



Request for City Council Committee Action From the Department of Regulatory Services

Date: November 1st, 2007

To: CM Don Samuels, Chair of Public Safety and Regulatory Services Committee

Referral to: CM Paul Ostrow, Chair of Ways and Means

Subject: Ordinances Amending Title 4 of Code - Chapter 74 relating to Animals and Fowl: Miscellaneous Regulations.

Recommendation:

That the City Council review and act upon staff recommendations on Title 4 – Chapter 74 relating to Animals and Fowl: Miscellaneous Regulation.

Previous Directives:

Prepared by:

Burt Osborne, Director
Lori Olson, Deputy Director
Dan Niziolek, Manager Animal Care and Control

Presenters in Committee:

Burt Osborne, Director

Approved by:

Rocco Forte, Assistant City Coordinator

Burt Osborne, Director

Lori Olson, Deputy Director

Financial Impact

- No financial impact
- Action requires an appropriation increase to the ___ Capital Budget or ___ Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Action is within the Business Plan
- Action requires a change to the Business Plan
- Other financial impact – Fine and fee increases for cost recovery.

Community Impact

Neighborhood Notification
City Goals
Comprehensive Plan
Zoning Code
Other

Supporting Information

In developing the following report on wild animal circuses, Minneapolis Animal Care and Control (ACC) drew upon the expertise of the following individuals: Christine Coughlin, Dr. Michael Fox, Tom Nelson, Keith Streff, Dr. Cathy Hovanscacs, Tom Nelson, Sarah Lashford, Peggy Larson, Paul Kaspszak, Debra Fahrenbruck, Kelly Wolfe, Joe Bagnoli, and Tim Davison.

These individuals represented the various parties expressing an interest in wild animal circuses. Their individual and collective expertise was insightful and extremely helpful in assisting ACC in the preparation of this report.

Based on the information presented by these individuals and information collected by ACC staff, ACC provides the following response to the council direction to Regulatory Services staff on wild animals in circuses.

2. A review of best practices for the care of wild animals in the circus industry.

ACC reviewed numerous resources as to the best practices for the care of wild animals in the circus industry. In summary, although is some consensus on general care of wild animals in captivity, there is significant areas lacking consensus.

Three resources of note are: Best Practices by the Coalition for Captive Elephant Well Being, Elephant Husbandry Resource Guide, and American Zoo and Aquarium Association – Standards for Elephant Management and Care.

The later two involve standards of the American Association of Zoos and Aquariums (AZA). ACC believes that AZA provides the best resource for the best practices and standards for the care of wild animals in circuses. ACC staff will utilize the standards in the context of a circus. The AZA is a non-profit organization dedicated to “the

advancement of accredited zoos and aquariums in the areas of animal care, wildlife conservation, education and science.” AVA accredits institutions that have achieved established standards for animal care, education, wildlife conservation and science.

An example of the type of care standards ACC would be looking to in the regulation of wild animals in circuses is:

The AZA considers the following elephant training tools/techniques to be inappropriate for use at member institutions:

1. Insertion of any implement into any bodily orifice, unless directed by a veterinarian specifically in connection with training for a medical or reproductive procedure.
2. Striking an animal with anything more substantial than a guide.
3. Striking an elephant with any sharp object.
4. Striking an elephant on or around any sensitive area.
5. No tools used in training should be applied repeatedly and with such force that they cause any physical harm to the animal (i.e. breaking the skin, bleeding, bruising, etc.)
6. Withholding or reducing an animal’s daily recommended amount of food and or water.
7. Withholding veterinarian care for any reason.

3. Recommendations as to training of Animal Control staff and the contracting of expertise on wild animal care.

Given the low number of wild animal exhibitions being presented in Minneapolis annually and current staffing, ACC recommends that limited staff training occur in regards to specifics on wild animals in circuses and other wild animal exhibitions, but ACC staff will be used primarily in a coordination role. ACC recommends the continuation of the partnership with the Animal Humane Society as well as the development of a partnership with local expertise. The Animal Humane Society, with their veterinarian, brings an expertise in large animals, although not specific to wild or exotic animals.

The Minnesota Zoo was contacted but indicated that they were not interested in pursuing a partnership at this time with the City of Minneapolis.

The USDA-APHIS indicated that they would not be able to assist us on the inspections. However, they would follow-up on any questions, complaints, or other issues. They would give their best effort to respond quickly to any complaints raised by ACC during an inspection of a wild animal exhibition; strive for 24 hours – provided not over a weekend. They would potentially be able to assist in training of staff in regards to the enforcement of the Animal Welfare Act.

Consequently, ACC recommends that City of Minneapolis continue to pursue a partnership with the University of Minnesota Veterinarian School. Initial conversations with Dr. Micky Trent indicate a strong interest by the Veterinarian School in working with Minneapolis in the inspection of animals and associated veterinarian care records. Dr. Trent has an expertise in wild and exotic animals and has worked with both the Minnesota and Como Zoos. The details of a partnership would need to be worked out, including responsibilities by all parties as well as compensation for University staff. Basic training of ACC may be able to be achieved through the University.

