

## Public Records Request #3248

The following materials have been gathered in response to public records request #3248. These materials include:

- Regulation of Circus Animals: Special Report to the City Manager – December 31, 2019

This information was provided as a response to a public records request on 1/16/20 and is current to that date. There is a possibility of more current information and/or documents related to the stated subject matter.

### Further Information

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# Regulation of Circus Animals

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DECEMBER 31, 2019

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**Special Report to the City Manager**

*Strategy and Budget Department*

Director: Ryan Bergman

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## **Executive Summary**

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The City Manager committed to conducting a review of the current ordinances and issues related to animals based on concerns expressed from the public over animal treatment. Some of the concerns recently brought to the attention of Council were specific to allowing the use of wild and exotic animals in circuses.

There are federal regulations and North Carolina State legislation in place to protect animals. The state also authorizes cities to further define, regulate, and prohibit the inhumane treatment of animals. Charlotte covers these provisions within Chapter 3 of the City of Charlotte Code of Ordinances. Charlotte does not specifically regulate wild and exotic animals used in circuses.

### **Findings and Recommendations:**

Specific protections for animals used in circus performances are not included within the current city ordinance.

A review of peer cities showed that many cities do place restrictions on or ban wild animal performances. However, 14 of the 25 cities reviewed had no restrictions for the use of wild and exotic circus animals.

Charlotte has general provisions in place for the protections of animals. Council can make policy decisions specific to circus animals including considerations of provisions to restrict or fully ban wild or exotic animal performances.

## **Background and Statement of Issue**

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On November 12, 2019, the topic of circus animals was discussed at a Council Strategy Session after concerns were expressed by speakers at a previous public forum.

The City Manager committed to providing a report on current considerations. This report provides details on the legal framework, current provisions, and peer city comparisons related to regulations that the City of Charlotte currently has in place to safeguard the well-being of animals.

## **Legal Framework**

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Regulations applicable to the welfare of animals that are currently in place at the federal, state, and local levels are outlined in the following sections to provide the base authority by which the city addresses issues related to animals and protects animals from abuse or conditions harmful to their well-being.

## Federal Regulation

Federal regulation provided by the Animal Welfare Act (AWA) offers minimum standards for treatment of animals that are bred for commercial sale, exhibited to the public, used in research, or transported commercially. The AWA includes regulations for the transport and welfare of animals in circuses and outlines that individuals licensed to maintain wild or exotic animals must demonstrate adequate experience and knowledge of the species<sup>1</sup>. Some of the standards include:

- *“(b)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.”*
- *“(2)(i) Physical abuse shall not be used to train, work, or otherwise handle animals.”*

Other specific standards can be found in **Attachment 1** that includes excerpts from the Animal Welfare Act and Animal Welfare Regulations, section 2.131 - handling of animals.

## State Regulation

The State of North Carolina has established standards for the protection and humane treatment for animals. The North Carolina General Statutes, Chapter 19A, Protection of Animals defines within the article:

*“The terms “cruelty” and “cruel treatment” include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted<sup>2</sup>.”*

Provisions included within the state’s Chapter 19A, Protection of Animals are:

- Establishment of animal cruelty investigators and authority
- Establishment and enforcement of civil penalties

The State also grants North Carolina cities the power to further define, regulate, and prohibit the inhumane treatment of animals<sup>3</sup>.

## City of Charlotte Regulation

### General Animal Regulations

The City of Charlotte’s Code of Ordinances, *Chapter 3 – Animals* provides wide-ranging regulations and provisions for protecting animals from abuse or conditions harmful to the well-being of animals. Mecklenburg County’s Animal Control Ordinance is in line with the City of Charlotte’s Animal Ordinance and does not further restrict the city in establishing standards for the protection and humane treatment for animals<sup>4</sup>.

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<sup>1</sup> U.S. Department of Agriculture, USDA Animal Care, Animal Welfare Act and Animal Welfare Regulations, May 2019.

<sup>2</sup> North Carolina Statutes, Chapter 19A. Protection of Animals., Article 1. Civil Remedy for Protection of Animals.

