the proposed amendment to the Municipal Code entitled 'Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses' as follows: the legality of the proposal and provide feedback on any changes or alternatives necessary to the

proposal" and "whether criminal fines can be issued as contained in Section V[1] entitled 'Penalty.'" Policy Order No. O-13 of 9/15/14 states that "the City Manager be and hereby is request to report back to the City Council on . . . the educational provision in Section VI of the proposed ordinance" and to "provide copies of the proposals to ban exotic animals from Somerville and Plymouth to members of the Ordinance Committee."

Although the City currently has an ordinance, §6.04.070 of the Cambridge Municipal Code, which provides that "no person shall publicly exhibit any animal in the streets or public places of the City except in accordance with a permit from the Superintendent of Streets," the Proposed Ordinance goes further in that it would completely prohibit any circus or traveling show from conducting, sponsoring or operating a traveling show or circus that includes "wild or exotic animals" as defined in the Proposed Ordinance.

II. Discussion

A. Legality of the Proposed Ordinance

The Proposed Ordinance provides for the imposition of civil penalties of $5,000.00 per animal for each violation, and criminal penalties which include imprisonment for up to one year.[2] G.L. c. 40, §21[3] provides that municipalities are limited to penalties of $300.00 or less for any ordinances related to "managing their prudential affairs, preserving peace, and good order . . . ," unless otherwise provided by statute. G.L. c. 40, §21. Therefore, the penalties provided in the Proposed Ordinance may not exceed $300 per violation per day. [4]

While there is some authority for allowing criminal prosecution with respect to violations of certain city ordinances, generally arrest, detention and imprisonment is not

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[1] Because the Cambridge Municipal Code ("Code") does not refer to roman numerals for sections in the various ordinances, I have changed the formatting of the Proposed Ordinance to comport with formatting presently in the Code, as depicted in Exhibit "B," which contains my proposed edits, amendments and changes to the Proposed Ordinance. Section V of the Proposed Ordinance has been reformatted to read "Section 6.18.050 Penalty," and Section VI of the Proposed Ordinance has been reformatted to read "Section 6.18.060 Exceptions."

[2] There are many other jurisdictions in Massachusetts which ban the use of wild animals for entertainment in some manner or another. See, e.g., Plymouth Town Bylaws, Section 23-19 (providing for a 25, 50 and 100 dollar fine); Somerville Code of Ordinances, Section 3-39 (providing for a 100, 200 and 300 dollar fine); Weymouth Code of Ordinances, Section 6-702 (providing for a 50 dollar fine).

[3] Made applicable to cities under G.L. c. 40, §1.

[4] It should be noted that G.L. c. 272, §77 provides that "Whoever . . . overworks . . . cruelly beats . . . a live animal . . . or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 7 years . . . or by a fine of not more than $5,000 or by both fine and imprisonment . . .." Thus, there is a state criminal law related to cruelty to animals which provides for a higher fine. Additionally, G.L. c. 272, §77B provides for a $200.00 fine for exhibition of a wild animal for purpose of attracting trade (with an exclusion for circuses or theatrical exhibitions).

appropriate for violation of a city ordinance.[5] Constitution of the Commonwealth of Massachusetts, Article 89, Section 7 (prohibiting the imposition of imprisonment for violation of a City ordinance without enabling legislation); Randall and Franklin, Municipal Law and Practice, Mass Practice, 18 MAPRAC §15 (2014). Therefore, the criminal penalty of imprisonment of one year that is provided in the Proposed Ordinance is not legally permissible.

However, G.L. c. 40, §21 does allow for the imposition of criminal penalties of up to $300 for violation of City ordinances (unless otherwise provided in the general laws) by indictment in the district court. G.L. c. 40, §21. Therefore, the Proposed Ordinance could provide for the imposition of criminal penalties of up to $300 per violation. Because the criminal prosecution of ordinances is treated under a stricter standard than the standard for civil enforcement proceedings, I recommend that the Proposed Ordinance provide for non-criminal penalties of the $300 fine per violation pursuant to G.L. c. 40, §21D (which is consistent with the penalty provisions in similar ordinances of other municipalities as referenced in footnote 2 above.) In accordance with the above discussion, I have suggested changes to the Proposed Ordinance, as shown on Exhibit "B," attached hereto.

Further, the City is preempted with regard to any proposed regulation relating to railways, an area of almost exclusive jurisdiction of the federal government.[6] I recommend deleting the phrase "and it shall be unlawful for any person to use the railway system through Cambridge to transport any wild or exotic animals to be used in a traveling show or circus" from the last part of the Section 6.18.040 of the Proposed Ordinance. See suggested changes on Ex. "B." [7]

B. Feedback on Changes or Alternatives to the Proposed Ordinance

I recommend that the description of the enforcement personnel be changed to reflect the nomenclature of existing City positions. The Proposed Ordinance notes "Police officers, humane investigators, and the City's Animal Service Officers" are entitled to enforce the Proposed Ordinance. This should be changed to "Police officers, Park Rangers, the Director of the Animal Commission or his or her designee," consistent with the proposed Animal Control Ordinance. See suggested changes on Ex. "B".

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[5] There are some laws which allow for arrest and detention for violation of a local ordinance under limited circumstances, none of which apply here. See, G.L. c. 272, §59; G.L. c. 272, §60.

[6] See, e.g., Bay Colony RR Corp. v. Town of Yarmouth, 470 Mass. 515, 23 N.E. 3d 908 (2015)(holding that "the preemptive scope of the act's preemption clause is 'purposefully expansive . . . . The act preempts State laws 'having a connection with, or reference to' carrier 'rates, routes, or services' even if the law's effect on rates, routes, or services 'is only indirect' and irrespective of whether the law is 'consistent' or 'inconsistent' with Federal regulation.'") (citations omitted).

[7] Jacquie Gambarini, one of the proponents of the Proposed Ordinance, stated by email that the proponents would also like to strike this language to prevent future issues and concerns. A copy of this email is attached as Exhibit "C."

I also recommend making clear that walking or exhibiting animals through the streets in Cambridge is prohibited under this proposed ordinance because of the stated concerns and discussion at the June 30, 2014 Ordinance Committee meeting related to the walking of wild and exotic animals through Cambridge.[8] I have included the words "exhibit" and "walk" in the prohibition section of the Proposed Ordinance, and included additional language in the definition of "Traveling Show," as shown on Ex. "B."

C. Educational Provisions of Proposed Ordinance

There does not appear to be any explicit educational provisions in Section VI of the Proposed Ordinance. Section VI provides that the provisions of the Proposed Ordinance "shall not apply to: 1. Institutions accredited by the American Zoo and Aquarium Association, or 2. any wildlife sanctuary[9] as defined under this ordinance." If the City Council desires to add a provision excepting educational programs which utilize wild or exotic animals, such provision could be added to the Proposed Ordinance.

Copies of the requested Somerville Code of Ordinances, Section 3-39 (Display of non-domesticated animals), and the Plymouth Town Bylaws, Chapter 23, Article IV (Wild Animals) are attached hereto as Exhibits "E" and "F."

Very truly yours,

Nancy E. Glowa

[8] See Cambridge City Council Committee Report #1, dated June 30, 2014 attached as Exhibit "D".

[9] The Proposed Ordinance defines a "Wildlife sanctuary" as "a 501(c)(3) organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code 1986, and its subsequent amendments where: 1. No commercial trade in animals occurs (including, but not limited to, sales of animals, animal parts, by-products, offspring, photographic opportunities or public events for financial profit, or any other entertainment purposes), 2. No propagation of animals occurs in the facility, and 3. No unescorted public visitation is allowed; no direct contact between the public and wild animals is allowed; animals are not taken from the sanctuary or enclosures for exhibition."