4. A review of other models of circus regulations in other cities.

ACC evaluated numerous cities' efforts in regulating circuses with wild animals. Cities varied significantly, with some cities being complaint driven (e.g. Tulsa, Oklahoma), others more proactive - providing college training to staff on wild and exotic animals (e.g. Los Angeles, California), and others do not allow circuses (e.g. Quincy, Massachusetts.)

The most common model involved a municipalities' animal control division teaming up with the local non-profit humane society to enforce animal cruelty laws. Generally, cities' animal control staff had very limited training in the care and health of wild animals. Consequently, their expertise is often augmented by humane societies' large animal expertise.

Los Angeles, California, offered the most involved regulatory model. Hollywood's use of animals in movies creates the need. Staff receive training at a local college and are actively involved in the inspection of the treatment and care of wild and exotic animals. Staff expertise is complimented by city ordinance that provides for specific rules of care.

The City of Norfolk and Fairfax County, Virginia offered models that balanced local animal control staffing with the frequency of circuses similar to the City of Minneapolis experience. The ordinances set standards as to the care of animals in terms of feeding, shelter, veterinarian care, exercise and cleanliness. The Fairfax County ordinance requires that "Prior to approval of an application for a permit, an animal control officer and a U.S.D.A. accredited veterinarian, licensed by the Commonwealth of Virginia, chosen by the Commander of the Animal Services Division, shall inspect the animals and the proposed premises of the traveling animal exhibition to determine compliance with the requirements of this Article."

ACC recommends a model similar in design to that of Fairfax County or City of Norfolk, Virginia.

5. Additional information on enforcement of the ordinance, including proposed amendments to the City's administrative citation fine schedule to incorporate administrative fines for certain violations and other enforcement measures.

See accompanying proposed administrative citation ordinance language.

ACC recommends that City of Minneapolis utilize the wide range remedies in the regulating of Class C Permits. This includes:

- 1) Administrative fines, which can be doubled after the person violating the ordinance has a reasonable time to correct the violation.
- 2) Preventing performance of an animal.
- 3) Revocation of the permit and the seeking of injunctive relief to stop the event.
- 4) Criminal sanctions based on city, state and federal laws. ACC would look to partner with the Animal Humane Society and USDA-APHIS in those cases.

6. Recommended language defining wild animal circus.

Ordinance language from Los Angeles, California

Wild animal – shall mean any wild, exotic, dangerous, or non-domestic animal or reptile.

7. Staff is further directed to return with recommended amendments to the ordinance proposal for consideration by committee and Council.

See accompanying proposed ordinance language.

8 and 9. The staff time and out of pocket cost upon implementation of the ordinance. Determination of sufficient fee levels for full cost recovery.

ACC is developing the details of a full cost recovery method for the Class C Permit. Initially, ACC expects to expend management time in developing policy and procedures, appropriate training, and securing an agreement with an outside contractor (i.e. University of Minnesota.)

Implementation of the ordinance will dramatically increase Animal Control Officer (ACO) resources used in the regulating of Class C Permits. Currently ACOs expend about 10 hours for an event. The proposed ordinance increases the amount of time expended on every aspect of the current regulatory process as well as adds additional work. For example, the new ordinance would require:

- 1) Review of additional owner and animal records,
- 2) Increase inspections of all animals,
- 3) Traveling to other cities/locations for inspections,
- 4) Increased enforcement actions.

The increased work will result in other lower priority items being handled at a later time.

ACC recommends a permit fee of \$750 for a Class C permit, with the ability of ACC to charge the applicant the cost of staff time to investigate the applicant, issue the permit and enforce this ordinance. This would cover the compensation of any outside party involved in the inspection of the animals and their records.

10. Possible reduction/exemption of fees for non-profits offering a primarily educational opportunity.

ACC recommends amending the Class B Permit ordinance language to offer the reduction/exemption of fees for non-profits offering a primarily educational opportunity event

11. Parameters for denial of permit.

ACC recommends the language:

Minneapolis Animal Care and Control may deny or revoke an application for a Class C Permit for any of the following reasons:

- 1) Failure to comply with or supply any information or access requested and/or required; or
- 2) Falsification of any information required; or
- 3) Previous or current violations of any provisions of this chapter; or
- 4) Previous or current citations, violations of any local, state, or federal law relating to animal cruelty and/or animal exhibition permits.

12. Clarification of provisions within safety plans.

All applications for a Class C Permit must include:

- 1) List of all animals to be exhibited and associated records,
- 2) The method of restraint for each animal,
- 3) The supervision provided for each animal,
- 4) Specific action plan for situations in which the animal is no longer under control of their handler/trainer. The action plan should cover situations when the animal is or is not performing, communications during the situation, as well as the location, availability, and type of tools intended to resolve the situation.
- 5) A notarized statement from the owner and operator of the premises in which the event will occur that the exhibitors safety plan is acceptable to and coordinated with the safety plan of the owner and operator of the premises.