<sup>3</sup> North Carolina Statutes, Article 8., Delegation and Exercise of the General Police Power.

<sup>4</sup> Mecklenburg County Animal Control Ordinance

Animal Care and Control (AC&C) manages and enforces sections of the city’s animal ordinance throughout Mecklenburg County. Charlotte provides protections to animals through several sections within the city ordinance<sup>5</sup>.

### Circus Animal Regulation

City regulation expands upon federal standards for exotic or wild animals by requiring:

*“All such venomous reptiles and all such wild or exotic animals shall be confined restrained or controlled in such a manner so that the physical safety or property of any person lawfully entering the premises shall not be endangered<sup>6</sup>”*

Other than restraint requirements, the city does not currently have regulations in place specific to wild or exotic animal performances

The city identifies and defines exotic or wild animals as:

*“an animal that would ordinarily be confined to a zoo; one that would ordinarily be found in the wilderness of this or any other country; one that is a species of animal not indigenous to the United States or to North America; ...Exotic or wild animals specifically do not include animals of a species customarily used in the state as ordinary household pets, animals of a species customarily used in the state as domestic farm animals, fish confined in an aquarium other than piranha, birds, or insects<sup>7</sup>”*

Within the City of Charlotte, it is unlawful for any person, firm or corporation to keep, maintain, possess, or have under their control within the county, any venomous reptile or any other wild or exotic animal<sup>8</sup>. However, this provision does not apply to:

- lawfully operated and located pet shops,
- zoological gardens,
- scientific research laboratories,
- circuses,
- veterinarians harboring such animals for purposes of providing professional medical treatment,
- wildlife rehabilitators with proper permits, or
- exhibitors licensed by the United States Department of Agriculture displaying such animals for educational purposes, provided that the animals are maintained in a manner so as to prevent escape.

Apart from city regulation that defines how wild and exotic animals be confined and restrained, there are no additional regulations within the city’s ordinance specific to circuses and the use of wild and exotic animals for performances.

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<sup>5</sup> City of Charlotte Code of Ordinances, Chapter 3 - Animals

<sup>6</sup> City of Charlotte Code of Ordinances, Chapter 3 - Animals, Sec. 3-73 – Exotic or wild animals.

<sup>7</sup> City of Charlotte Code of Ordinances, Chapter 3 - Animals, Sec. 3-3 – Definitions.

<sup>8</sup> City of Charlotte Code of Ordinances, Chapter 3 - Animals, Sec. 3-73 – Exotic or wild animals.

# Benchmark Research

A series of benchmark analyses was conducted to provide an initial understanding of how Charlotte’s peer cities prohibit or restrict circus animals. Relevant ordinances for 20 national peer cities and five North Carolina cities were examined (**Attachments 2**).

## Circus Animals

In comparison with Charlotte’s peer cities and in regard to circus animals, seven of 20 peer cities have some level of regulation on circus animals. Of these seven cities, three (Atlanta, Georgia; Austin, Texas; and Minneapolis, Minnesota) explicitly prohibit the use of bull hooks:

*“BULL HOOK means a tool, also known as an elephant goad or an ankus, used in handling and training elephants, consisting of a spike and hook attached to a shaft or handle.”<sup>9</sup>*

**Table 3**

Restrictions Specific to Circus Animals			
		# of Cities	%
<b>National Benchmark Cities</b>			
Restrictions on Circus Animals?	No	13	65%
	Yes, regulated	4	20%
	Yes, prohibited	3	15%
	<b>Total</b>	<b>20</b>	
<b>NC Benchmark Cities</b>			
Restrictions on Circus Animals?	No	1	20%
	Yes, regulated	2	40%
	Yes, prohibited	2	40%
	<b>Total</b>	<b>5</b>	

Louisville, Kentucky has established criteria for the treatment and housing of circus animals. The peer cities of Long Beach, California; San Diego, California; and Portland, Oregon ban wild or exotic animals for circus use.