Exhibit "A"

Ordinance No. 6.18

AN ORDINANCE OF THE CITY OF CAMBRIDGE

2014 MAR 3 PM 7 35

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

PROHIBITING THE USE OF WILD AND EXOTIC ANIMALS IN TRAVELING SHOWS AND CIRCUSES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAMBRIDGE

SECTION I. Intent 6.18.010

It is the intent of the Cambridge City Council to protect the public against hazards that wild and exotic animals used in traveling shows and circuses pose to society and to protect wild and exotic animals from cruel and inhumane treatment.

SECTION II. Definitions 6.18.020

For the purpose of this chapter only, the following words and terms shall be deemed to mean and to be construed as follows:

A. "Circus" means a class C licensee that is licensed under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments, regulations, and standards adopted pursuant to the Act, that offers performances by live animals, clowns, and/or acrobats.

B. "Person" means an individual, partnership, corporation, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative of these.

C. "Traveling show" means any mobile or stationary act, circus, public show, trade show, photographic opportunity, carnival, city or county fair, agricultural fair, ride, parade, race, performance, or similar undertaking incorporating wild or exotic animals wherein the animals are taken from their permanent residence and required to travel for any distance.

D. "Wild or exotic animal" means any or all of the following orders and families, whether born in the wild or in captivity, and also any or all of their hybrids with domestic species. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

1. Non-human primates and prosimians (such as chimpanzees, baboons, monkeys, etc.) – All species.
2. Felidae (such as lions, tigers, cougars, leopards, ocelots, servals, etc.) - -- All species except domestic cats.
3. Canidae (such as wolves, coyotes, etc) -- All species except domestic dogs.
4. Ursidae (such as bears) – All Species.
5. Marsupialia (such as kangaroos, etc.) – All species.
6. Proboscidae (such as elephants) – All species.
7. Crocodilia (such as crocodiles, alligators, etc.) -- All species.
8. Squamata (all species of snakes only)

9. Artiodactyla (such as hippopotamuses, giraffes, camels, etc.) – All species except domestic cattle, swine, sheep, or goats.
10. Perissodactyla (such as zebras, rhinos, and tapirs) – all species except domestic horses, donkeys, or mules.
11. Struthioniformes (such as ostriches) – All species.
12. Casuariiformes (such as emus) – All species.

E. "Wildlife sanctuary" means a 501(c)(3) organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code 1986, and its subsequent amendments where:

1. No commercial trade in animals occurs (including, but not limited to, sale of animals, animal parts, by-products, offspring, photographic opportunities or public events for financial profit, or any other entertainment purposes),
2. No propagation of animals occurs in the facility, and
3. No unescorted public visitation is allowed; no direct contact between the public and wild animals is allowed; animals are not taken from the sanctuary or enclosures for exhibition.

SECTION III Prohibition 6.18.030

It shall be unlawful for any person to conduct, sponsor, or operate a traveling show or circus that includes wild or exotic animals on any public or private land within the City of Cambridge and it shall be unlawful for any person to use the railway system through Cambridge to transport any wild or exotic animals to be used in a traveling show or circus.

SECTION IV Enforcement 6.18.040
Police officers, humane investigators, and the City's Animal Service Officers shall have the power and authority to enforce the provisions of this chapter and perform all duties imposed by the provisions of this ordinance.

SECTION V Penalty 6.18.050
Any person, firm, or corporation violating this section shall be fined not more than $5000.00 dollars per animal or be imprisoned not more than one year, or both.

SECTION VI Exceptions 6.18.060
The provisions of this section shall not apply to:
1. Institutions accredited by the American Zoo and Aquarium Association, or
2. Any wildlife sanctuary as defined under this ordinance.

Exhibit "B"

Chapter 6.18 EXOTIC ANIMAL ORDINANCE

Sections:

6.18.010 Intent.

6.18.020 Definitions.

6.18.030 Prohibition.

6.18.040 Enforcement.

6.18.050 Penalty.

6.18.060 Exceptions.

Section 6.18.010 Intent.

It is the intent of the Cambridge City Council to protect the public against hazards that wild and exotic animals used in traveling shows and circuses pose to society and to protect wild and exotic animals from cruel and inhumane treatment.

Section 6.18.020 Definitions.

For the purposes of this chapter only, the following words and terms shall be deemed to mean and to be construed as follows:

A. "Circus" means a class C licensee that is licensed under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.) and its subsequent amendments, regulations, and standards adopted pursuant to the Act, that offers performances by live animals, clowns and/or acrobats.

B. "Person" means an individual, partnership, corporation, joint venture, association, trust estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative of these.

C. "Traveling Show" means any mobile or stationary act or exhibition, circus, public show, trade show, photographic opportunity, carnival, city or county fair, agricultural fair, ride, parade, race, performance, or similar undertaking incorporating wild or exotic animals wherein the animals are taken from their permanent residence and required to walk or travel for any distance.

D. "Wild or exotic animal" means any or all of the following orders and families, whether born in the wild or in captivity, and also any or all of their hybrids with domestic species. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

1. Non-human primates and prosimians (such as chimpanzees, baboons, monkeys, etc.)- all species.

2. Felidae (such as lions, tigers, cougars, leopards, ocelots, servals, etc.)-All species except domestic cats.
3. Canidae (such as wolves, coyotes, etc.)-All species except domestic dogs.
4. Ursidae (such as bears)-All species
5. Marsupialia (such as kangaroos, etc.)-All species.
6. Proboscidae (such as elephants)-All species.
7. Crocodilia (such as crocodiles, alligators, etc.)-All Species.
8. Squamata (all species of snakes only)
9. Artiodactyla (such as hippopotamuses, giraffes, camels, etc.)-All species except domestic cattle, swine, sheep or goats.
10. Perissodactyla (such as zebras, rhinos, and tapirs)-all species except for domestic horses, donkeys or mules.
11. Struthionformes (such as ostriches)-All species.
12. Casualriiformes (such as emus)-All species.

E. "Wildlife sanctuary" means a 501(c)(3) organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code 1986, and its subsequent amendments where:

1. No commercial trade in animals occurs (including, but not limited to, sales of animals, animal parts, by-products, offspring, photographic opportunities or public events for financial profit, or any other entertainment purposes),
2. No propagation of animals occurs in the facility, and
3. No unescorted public visitation is allowed; no direct contact between the public and wild animals is allowed; animals are not taken from the sanctuary or enclosures for exhibition.

Section 6.18.030 Prohibition.

It shall be unlawful for any person to conduct, sponsor, walk, exhibit or operate a traveling show or circus that includes wild or exotic animals on any public or private land within the City of Cambridge, ~~and it shall be unlawful for any person to use the railway system through Cambridge to transport any wild or exotic animals to be used in a traveling show or circus.~~

Section 6.18.040 Enforcement.

Police officers, Park Rangers, the Director of the Animal Commission or his or her designee ~~Police Officers, humane investigators, and the City's Animal Service Officers~~ shall have the power and authority to enforce the provisions of this chapter and perform all duties imposed by the provisions of this ordinance. All fines and penalties assessed and collected under this chapter may be enforced by issuance of non-criminal tickets pursuant to G.L. c. 40, Section 21D, or as otherwise authorized by law.

Section 6.18.050 Penalty.

Any person, firm, or corporation violating this section shall be fined not more than $300~~5,000~~.00 dollars per animal per day, or ~~be imprisoned not more than one year or both~~ as otherwise permitted by law.

Section 6.18.060 Exceptions.

The provisions of this section shall not apply to:

1. Institutions accredited by the American Zoo and Aquarium Association, or
2. Any wildlife sanctuary as defined under this ordinance.