Regionally within North Carolina, Orange County has banned the display of wild or exotic animals<sup>10</sup>. In addition, Asheville, North Carolina only allows educational outreach programs accredited by the Association of Aquariums and Zoos, a wildlife sanctuary/rehabilitator, or a registered university or research facility to keep wild animals. No other person or entity may keep or exhibit, or permit to be kept or exhibited on his/her/its premises a wild animal within the city limits<sup>11</sup>. Asheville’s definition of wild animals is defined as those not normally living with humans,

<sup>9</sup> City of Austin Code of Ordinances, Chapter 3-2, Sec. 3-1-1 Definitions.

<sup>10</sup> Orange County, NC Code of Ordinances Chapter 4 - Animals, Article II. - Animal control, Division 4. – Display of Wild and Exotic Animals.

<sup>11</sup> Asheville, NC Code of Ordinances, Chapter 3 - Animals Article I. – In General, Sec. 3-14. – Wild Animals.

including, but not limited to: bears, non-human primates, all felines (other than the domestic house cat), deer, raccoons, skunks, squirrels, turkeys, venomous snakes, elephants, camels, coyotes and wolves.

## Key Findings

No specific regulation is present within the City of Charlotte’s ordinance that restricts the use of wild and exotic animals in circuses. The city ordinance does offer all-encompassing protection to wild and exotic animals throughout Chapter 3 – Animals. There are also state and federal regulations in place to safeguard the well-being of animals used in performances.

Of the cities reviewed, 14 of the 25 have no regulation specific to circus animals. One key finding was that for the cities that regulate circus animals, prohibiting the use of elephant bull hooks was a common protection used.

## Recommendations and Next Steps

The issue of allowing circus animal performances is a policy consideration, that does not result in significant administrative or fiscal impacts for the city. Therefore, the recommendation is for Council to determine the policy direction.

The table below briefly describes policy options for consideration in regard to circus animals.

Circus Animals Policy Options
<ul style="list-style-type: none"><li>• Continue with current protection provisions as provided for by the standards of the Animal Welfare Act.</li></ul>
<ul style="list-style-type: none"><li>• Consider provision banning the use of bull hooks</li></ul>
<ul style="list-style-type: none"><li>• Consider provision banning the use of wild and exotic animals in circuses</li></ul>





## Attachments

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## Attachment 1

### U.S Department of Agriculture, Animal Welfare Act, Sec. 2.121 – handling of animals.

§ 2.130

9 CFR AWR (1-1-18 Edition)

(3) Euthanized.

(d) The dealer, exhibitor, intermediate handler, or carrier from whom the animals were confiscated must bear all costs incurred in performing the placement or euthanasia activities authorized by this section.

[54 FR 36147, Aug. 31, 1989, as amended at 66 FR 239, Jan. 3, 2001]

#### **PART 2** *Subpart I*

#### **§ 2.130 - Minimum age requirements.**

No dog or cat shall be delivered by any person to any carrier or intermediate handler for transportation, in commerce, or shall be transported in commerce by any person, except to a registered research facility, unless such dog or cat is at least eight (8) weeks of age and has been weaned.

#### **§ 2.131 - Handling of animals.**

(a) All licensees who maintain wild or exotic animals must demonstrate adequate experience and knowledge of the species they maintain.

(b)(1) Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

(2)(i) Physical abuse shall not be used to train, work, or otherwise handle animals.

(ii) Deprivation of food or water shall not be used to train, work, or otherwise handle animals; *Provided, however,* That the short-term withholding of food or water from animals by exhibitors is allowed by these regulations as long as each of the animals affected receives its full dietary and nutrition requirements each day.

(c)(1) During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public.

(2) Performing animals shall be allowed a rest period between performances at least equal to the time for one performance.

(3) Young or immature animals shall not be exposed to rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.

(4) Drugs, such as tranquilizers, shall not be used to facilitate, allow, or provide for public handling of the animals.

(d)(1) Animals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being.

(2) A responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during periods of public contact.

(3) During public exhibition, dangerous animals such as lions, tigers, wolves, bears, or elephants must be under the direct control and supervision of a knowledgeable and experienced animal handler.

(4) If public feeding of animals is allowed, the food must be provided by the animal facility and shall be appropriate to the type of animal and its nutritional needs and diet.