Exhibit "C"

From: Jacquie Gambarini [mailto:jacquiegam@gmail.com]
Sent: Monday, May 18, 2015 1:29 PM
To: Rossi, Rich; Glowa, Nancy
Cc: Benzan, Dennis; Carlone, Dennis; ihagen@mspca.org; npaquette@humanesociety.org
Subject: Proposed Ban on Wild Animals in Circuses

To the City Manager and City Solicitor:

It has been more than a year since the Council held a public hearing to ban wild animals in circuses. There were several action items from that meeting, awaiting the City Manager and City Solicitor.

I am pasting the information directly from the Committee Report:

> *Councillor Carlone summarized the requests made by the City Council on this matter. The motion offered by Councillor Mazen as amended by Councillor Kelley and Councillor McGovern reads as follows:*
>
> ***ORDERED: That the City Manager be and hereby is requested to instruct the City Solicitor to provide a legal opinion to the City Council on the proposed amendment to the Municipal Code entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses" as follows:***
>
> ***the legality of the proposal and provide feedback on any changes or alternatives necessary to the proposal.***
>
> ***whether criminal fines can be issued as contained in Section V entitled "Penalty".***
>
> *The motion carried on a voice vote.*
>
> *Vice Mayor Benzan made the following motion:*
>
> ***ORDERED: That the City Manager be and hereby is requested to report back to the City Council on the travel route taken by the circus animals including the City streets that are used to transport the circus animals, the education provision in Section VI of the proposed ordinance entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses"; and be it further***

ORDERED: That the City Manager be and hereby is requested to provide copies of the proposals to ban exotic animals from Somerville and Plymouth to members of the Ordinance Committee.

The motion carried on a voice vote.

Councillor Carlone stated that this will be referred back to the Ordinance Committee when this information is received. The matter remained in Committee.

I am providing information below with the hope that this will help move this ordinance along.

1. According to the Cambridge Traffic office, Ringling Brothers no longer marches their elephants down Memorial Drive. Moreover, effective in 2018, Ringling Brothers will no longer use elephants in their shows.

2. The petitioners would like to strike the sentence regarding the railroad from the proposed legislation.

Given the information above (1 and 2), the action item to distinguish between city and state and any concerns regarding the railroad are no longer relevant to this issue.

Below, I am providing direct links to the Somerville and Plymouth bans.

We hope that this information and the links to the bans will hasten the response to the Cambridge City Ordinance Committee.

Thank you for your time and attention to this matter.

Sincerely,

Jacquie Gambarini

Web links to Somerville Ban and Plymouth Ban

https://www.municode.com/library/ma/somerville/codes/code_of_ordinances?nodeId=PTIICOOR_CH3AN

Section 3-39 of ARTICLE III. - NON-DOMESTICATED ANIMALS

http://www.plymouth-ma.gov/sites/plymouthma/files/uploads/bylaws_town_general_0.pdf

Sections 23-19 and 23-22

Exhibit "D"

CITY COUNCIL

Printer-friendly version

- Back to the Calendar
- Back to Table of Contents
- Hearing Schedule
- Reconsiderations
- City Manager's Agenda
- Calendar
- Awaiting Report List
- Applications and Petitions
- Communications
- Resolution List
- Policy Order and Resolution List
- Committee Reports
- Communications and Reports from City Officers

Committee Report

Committee Report #1

In City Council June 30, 2014

ORDINANCE COMMITTEE MEMBERS
Vice Mayor Dennis Benzan, Co-Chair
Councillor Dennis Carlone, Co-Chair
Councillor Leland Cheung
Councillor Craig Kelley
Mayor David Maher
Councillor Nadeem Mazen
Councillor Marc McGovern
Councillor Denise Simmons
Councillor Timothy Toomey

The Ordinance Committee will conduct a public hearing to discuss creating a new Chapter in the Cambridge Municipal Ordinance entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses".

Date and Time: Wednesday, June 4, 2014 at 5:31 PM.

Location: Sullivan Chamber

Attendees

Present

Vice Mayor Benzan, Co-Chair, Councillor Carlone, Co-Chair, Councillor Cheung, Councillor Kelley, Councillor Mazen, Councillor McGovern and Donna P. Lopez, City Clerk.

Other Attendees

Laura Hagen, Deputy Director of Advocacy, MSPCA, Jacquie Gambarini, 8 Everett Street, Mass. Voters for Animals, Lisa Landsverk, 103 Irving Street, Teresa Cardosi, 7 Woodrow Wilson Court, Dara Demetrio, 15 Foch Street, Andrea Caslovitz, 848 Mass. Avenue and John Hawkinson, 84 Mass. Avenue

Minutes

Councillor Carlone opened the hearing and stated the purpose. He announced that the hearing was being recorded by audio and visual devices. He stated that the format of the hearing would be that the presenters would be first, followed by City Staff, the City Councillors and then the hearing would be opened to public comment.

Jacqui Gambarini, 8 Everett Street, thanked all the City Councillors for holding the hearing. She thanked Councillor Cheung for sponsoring the ordinance. She stated that the Animal Welfare Act is federal legislation that oversees the treatment of animals and traveling shows; animals are not monitored. Other communities such as Quincy, Weymouth, Braintree, Charlestown, Revere, Somerville and Plymouth have banned circus animals. She is asking Cambridge to do the same.

Councillor Carlone asked if the proposal before us today is the same presented to other

communities. Ms. Gambarini stated that she is not sure.

Councillor McGovern thanked petitioners. He supports this ordinance change. He has never taken his children to the circus because of this issue. He is concerned about what can be done legally. He stated that it is his understanding that when circus animals come through Cambridge they are transported by trains though the City. He wants to ensure that the ordinance can hold up legally. Memorial Drive is outside of Cambridge's jurisdiction. He wanted a legal opinion on this to ensure that it stands up to any opposition.

Vice Mayor Benzan asked what the route is generally taken by the circus while traveling through Cambridge. Ms. Gambarini stated that it is the Grand Junction Railroad. Vice Mayor Benzan stated that it would be prudent to determine the route that the animals are being transported to and from the City. He stated that he wanted an opinion from the City Solicitor. Ms. Gambarini stated that the animals are marched down Memorial Drive. Vice Mayor Benzan stated that he also has not taken his children to the circus. The ban is important ban to protect the animals He stated his support of the ban.

Councillor Mazen stated his support for the petition. In the US circus now are geared to acrobatic acts and away from mistreatment of animals. Leaving it to circus masters caring for animals is not sufficient. Councillor Mazen made the following motion:

Ordered: That the City Manager be and hereby is requested to instruct the City Solicitor to provide a legal opinion on the proposed amendment to the Municipal Code entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses"; said opinion address the legality of the proposal and provide feedback on any changes or alternatives necessary to the proposal.

Vice Mayor Benzan stated that he wanted clarity on what route these animals travel on. He made the following motion:

Ordered: He amended the motion to add: said report to include the travel route taken by the circus animals including the City streets that are used to transport the circus animals.

Councillor McGovern asked the petitioners if there was a need to move quickly on the proposed amendment. Ms. Gambarini responded that the circus is coming in October.

Councillor Carlone commented that if Somerville has approved a similar ordinance it may be because the Grand Junction Railroad runs through Somerville.

Councillor Kelley stated that he wanted information from the City Manager as to whether criminal fines can be issued. He requested that this be added to the motion made by Councillor Mazen. The amendment carried.

Councillor Cheung stated that he supported what the petitioners are trying to accomplish.

Councillor Carlone stated that the travel route appears to be a state route.

Vice Mayor Benzan commented about the criminal penalty. In Section V entitled "Penalty" of the proposal there is a fine of $5,000. He wanted information as to how this proposed ban resembles the ban in other communities. He requested copies of the Somerville and Plymouth proposals for the next meeting.

Councillor Carlone opened the hearing to public comment at 5:48 PM.

Laura Hagen distributed written testimony **(ATTACHMENT A)***. She represents the MSPCA. She spoke about the suffering that the wild animals endure. MSPCA has opposed the use of wild exotic animals in circuses. The protection that these animals need is not provided. These issues are being considered city by city, town by town. Ms. Hagen stated that there are public safety concerns with these animals. She thanked the City Council for taking a stand on this issue. Cambridge would be the 8th City to take this stand. Councillor Carlone asked if other towns imposed a fine and how is city-owned land treated.

Ms. Hagen stated that Somerville ban only addresses transportation. She does not know if it is a criminal or non-criminal penalty. In Plymouth no permit can be issued.

Councillor McGovern asked if there is definition of exotic animal. Ms. Hagen stated that it is defined in the proposal. Domesticated animals are not included. Councillor McGovern asked if there has been opposition in other communities or from circus owners. Ms. Hagen stated that Plymouth passed a ban to prevent the Shriners' Circus. Cities and towns are acknowledging the issue of travelling shows and the treatment of

animals.

Vice Mayor Benzan stated that a birthday party was held and a contracted company was contracted and the company brought exotic animals to his house. Would this be banned? Travelling show is ambiguous. Ms. Hagen stated that other communities have exempted educational organizations that educate the public about animals. Still other communities have added MSPCA into their regulations. Vice Mayor Benzan felt that we should look at the educational provision in Section VI and add this to the report from the City Solicitor.

Lisa Landsverk stated her support for the ordinance. Circuses with wild animals are cruel because the animals are in cages. She wants Cambridge to speak up for animals.

Teresa Cardosi supported the proposal. She is glad other communities have banned this.

Dana DeMetrio read a story about an elephant named Kenny. Elephants develop like humans. Under regulations sick elephants are required to get care. This did not happen in the story about Kenny. The veterinarian was overruled by the circus owner and Kenny was required to perform. The elephant subsequently died after the performance. The treatment that Kenny received is cruel.

Andrea Caslovitz, 848 Mass. Avenue, stated that she rescued two dogs from a puppy mill. They lived in cages all their lives. We cannot change the world, but can change the world we are in.

John Hawkinson, 84 Mass. Avenue stated that the elephants exit the Grand Junction and travel down Mass. Ave. This is a city street. The concern is the travel of exotic animals on the railroad. There should be a correction to ban exotic animals on city streets. What is the intent? If it bans elephants - the route will be changed. It may be worse for the animals. He stated that the City Council should think about the ramifications and unintended consequences. The police are involved in the transportation. Criminal and non criminal offenses are addressed in the ordinances.

Vice Mayor Benzan spoke about unintended consequences of Cambridge banning exotic animals. If Cambridge implements this ban it is sending a message that this is not acceptable. Cambridge can urge Boston to take a similar action.

Councillor Carlone summarized the requests made by the City Council on this matter. The motion offered by Councillor Mazen as amended by Councillor Kelley and Councillor McGovern reads as follows:

ORDERED: That the City Manager be and hereby is requested to instruct the City Solicitor to provide a legal opinion to the City Council on the proposed amendment to the Municipal Code entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses" as follows:

the legality of the proposal and provide feedback on any changes or alternatives necessary to the proposal.

whether criminal fines can be issued as contained in Section V entitled "Penalty",

The motion carried on a voice vote.

Vice Mayor Benzan made the following motion:

ORDERED: That the City Manager be and hereby is requested to report back to the City Council on the travel route taken by the circus animals including the City streets that are used to transport the circus animals, the education provision in Section VI of the proposed ordinance entitled "Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses"; and be it further

ORDERED: That the City Manager be and hereby is requested to provide copies of the proposals to ban exotic animals from Somerville and Plymouth to members of the Ordinance Committee.

The motion carried on a voice vote.

Councillor Carlone stated that this will be referred back to the Ordinance Committee when this information is received. The matter remained in Committee.

The following e-mails were received and made part of the report:

A communication from Sarah Stewart, 207 Appleton Street, in support of the proposal to prohibit the use of wild and exotic animals in traveling shows and circuses in Cambridge (**ATTACHMENT B**).

A communication from John Tyson, 310 1/2 Pearl Street, transmitting his fervent support of the proposed ordinance (**ATTACHMENT C**).

Adjournment

On motion of Councillor Carlone the hearing adjourned at 6:14 PM.

For the Committee,

Vice Mayor Dennis Benzan, Co-Chair

Councillor Dennis Carlone, Co-Chair
Ordinance Committee

*Subsequent to the hearing Ms. Hagen forwarded additional documents (**ATTACHMENT D**).

TABLED ON MOTION OF: VICE MAYOR BENZAN on June 30, 2014
on

View attached file

ATTACHMENT A

mspca

Kindness and Care for Animals®

June 3, 2014

Cambridge City Council
City of Cambridge
795 Massachusetts Avenue
Cambridge MA 02139

Dear members,

The MSPCA strongly supports passage of Ordinance 6.18, which would prohibit the use of wild and exotic animals in traveling shows and circuses in Cambridge. Traveling shows featuring wild animal acts not only cause immense suffering to wild animals like elephants and tigers, but also present a false image of the animals they display. Inhumane training methods, such as severe restraint and striking with a bullhook (for elephants), are routine. Traveling shows and circuses are inherently inappropriate for wild animals - basic physical needs often go unmet and the animals are denied the chance to fulfill their normal behavioral and social needs.

Circuses operating in Massachusetts have been levied heavy fines for violation of the Animal Welfare Act (AWA), which only provides an absolute minimum of standard of care for animals in traveling circuses. Please find attached to this testimony a report detailing some of these violations and penalties assessed by the US Department of Agriculture, the federal agency charged with administering the AWA.

But even in the best of circumstances, wild animals in circuses are forced to act in ways wholly inconsistent with their natural behaviors and physical capabilities, in actions that may actually cause them harm. These performances not only cause stress and may result in injury to the animals; but they also create a false impression of both the nature of the animals and their relationship with people.

Cities and towns across the Commonwealth – and across the country - are recognizing not only how utterly inappropriate circus life is for wild and exotic animals, but also the risk that near-constant confinement of wild animals can pose to their citizens. Most recently, in April 2014, Plymouth became the seventh city or town in the Commonwealth to prohibit wild or exotic animals in circuses or traveling shows.

Thank you for your consideration of Ordinance 6.18. Please feel free to contact me if I may be of assistance or provide you with any further information.

Sincerely,

Laura Hagen
Deputy Director of Advocacy
617-541-5104; Lhagen@mspca.org

Lopez, Donna ATTACHMENT B

From: Sarah Stewart [sarahbstewart@yahoo.com]
Sent: Monday, June 02, 2014 6:31 PM
To: Lopez, Donna; City Council
Subject: In Favor of Prohibiting the Presence in Cambridge of Traveling Shows and Circuses that Use Wild and Exotic Animals

Dear Members of the Cambridge City Council and City Clerk Donna Lopez,

I am writing to have my comments included as part of the public hearing to discuss creating a new Chapter in the Cambridge Municipal Ordinance prohibiting the use of wild and exotic animals in traveling shows and circuses.
I am out of town for work this week or I would attend the hearing in person.
This hearing is to be conducted on Wednesday June 4th at City Hall in the Sullivan Chamber.
My comment is as follows:

I am very much in favor of prohibiting the use of wild and exotic animals in traveling shows and circuses in Cambridge. "Training" a wild animal to do "tricks" involves hurting and fear of hurt for that animal and is not a way that humans should be treating wild animals. Circuses with "trained" wild animals are not where people learn to respect animals. They learn to see animals controlled and do not see them as they should be - being animals in their animal habitat.Traveling shows featuring wild animal acts not only cause immense suffering to wild animals like elephants and tigers, but also present a false image of the animals they display and wild animals in circuses are forced to act in ways wholly inconsistent with their natural behaviors and physical capabilities, in actions that may actually cause them harm. These performances not only cause stress and may result in injury to the animals; but they also create a false impression of both the nature of the animals and their relationship with people.