(e) When climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. An animal may never be subjected to any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being, taking into consideration such factors as the animal's age, species, breed, overall health status, and acclimation.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 10498, Mar. 4, 1998; 69 FR 42102, July 14, 2004]

#### § 2.132 - Procurement of dogs, cats, and other animals; dealers.

(a) A class "B" dealer may obtain live random source dogs and cats only from:

(1) Other dealers who are licensed under the Act and in accordance with the regulations in part 2;

(2) State, county, or city owned and operated animal pounds or shelters; and

(3) A legal entity organized and operated under the laws of the State in which it is located as an animal pound or shelter, such as a humane shelter or contract pound.

(b) No person shall obtain live dogs, cats, or other animals by use of false pretenses, misrepresentation, or deception.

(c) Any dealer, exhibitor, research facility, carrier, or intermediate handler who also operates a private or contract animal pound or shelter shall comply with the following:

(1) The animal pound or shelter shall be located on premises that are physically separated from the licensed or registered facility. The animal housing facility of the pound or shelter shall not be adjacent to the licensed or registered facility.

(2) Accurate and complete records shall be separately maintained by the licensee or registrant and by the pound or shelter. The records shall be in accordance with §§ 2.75 and 2.76, unless the animals are lost or stray. If the animals are lost or stray, the pound or shelter records shall provide:

(i) An accurate description of the animal;

(ii) How, where, from whom, and when the dog or cat was obtained;

**Attachment 2  
Benchmark Data on Circus Animal Restrictions**

Peer City	Ordinance	Prohibitions/restrictions on circus animals?
Arlington, Texas	no	
Atlanta, Georgia	county restriction	No use of elephant bullhooks
Austin, Texas	yes	No use of elephant bullhooks
<b>Charlotte</b>	no	
Columbus, Ohio	no	
Dallas, Texas	no	
Denver, Colorado	no	
Fort Worth, Texas	no	
Houston, Texas	no	
Indianapolis, Indiana	no	
Kansas, Missouri	no	
Long Beach, California	state ban	No circus animals (except domestic dogs, cats, and horses)
Louisville, Kentucky	yes	Sets criteria for circus animal treatment and housing conditions; no animal fighting/wrestling.
Memphis, Tennessee	no	
Minneapolis, Minnesota	yes	No use of elephant bullhooks
Nashville, Tennessee	no	
Omaha, Nebraska	no	
Portland, Oregon	county ban	Prohibits traveling animal displays that include wild or exotic animals for live public entertainment or amusement in the county.
San Diego, California	state ban	No circus animals (except domestic dogs, cats, and horses)
Seattle, Washington	no	
Tulsa, Oklahoma	no	

NC	Ordinance	Prohibitions/restrictions on circus animals?
Asheville	Yes, prohibited	No person or entity shall keep or exhibit, or permit to be kept or exhibited on his/her/its premises a wild animal within the city limits. This section shall not apply to: (1) An exhibition or educational outreach program by a zoo or aquarium accredited by the Association of Aquariums and Zoos ("AZA"); (2) A wildlife sanctuary or wildlife rehabilitator properly licensed and permitted by the NC Wildlife Resources Commission; or (3) A university, college or laboratory, or other research facility registered under the Animal Welfare Act (7 U.S.C. sec. 2132(e)).
Orange County	Yes, prohibited	It shall be unlawful for any person to display or sponsor a display of wild or exotic animals on any public or private property within Orange County.
Durham County	Yes, regulated	Permit requirements for more than five days within the county
Guilford County	Yes, regulated	It shall be unlawful for any person to own or shelter any exotic animal without a permit from the county. The permit shall identify the species and may include
Wake County	Yes	None. CONFINEMENT AND CONTROL OF INHERENTLY DANGEROUS MAMMALS. (2) Traveling fairs, circuses and carnivals shall also be exempt from this section;

Statewide Bans	Statue	Prohibitions/restrictions on circus animals?
California	Ban	No circus animals (except domestic dogs, cats, and horses)
Hawaii	Ban	prohibits the importation of dangerous wild animals for exhibition in circuses or carnivals in Hawaii.
New Jersey	Ban	New Jersey was the first state in the nation to bar circuses, carnivals and fairs from featuring elephants, tigers and other exotic animals.