I would love for Cambridge to be one of a number or cities in MA who have taken a stand against the abuse of wild animals and them being presented to the public in such twisted ways. Other Massachusetts cities and towns have taken action to protect wild animals from these practices: Quincy, Revere, Braintree, Weymouth, Somerville, Provincetown, and most recently Plymouth, have already passed similar ordinances prohibiting wild animal acts within their borders.

Probably the main reasons raised to prevent a ban on circuses and shows that use wild animals will be economic. I know that good changes happens often with short term economic loss. The economic loss and "maintaining status quo" reasons for continuing to do something that we have been doing are not good arguments to stop a change when change may be for very good reasons. Sometimes the time may have come to rethink a whole proposition. Luckily humans can evolve and become increasingly conscious and humane towards each other and other animals. At some point we were having these discussions about burning witches and bear baiting.

I hope that we can move out of the past and accept a small short term possible economic strain, and move to take a stand for the humane treatment and true presentation of wild animals and move to create a new Chapter in the Cambridge Municipal Ordinance prohibiting the use of wild and exotic animals in traveling shows and circuses.
That would be the enlightened and truly kind thing to do.

Thank you for your thoughtful consideration of my comments and I wish that I could fly back and be at this hearing in person.
Sincerely,
Sarah Stewart, 207 Appleton Street, Cambridge, MA 02138 (also a small business owner in Cambridge at 263 Concord Ave.)
617-876-6735

Lopez, Donna ATTACHMENT C

From: TYSON JOHN [tysontsuru@aol.com]
Sent: Tuesday, June 03, 2014 4:04 PM
To: Lopez, Donna
Subject: Ordinance Committee meeting

I am a long time Cambridge resident and would like to attend the Ordinance Committee meeting this Wednesday regarding creating a new Chapter in the Cambridge Municipal Ordinance Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses.
Unfortunately I have recently injured myself and will be unable to attend.
In lieu of my being able to attend, may I please add to the record my comments and fervent support of this ordinance?

In addition to my musical career (internationally touring performer and faculty of the New England Conservatory of Music) I work actively with several animal rights organizations. Even for someone who grew up thinking that animal acts in circuses were fun, it took only one video of the reality of how horribly we often treat our fellow creatures to make me understand how utterly thoughtless I had been. Of course for wild animals to perform as toys for our entertainment they must be enslaved, subjugated and abused. We are better than this! We are animals ourselves and we know that our our fellow creatures, like us, love their families, feel pain and desire to live free.

The air of Cambridge is too pure for any slave to breathe. Please add your voices of compassion and pass this ordinance!

Thank you very much.

Yours very sincerely,
John Tyson
310 1/2 Pearl Street
Cambridge, Massachusetts 02139
617 460 4653

ATTACHMENT D

From: Hagen, Laura [mailto:LHagen@mspca.org]
Sent: Wednesday, June 11, 2014 4:27 PM
To: City Council
Subject: Ordinance 6.18 hearing follow up

Dear Members of the Cambridge City Council-

Thank you again for hearing my testimony last week in support of Ordinance 6.18, that would prohibit the use of wild and exotic animals in traveling shows in circuses. I have attached a few documents for your review:

1) An electronic copy my written testimony (ATTACHMENT A)
2) A document, referenced in the written testimony, detailing USDA violations and abuse of circus animals by circuses performing in the Commonwealth
3) To assist with your review of the language of other Massachusetts wild/exotic animal circus/traveling show bans and their penalties, I have attached a document that excerpts the language of the provisions and penalties where specified.

Finally, I realized after our meeting that I may have misspoke and wanted to correct the error. I indicated that Plymouth had recently passed a ban on wild animals in circuses after having failed to pass one a number of years ago and I may have incorrectly stated that Cambridge had also previously considered this type of a ban – which, to my knowledge, they have not.

Thank you again for your time and please let me know if I can answer any additional questions for you.

Best,
Laura

****

Laura Hagen
Deputy Director of Advocacy
Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA)
350 South Huntington Avenue, Boston, MA 02130
617-541-5104 617-989-1654 (fax)

Check out our new Myspca campaign: www.mspca.org/myspca
www.mspca.org
www.fb.com/mspcaanimalactionteam
www.twitter.com/MSPCAAngell

The MSPCA's mission is to protect animals, relieve their suffering, advance their health and welfare, prevent cruelty, and work for a just and compassionate society

mspca angell

Kindness and Care for Animals®

May 30, 2014

Question: Does abuse of wild animals in circuses occur at exhibitions performing in the Commonwealth?
Short Answer: Yes. Circuses regularly performing in Massachusetts have been cited and fined by the United States Department of Agriculture (USDA) for violations of the federal Animal Welfare Act (AWA), which sets out minimal standards of care for wild animals used for exhibition. Violations have occurred in Massachusetts and in neighboring states of New York and Connecticut, as well as in myriad other states around the country. Below is a summary of recent violations or admissions of violations at circuses that have recently performed in Massachusetts.

The bottom line: abuse of wild animals in circuses and exhibitors' routine failure to meet standards does not stop simply because the exhibitors cross a state line into Massachusetts – abuse occurring next door to, or anywhere outside of the Commonwealth, will also occur here.

A. Cole Bros. Circus and Carson & Barnes Circus
Recent performances in the Commonwealth: 2014, 2013, 2013, 2011

Cole Bros. Circus declined renewal of its federal exhibitor's license in 2008 after the USDA filed formal charges of federal Animal Welfare Act violations against them for abuse of elephants with bull hooks, and after repeated citations by the USDA for failure to provide appropriate care. Therefore, Cole Bros. is not currently subject to citations in its own name. However, Cole Bros still performs by contracting with other exhibitors and leasing animals for its shows. Those exhibitors, including Carson & Barnes Circus ("Carson & Barnes") have been cited for violating the Animal Welfare Act.

It is of note that since 2011, Cole Bros. Circus has been ordered to pay over $160,000 in fines to settle violations of the federal Animal Welfare Act. As recently as 2012, Carson & Barnes paid a penalty to settle numerous violations of the federal Animal Welfare Act—including violations relating to failure to keep wild animals adequately separated from the public, and failure to have large wild animals under the direct control and supervision of knowledgeable and experienced animal handlers.

Carson & Barnes' (operating as Cole Bros.) abuse of an elephant with a bull hook was videotaped by a spectator in Lanesboro, Massachusetts in 2011. Two weeks later, Carson & Barnes (operating as Cole Bros.) was cited by the USDA in Connecticut for use of excessive force with a bull hook.

- In June 2011 a man and his son stopped near a parking lot where Cole Bros. was set up in **Lanesboro, Massachusetts**, and videotaped the elephants, just for fun. They witnessed a handler yelling at the elephants before striking one of them with "something that looked like a club," producing a clearly audible "whack" sound. The same handler then took a step back and swung the device as if it were a baseball bat, striking the elephant two more times. "this was not an 'attention getter,'" the father explained. "This worker reared back and swung the club with all his might, twice. You could hear the 'whack' as his club struck the elephant." Video footage is available here: http://www.youtube.com/watch?v=jIn82TqSP2M
- Following, and in response to the Lanesboro incident, the USDA inspected Carson & Barnes at a show in **Meriden, CT.** The USDA cited Carson & Barnes, performing as Cole Bros. Circus for direct noncompliance with the federal Animal Welfare Act when a female handler was observed using excessive force with the

bull hook against an elephant on several occasions. The USDA inspector noted that a female employee, who performs in the show and had virtually no elephant handling experience.

- In October 2011, the USDA cited Carson & Barnes with a direct violation of the AWA for failure to have an experienced animal handler in direct control of a dangerous animal during public exhibition. The inspector noted that the handler's actions allowed "for the risk of serious injury to members of the public."
- In June 2011, the USDA cited Carson & Barnes (performing as Cole Bros.) with a direct noncompliance of the AWA after an inspector observed a handler talking on his phone and walking away from an elephant while one adult and six children sat on the elephant's back during a ride. The circus was also cited for direct noncompliance after a female handler was observed using excessive force with a bullhook against an elephant on several occasions.
- In April 2010 an elephant (leased from Carson & Barnes to perform with Cole Bros.) escapted in Lynchburg, VA. She ran directly past a line of people waiting to buy tickets, sending some running toward the parking lot. The elephant injured her shoulder and broke a toenail when she slid in the mud and fell into a steep ravine. She was on the loose for approximately 30 minutes before being recaptured.
- In June 2005 a U.S. District Court judge who viewed videotape of Carson & Barnes' animal care director Tim Frisco beating elephants with bull hooks and shocking them with electric prods, described it as "troubling," and noted that it depicts conduct violating the Animal Welfare Act.

B. Piccadilly Circus:
Recent performances in the Commonwealth: multiple cities in 2014 (scheduled), 2013, 2012, 2011

Piccadilly Circus does not possess its own USDA exhibitor license. Therefore, Piccadilly is not subject to citations in its own name. However, Piccadilly contracts with exhibitors and leases animals for its shows. Those exhibitors have been cited for violating the Animal Welfare Act, including excessive use of the bull hook and failing to provide adequate veterinary care.

While the abuse detailed below did not occur in the Commonwealth, it is reasonable to conclude that these practices do not stop when the circus hits the Commonwealth's borders, but rather that they continue while Piccadilly Circus is in our state.

- In December 2013, the general manager of Piccadilly Circus, USDA licensee Zachary Garden was observed punching an elephant and beating an elephant with a shovel at a performance. The eyewitness circus worker described that Garden punched an elephant twice on his or her side, and then beat the same elephant with a shovel after an evening show. The witness reported that Garden hit the elephant with the shovel at least three times with such force that the elephant screamed with each blow.
- In October 2012, the USDA cited the Franzen Bros., which was traveling with Piccadilly in Florida as its elephant exhibitor, for striking an elephant forcefully with a bull hook at least five times about the eyes and ears to "teach" her not to take another elephant's hay.
- In August 2012 Fort Wayne, Indiana Animal Care & Control took a complaint from a witness who observed an elephant being repeatedly beaten with a baton. Animal Care & Control confirmed this during interviews with Brian Franzen, the circus manager, and the elephant handler - with each admitting that the incident took place. During an interview, Brian Franzen stated that the elephant had an "attitude," had put a hole in the trailer, and was chained on a "time out" after she stole food from another elephant. According to Animal Care & Control, the elephant handler was unable to control the elephant, so he struck her with a bull hook on her face and trunk. According to the witness, the beating took place after the elephant lunged at the handler.

C. Feld Entertainment, parent company of Ringling Brothers & Barnum and Bailey Circus
Recent Performances in the Commonwealth: 2013, 2012, 2011

The below statements, taken under oath, demonstrate a pattern of institutional use of the bull hook by Ringling to strike and hit elephants to a degree that causes puncture wounds, "hook boils" – infections caused by bull hook wounds, and sometimes bleeding.

Ringling performs annually in multiple Massachusetts locations. As the below practices are routinely used by Ringling as part of their traveling show, and have been demonstrated to occur in a number of states, including our neighbor state of New York, it is reasonable to conclude that these practices do not stop when the circus hits the Commonwealth's borders, but rather that they continue while Ringling is in our state.

- Kenneth Feld, CEO and President of Feld Entertainment Inc. admitted under oath that he has seen "all" of his elephant handlers strike and hit elephants using both ends of a bull hook."[i]
- Ringling Bros. elephant trainer Robert Ridley – who still works for the company – has handled elephants for the circus for over 40 years and testified that 3-4 times monthly he sees "puncture wounds" on Ringling Bros. elephants caused by bull hooks and sees "hook boils" – infections caused by bull hook wounds – on average twice weekly.[ii]
- Ringling Bros. elephant trainer Gary Jacobson (who was responsible for training all of Ringling's baby elephants) testified that he uses the bull hook to "hit" the babies to make them do as he wishes.[iii]
- An internal Ringling Bros. memorandum from its animal behaviorist recounted that an elephant was "dripping blood all over the arena floor" after being struck with a bull hook several times during a show."[iv]
- In an internal email, a Ringling Bros. veterinary assistant reported seeing multiple visible abrasions and lacerations on elephants from hooks after their morning baths. The lacerations were so apparent that two members of the public at an open house asked the vet assistant where they were from.[v]
- In 2013, an event manager for a circus venue in New York provided a sworn affidavit detailing violent abuse with a bull hook backstage at the Ringling Bros. Circus. Specifically, she

  > "saw a Ringling handler repeatedly hitting the first elephant in line on her legs and shoulders with a long rod with a metal hook at the end. The handler proceeded to put the metal hook inside the elephant's mouth and yank her repeatedly with full force. As she was being beaten, the elephant made grunting and wailing noises and other noises that sounded as if she was in distress. As the rod and hook made contact with her body, the blows made audible 'whack' noises....The handler alternated hitting the elephant with the sharp metal hook on her shoulder and hooking and yanking her inside her mouth for several minutes before the elephant finally submitted and proceeded to walk forward with the rest of the group."

  The employee was so upset by what she saw, she refused to work the six remaining Ringling shows in New York, forfeiting her wages for the week.[vi]
- In a sworn affidavit in 2012, a Colorado Springs, a security guard reported bull hook abuse of a chained elephant during Ringling's stint there. The security guard witnessed a young animal attendant – who had previously disclosed to the witness that he had no training in animal handling

  > "strike an elephant on her rear leg at least six times with such force and viciousness that each blow to her leg made loud 'whacks' in an apparent effort to get her to move so he could scoop up manure...He hit the elephant full force without warning, while her back was turned to him, and while she was restrained by chains. She immediately moved, and appeared startled and fearful, but the attendant continued to hit the elephant with the long rod even after she moved."

The security guard went on to testify that "The ease with which he hit the elephant so excessively and violently gave the impression that it was not the first time he hit an elephant in this manner." The instrument used to strike the elephant appeared to be a bull hook and the Ringling attendant was the only person on duty all night long.[vii]

It is of note that Feld Entertainment was ordered to pay $270,000 by the USDA – the largest civil penalty ever assessed against an exhibitor under the Animal Welfare Act for dozens of violations dating from June 2007 to August 2011[viii].

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[i] Kenneth Feld, CEO of Feld Entertainment, parent company that owns Ringling Brothers., Trial Tr. 43:9-43:16, March 3, 2009 pm.
[ii] Robert Ridley deposition at line 55, page 55 also recited Kenneth Feld, CEO of Feld Entertainment, parent company that owns Ringling Brothers, Trial Tr. 50:16-51:2, March 3, 2009 pm.
[iii] Gary Jacobson, manager of general manager for Ringling Bros. Center for Elephant Conservation, Trial Tr. 43:13-44:14 March 9, 2009
[iv] http://c206728.r28.cf1.rackcdn.com/Plaintiffs-Will-Call-Exhibit-9.pdf
[v] http://c206728.r28.cf1.rackcdn.com/Plaintiffs-Will-Call-Exhibit-11.pdf
[vi] Affidavit of Michelle Comodo, State of New York, March 20 2013; copy available upon request
[vii] Affidavit of Darren J. Sparks, State of Colorado, March 14, 2012; copy available upon request.
[viii] http://usda.gov/wps/portal/usda/usdamediafb?contentid=2011/11/0494.xml&printable=true&contentidonly=true