## Resources

1. U.S. Department of Agriculture, USDA Animal Care, Animal Welfare Act and Animal Welfare Regulations, May 2019.  
[https://www.aphis.usda.gov/animal\\_welfare/downloads/AC\\_BlueBook\\_AWA\\_508\\_comp\\_version.pdf](https://www.aphis.usda.gov/animal_welfare/downloads/AC_BlueBook_AWA_508_comp_version.pdf)
2. North Carolina Statutes, Chapter 19A. Protection of Animals., Article 1. Civil Remedy for Protection of Animals.  
[https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_19A/Article\\_1.html](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_19A/Article_1.html)
3. North Carolina Statutes, Article 8., Delegation and Exercise of the General Police Power:  
[https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_160A/Article\\_8.pdf](https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_160A/Article_8.pdf)
4. Mecklenburg County Animal Control Ordinance.  
<https://www.mecknc.gov/CountyManagersOffice/BOCC/Ordinances/Animal%20Control.pdf>
5. City of Charlotte Code of Ordinances, Chapter 3 - Animals, Sec. 3-3 – Definitions.  
[https://library.municode.com/nc/charlotte/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH3AN](https://library.municode.com/nc/charlotte/codes/code_of_ordinances?nodeId=PTIICOOR_CH3AN)
6. City of Charlotte Code of Ordinances, Chapter 3 - Animals, Sec. 3-73 – Exotic or wild animals.  
[https://library.municode.com/nc/charlotte/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH3AN\\_ARTIICACOPRREAC\\_S3-73EXWIAN](https://library.municode.com/nc/charlotte/codes/code_of_ordinances?nodeId=PTIICOOR_CH3AN_ARTIICACOPRREAC_S3-73EXWIAN)
7. City of Charlotte Code of Ordinances, Chapter 3 – Animals, Sec. 3-3 - Definitions  
[https://library.municode.com/nc/charlotte/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH3AN\\_ARTIINGE\\_S3-3DE](https://library.municode.com/nc/charlotte/codes/code_of_ordinances?nodeId=PTIICOOR_CH3AN_ARTIINGE_S3-3DE)
8. City of Charlotte Code of Ordinances, Chapter 3 - Animals, Sec. 3-73 – Exotic or wild animals.  
[https://library.municode.com/nc/charlotte/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH3AN\\_ARTIICACOPRREAC\\_S3-73EXWIAN](https://library.municode.com/nc/charlotte/codes/code_of_ordinances?nodeId=PTIICOOR_CH3AN_ARTIICACOPRREAC_S3-73EXWIAN)
9. City of Austin Code of Ordinances, Chapter 3-2, Sec. 3-1-1 Definitions.  
[https://library.municode.com/tx/austin/codes/code\\_of\\_ordinances?nodeId=TIT3ANRE\\_CH3-1GEPR\\_ART1DE\\_S3-1-1DE](https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT3ANRE_CH3-1GEPR_ART1DE_S3-1-1DE)
10. Orange County, NC Code of Ordinances Chapter 4 - Animals, Article II. - Animal control, Division 4. – Display of Wild and Exotic Animals  
[https://library.municode.com/nc/orange\\_county/codes/code\\_of\\_ordinances?nodeId=PTIGEOR\\_CH4AN\\_ARTIIANCO\\_DIV4DIWIEXAN](https://library.municode.com/nc/orange_county/codes/code_of_ordinances?nodeId=PTIGEOR_CH4AN_ARTIIANCO_DIV4DIWIEXAN)

11. Asheville, NC Code of Ordinances, Chapter 3 - Animals Article I. – In General, Sec. 3-14. – Wild Animals.

[https://library.municode.com/nc/asheville/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH3  
AN\\_ARTIINGE\\_S3-14WIAN](https://library.municode.com/nc/asheville/codes/code_of_ordinances?nodeId=PTIICOOR_CH3_AN_ARTIINGE_S3-14WIAN)