Braintree, MA

6.04.190: No living nondomesticated animals shall be displayed for public entertainment or amusement in circuses, carnivals or similar entities on property by the Town of Braintree, or Town-owned property under lease, or on private property. As used in this paragraph, "displayed" shall include, but is not limited to, animal acts and performances, and competition. (ATM 5-16-2001 Art. 62)

Penalty:
The Braintree prohibition is located in the "Dogs and Other Animals" section of the bylaws. The penalty for violation, associated broadly with the entire section is non-criminal: $5.00 for the first offense; $25 for the second; $35 for the third; $50 for fourth and subsequent offenses. (1.08.020)

Revere, MA

6.04.031 Nondomesticated animals displayed for public entertainment or amusement.
A. No living animals shall be displayed for public entertainment or amusement on property owned by the city of Revere on city-owned property under lease, or on private property, excluding competitive arena sports and exhibits deemed educational by the Massachusetts Society for the Prevention of Cruelty to Animals.
B. No captive animal shall be forced to live out of its natural environment, separated from its own species and displayed to the public

Penalty:
6.04.100: Penalties for violation of this chapter, except as provided in Section 6.04.110, are as follows:
A. First offense, twenty-five-dollar fine;
B. Second offense, fifty-dollar fine;
C. Third and subsequent offenses, fifty-dollar fine.

Quincy, MA

(The City of Quincy is updating its ordinances and these citations are not currently listed on their website, but remain part of the city code)
6:04:10 (1994): No living non-domesticated animals shall be displayed for public entertainment or amusement in circuses, carnivals, or other similar entities on property owned by the City of Quincy, on City-owned property under lease, or on private property. As used in this paragraph, "displayed" shall include, but is not limited to, animal acts and performances, animal rides and competitive animal races.

6:04:40 (1994): This ordinance shall not apply to domestic animals including, but not limited to, dogs, cats, horses and farm animals except that no domestic animal shall be used in competitive animal races.

6:04:50 (1994): This ordinance shall not apply to exhibits deemed educational by the Massachusetts Society for the Prevention of Cruelty to Animals.

Somerville, MA

Sec. 3-39. Display of non-domesticated animals.
(a) No living non-domesticated animals shall be displayed for public entertainment or amusement in circuses, carnivals or other similar entities on property owned by the City of Somerville, on city-owned

property under lease, or on private property. As used in this paragraph, "displayed" shall include, but is not limited to, animal acts and performances, animal rides and competitive animal races.
(b) This article shall not apply to domestic animals including, but not limited to, dogs, cats, horses, donkeys and farm animals, except that no domestic animal shall be used in competitive animal races.
(c) This article shall not apply to exhibits deemed educational by the Massachusetts Society for the Prevention of Cruelty to Animals.
(d) Violations of this article are subject to penalties in accordance with section 1-11(b) of the Code of Ordinances. Each consecutive day that a violation exists shall be considered a separate offense.

Penalty:
Sec. 1-11. Penalties and violations.
(b) Whoever violates any provision of this Code or any ordinance of the city, the violation of which is subject to a specific penalty, may also be penalized by a noncriminal disposition as provided in the General Laws, Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Weymouth, MA

SECTION 6-702 Displaying Non-domesticated Animals for Entertainment
(a) No Living non-domesticated animals shall be displayed for public entertainment or amusement in circuses, carnivals or other similar entities on property owned by the Town of Weymouth, on Town-owned property under lease, or on private property. As used in this paragraph, "displayed" shall include, but is not limited to, animal acts or performances, animal rides and competitive animal races.
(b) This Ordinance shall not apply to domestic animals including, but not limited to, dogs, cats, horses and farm animals.
(c) This Ordinance shall not apply to exhibits deemed educational by the Massachusetts Society for the Prevention of Cruelty to Animals.
(d) Definitions:
Animals - Any mammal, bird, reptile, amphibian, or fish with the exception of human beings.
Domesticated Animal - Any animal occurring naturally or historically in the United States, that through long association with humans, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to the extent that makes it unique and different from wild animals of its kind. (aka not domesticated)
Wild Animal - Any animal occurring naturally and traditionally within the United States that is not domesticated.
Exotic Animal - Any animal not occurring naturally or historically in the United States. The phrase includes, but is not limited to, all manner of lions, tigers, leopards, jaguars, cheetahs, elephants, zebras, camels, giraffes, reptiles and any crossbreed of these animals other than fish or insects.
Education - Non-profit groups, institutions or individuals who engage in teaching and instructing with intent and the effect of imparting knowledge to others through oral presentations and/or written hand-outs (whose sole purpose is to teach without entertainment), or entity deemed educational by the MSPCA, the New England Wildlife Center, other reputable animal humane/welfare organizations or accredited by AZA.
Entertainment - Any organization which replicates the traditional wild animal circus in which wild animals are required to perform tricks or participate as accompaniments in performances for the amusement of an audience.

Penalty:
SECTION 1-109 Violations and Penalty - Municipal Infractions
(a) Any Ordinance of the Town of Weymouth or any rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may, in the discretion of the Town Official who is the appropriate enforcing person, be enforced in the method provided in MGL C. 40, s. 21D. The noncriminal fine for each such violation, if not otherwise specified, shall be fifty dollars ($50).
...
(c) Unless otherwise provided, each day a violation continues shall constitute a separate and repeat violation once notice of the violation has been given.

SECTION 1-110 Violations and Penalty - Criminal Complaint
Any Ordinance of the Town of Weymouth or any Rule or Regulation of its Officers, Boards or Departments may, in accordance with the provisions of MGL C. 40, s. 21, also be enforced by criminal complaint in the district court. Except as otherwise provided by law, any person found guilty of violating any provision of this code in a criminal proceeding in the district court shall be subject to a fine within the limits otherwise prescribed by law. Each day a violation continues shall constitute a separate and repeat violation once notice of the violation has been given.

Provincetown, MA

Article 64. *Ban Use of Exotic Animals for Public Entertainment.* To see if the Town will vote to ban the display (including, but not limited to, animal acts and performances, animal rides and competitive animal races) of Wild or Exotic animals for public entertainment or amusement in circuses, carnivals or similar entities on property owned by the town of Provincetown, on Town owned property under lease or on private property; or take any other action relative thereto. (not codified)

Plymouth, MA (as passed 2014)

Wild Animals
§ 23-19. Permit required.
(a) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the town any dangerous animal or reptile or carnivorous, wild animal or other animal or reptile of wild, vicious or dangerous propensities without obtaining an annual permit therefor from the Board of Selectmen.
(b) Under no circumstance will a permit be issued for the possession of any animal as described in 23-19 (a) if the animal is part of a traveling exhibition or show living in a mobile housing facility. An animal is deemed to be part of a traveling exhibition or show if, during the 15-day period preceeding any proposed use in a traveling exhibition or show, such animal was traveling in a mobile housing facility.

§ 23-22. Exceptions.
The provisions of §§ 23-19, 23-20 and 23-21 shall not apply to any duly licensed zoo or bona fide educational or medical institution, including a veterinarian, or any other duly licensed place where such animals are kept for the purpose of instruction, treatment or study; provided, however, that:
A. The location and operation of the foregoing are in conformity with all applicable federal, state and local laws, bylaws, rules and regulations;
B. All animals and animal quarters are kept in a clean and sanitary condition; and
C. All animals are maintained in quarters so constructed and controlled as to prevent their escape.

Exhibit "E"

A. Any person who violates any provision of this article shall be subject to a fine of $20 for each offense thereof.

B. This article may be enforced by police officers, Shellfish Constables, the Harbor Master and Assistant Harbor Masters, agents of the Board of Health, other enforcement officers of the Division of Law Enforcement and other town officials as designated by the Board of Selectmen.

§ 23-18. Copies to state officers.

Upon approval of this article, the Selectmen shall cause one copy thereof to be mailed to the Director of the Division of Fisheries and Wildlife and one copy to the Director of the Division of Law Enforcement.

ARTICLE IV
Wild Animals

§ 23-19. Permit required.

It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the town any dangerous animal or reptile or carnivorous, wild animal or other animal or reptile of wild, vicious or dangerous propensities without obtaining an annual permit therefor from the Board of Selectmen.

§ 23-20. Definitions.

For purposes of this article, the following terms shall have the meanings indicated:

DANGEROUS ANIMAL -- Includes any wild mammal, reptile or fowl or a species which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, breeding, vicious nature or other characteristics, would constitute a danger or threat to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

DANGEROUS DOMESTICATED ANIMAL -- Includes any domestic mammal, reptile or fowl which, because of its size, breeding or vicious propensity or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

§ 23-21. Classification. [Amended 4-9-2012 ATM by Article 20]

Dangerous or wild animals include the following: all poisonous animals, apes, baboons, bears, bison, cheetahs, crocodilians 24 inches or more, constrictor snakes 36 inches in length or more, coyotes, deer, elephants, game cocks and other fighting birds, hippopotami, hyenas, jaguars,

leopards, lions, lynxes, monkeys, ostriches, piranha, ~~pitbulls~~, pumas, rhinoceroses, sharks, tigers ~~and~~ wolves and **[Amended 4-9-2012 ATM by Article 20]** any dog found to be vicious under Section 23-1 of the Town Bylaws; provided, however, that the foregoing list is not deemed to be all-inclusive.

§ 23-22. Exceptions.

The provisions of §§ 23-19, 23-20 and 23-21 shall not apply to any duly licensed menagerie, zoo, circus or bona fide educational or medical institution, including a veterinarian, or any other duly licensed place where such animals are kept for the purpose of instruction, treatment or study; provided, however, that:

A. The location and operation of the foregoing are in conformity with all applicable federal, state and local laws, bylaws, rules and regulations;

B. All animals and animal quarters are kept in a clean and sanitary condition; and

C. All animals are maintained in quarters so constructed and controlled as to prevent their escape.

§ 23-23. Conditions for permit issuance.

The Board of Selectmen may issue an annual permit for the keeping or maintenance of a dangerous animal upon the following conditions:

A. The animal is kept or maintained at all times in a safe manner and securely confined so that the keeping of such animal shall not constitute a danger to human life or the property of others.

B. Adequate safeguards are taken to prevent unauthorized access to such animal by other persons.

C. The health or well-being of the animal is not endangered in any way by the manner of keeping or confinement.

D. The keeping of such animal does not constitute a public nuisance and will not adversely affect the surrounding neighborhood.

E. The keeping of such animal will not cause a danger to the public health.

F. The quarters in which such animal is kept or confined are adequately heated, lighted and ventilated and are constructed and maintained in a safe, clean and sanitary condition.

G. The owner or keeper of such animal shall prove his or her financial responsibility by filing with the Board of Selectmen an adequate certificate of insurance or by posting an adequate surety bond with the Board of Selectmen conditioned upon the owner's or keeper's payment of all damages which may result from the keeping or maintenance of such animal.

Adequacy of proof shall be at the sole discretion of the Board of Selectmen.

§ 23-24. Investigation of applicant.

The Board of Selectmen is authorized to investigate any person who applies for a permit under this article and to consult with appropriate individuals, agencies and societies concerning the keeping of dangerous animals.

§ 23-25. Inspections; fees.

Prior to the issuance or renewal of any annual permit for the keeping of dangerous animals, and at any other time deemed appropriate, the Board of Selectmen shall cause the premises subject to

the permit to be inspected for compliance with all conditions imposed hereunder. In the event that said premises are found not to be in compliance or are not made available for inspection, the Board shall refuse to issue or reissue or shall revoke, as the case may be, the permit. The Board of Selectmen is authorized to charge a fee for the issuance of all such annual permits and a fee for all such inspections.

§ 23-26. Limit on number of animals.

In no event shall a permit be issued for the keeping of more than four dangerous animals at any single location.

§ 23-27. Violations and penalties.

Any person, corporation or otherwise violating any provision of this article shall be fined not less than $100 and not more than $300 for each offense, with each day during which a violation occurs or continues deemed to be a separate offense. Unless otherwise provided herein, [**Added 4-13-2004 ATM by Article 44**] the fine for each offense under noncriminal disposition shall be $100.

Chapter 30
~~BEACHES~~ BEACHES AND PARKS [Amended 5-20-2006 ATM by Art. 33]

§ 30-3. Domestic animals.

All domestic animals on public beaches or parks shall be under control at all times. Dogs are to be leashed and their waste removed and disposed of in accordance with Chapter 23, Dog Control
§ 23-4 and § 23-14

§ 30-22. Violations and penalties.

Unless otherwise specifically provided herein, any person who violates any provision of this chapter shall be subject to the following penalties:
First offense $25.00
Second offense $50.00
Third and subsequent $100.00

Exhibit "F"

Sec. 3-39. - Display of non-domesticated animals.

(a) No living non-domesticated animals shall be displayed for public entertainment or amusement in circuses, carnivals or other similar entities on property owned by the City of Somerville, on city-owned property under lease, or on private property. As used in this paragraph, "displayed" shall include, but is not limited to, animal acts and performances, animal rides and competitive animal races.

(b) This article shall not apply to domestic animals including, but not limited to, dogs, cats, horses, donkeys and farm animals, except that no domestic animal shall be used in competitive animal races.

(c) This article shall not apply to exhibits deemed educational by the Massachusetts Society for the Prevention of Cruelty to Animals.

(d) Violations of this article are subject to penalties in accordance with section 1-11(b) of the Code of Ordinances. Each consecutive day that a violation exists shall be considered a separate offense.

(Ord. No. 2010-02, 1-14-2010)

Sec. 1-11. - Penalties and violations.

(a) Any person who violates a provision of this Code or of any ordinance of the city, whether included in the Code or any hereafter enacted, whereby any act or thing is enjoined or prohibited or required, shall, unless other provision is expressly made, be liable to a penalty of $300.00 for each offense; provided, however, that whenever a higher penalty is permitted under the General Laws of Massachusetts, such higher penalty shall be the maximum penalty for each offense; and provided further, that nothing in these provisions shall be deemed to limit the use of other lawful methods of abating violations of this section including, but not limited to, application for equitable relief from a court of law. Each day a violation continues shall constitute a separate offense. In order to determine the number of offenses under this section, each offense for the property in the same calendar year shall be counted, except that snow removal violations shall be counted from October 1 through May 1 of the following year.

(b) Whoever violates any provision of this Code or any ordinance of the city, the violation of which is subject to a specific penalty, may also be penalized by a noncriminal disposition as provided in the General Laws, Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this subsection that the following ordinances and sections of ordinances are to be included within the scope of noncriminal disposition for violations of ordinances according to the General Laws, Chapter 40, Section 21D. The specific penalties, as listed here, shall apply in such cases. Except for enforcement of the building code, fire code, sanitary code, and zoning ordinances, police officers shall be considered to be enforcing persons in all cases of this subsection, except as otherwise provided by state statute, in addition to the municipal personnel listed, if any, for each subsection:

Offense	Fine	Enforcing Personnel
Feeding or baiting animals (Sec. 3-3)	$25.00	Police; animal control; commissioner of public works; inspectional services
Dog Violations (Sec. 3-38)	$50.00[1]	Police; animal control; commissioner of public works; inspectional services
Non-Domesticated Animals (Sec. 3-39)	1st offense: $100.00 2nd offense: $200.00 3rd & subsequent offense: $300.00	Police; inspectional services
Storage of Combustibles (Sec. 5-4)	$100.00	Police; fire
Compliance with orders of fire officers (Sec. 5-9)	$100.00	Police; fire