

ORDINANCE NO. 1419

AN ORDINANCE AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF SEBRING TO PROVIDE FOR THE PROTECTION OF WILD AND EXOTIC ANIMALS IN TRAVELING ACTS FOR PUBLIC ENTERTAINMENT OR AMUSEMENT WITHIN THE CITY OF SEBRING; AND SETTING FORTH CIVIL PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the treatment of wild and exotic animals in animal acts for public entertainment or amusement should be humane; and

WHEREAS, it is in the best interest of the citizens of the City of Sebring that Chapter 4 of the Code of Ordinances of the City of Sebring be amended to provide for the prohibition of inhumane treatment of wild and exotic animals in animal acts for public entertainment or amusement,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEBRING, FLORIDA, THAT:

1. Chapter 4 of the Code of Ordinances of the City of Sebring is hereby amended to include the following:

“ARTICLE III. WILD AND EXOTIC ANIMALS

Sec. 4-39. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

“Citation” means a written notice, issued to a person and the citation must contain:

- 1) The date and time of issuance.
- 2) The name and address of the person being cited.
- 3) The date and time the civil infraction was committed.
- 4) The facts constituting probable cause.
- 5) The ordinance violated.
- 6) The name and authority of the officer.
- 7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation in county court.
- 8) The applicable civil penalty if the person elects to contest the citation.

- 9) The applicable civil penalty if the person elects not to contest the citation.
- 10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for the maximum civil penalty.

Display means any exhibition, public showing, presentation, display exposition, fair, act, circus, ride, trade show, petting zoo, carnival, parade, race, or similar undertaking in which animals are required to perform tricks, give rides, or participate as accompaniments for entertainment, amusement, or benefit of a live audience, whether or not a fee is charged.

Mobile or traveling housing facility means a transporting vehicle such as a truck, trailer or railway car, used to transport or house animals while traveling for exhibition or other performance.

“Officer” means any law enforcement officer defined in Florida Statute 943.10 or any animal control officer.

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

Wild or exotic animal means any live animal from any of the following scientific classifications:

- 1) Artiodactyla (including hippopotamuses, giraffes, camels, and llamas, but excepting cattle, swine, sheep, and goats);
- 2) Crocodilia (including alligators and crocodiles);
- 3) Elephantidae (elephants);
- 4) Felidae (including tigers, lions, jaguars, leopards, cheetahs, and cougars, or any hybrid thereof, but excluding domestic cats);
- 5) Marsupialia (including kangaroos and koalas);
- 6) Non-human primates (including apes, monkeys, and lemurs);
- 7) Perissodactyla (including rhinoceroses, tapirs, and zebras);
- 8) Pinnipedia (including seals, sea lions, and walruses); and
- 9) Ursidae (bears).

Sec. 4-40. Prohibited acts.

It shall be unlawful for any person to use a bullhook, ankus, whip, electrical prod or other implement or tool that causes unjustifiable pain or suffering to a wild or exotic animal which is being displayed within the municipal limits of the City of Sebring. For purposes of this section, the term use shall include brandishing, exhibiting or displaying a bullhook, ankus, whip, electric prod or an implement designed to look like a bullhook, ankus, whip, or electric prod in the presence of a wild or exotic animal for the purpose of training or controlling the behavior of the animal

Sec. 4-41. Administration and enforcement.

The Sebring Police Department is hereby charged with the responsibility for the administration and enforcement of the provisions of this article.

Sec. 4-42. Violations of article.

- (a) A violation of this ordinance is a civil infraction.
- (b) An officer who has probable cause to believe that a person has committed an act in violation of this ordinance may issue a citation to the person who has committed the civil infraction.
- (c) Any person who violates this article may be subject to a civil penalty of up to \$500.00. A prohibited act may constitute a separate offense for each animal treated inhumanely.
- (d) The civil penalty will be \$300.00 if the person who has committed the civil infraction does not contest the citation.
- (e) Any citation issued hereunder may be contested by the person receiving the citation in the County Court of Highlands County.
- (f) If a person fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court, the court may issue an order to show cause to such person. That order shall require such persons to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court."

2. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

3. Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

4. This Ordinance shall take effect immediately upon its passage and its approval by the Mayor or it becoming law without his approval.

PASSED ON FIRST READING, this 18th day of July, 2017.

PASSED at a regular meeting of the City Council of the City of Sebring, Florida, this ____ day of _____, 2017.

Mark Stewart, President, City Council,
City of Sebring, Florida

Attest: _____
Kathy Haley, City Clerk

This Ordinance was adopted after reading at two separate meetings after notice being properly published in a local newspaper and was duly passed on the ____ day of _____, 2017, and the same is hereby certified to the Mayor for his approval or disapproval.

WITNESS my hand and seal at Sebring, Florida, this ____ day of _____, 2017.

Kathy Haley, City Clerk
City of Sebring

The foregoing Ordinance was received by me this ____ day of _____, 2017, and by me approved this ____ day of _____, 2017.

John C. Shoop, Mayor
City of Sebring, Florida

I, KATHY HALEY, City Clerk of the City of Sebring, Florida, hereby certify that a copy of the foregoing Ordinance was posted by me at the door of the City Hall on the ____ day of _____, 2017, and that same remained so posted until the ____ day of _____, 2017.

Kathy Haley, City Clerk
City of Sebring, Florida

**NS NOTICE OF INTENT
TO ADOPT ORDINANCE**

Please take notice that Ordinance No. 1419 will be presented to the City Council for adoption upon its second and final reading at the City Council Chambers, 368 South Commerce Avenue, Sebring, FL 33870 on the 1st day of August, 2017, at 6:00 p.m. A copy of the proposed Ordinance can be obtained from the office of the City Clerk. Any person may appear and be heard with respect to the proposed Ordinance. The proposed Ordinance is entitled as follows:

AN ORDINANCE AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF SEBRING TO PROVIDE FOR THE PROTECTION OF WILD AND EXOTIC ANIMALS IN TRAVELING ACTS FOR PUBLIC ENTERTAINMENT OR AMUSEMENT WITHIN THE CITY OF SEBRING; AND SETTING FORTH CIVIL PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Pursuant to Section 286.0105 of the Florida Statutes, as amended, the City Council hereby advises that if any interested person decides to appeal any decision made by the City Council with respect to any matter considered at the proceedings, he will need a record of the proceeding and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record included the testimony and evidence upon which the appeal is to be based.

THE CITY OF SEBRING DOES NOT DISCRIMINATE UPON THE BASIS OF AN INDIVIDUAL'S DISABILITY STATUS. THIS NON-DISCRIMINATORY POLICY INVOLVED EVERY ASPECT OF THE CITY'S FUNCTIONS, INCLUDING ONE'S ACCESS TO, PARTICIPATION IN, EMPLOYMENT OF, OR TREATMENT IN, ITS PROGRAMS AND/OR ACTIVITIES. IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT, PERSONS WITH DISABILITIES NEEDING A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT KATHY HALEY, CITY CLERK, AT 368 SOUTH COMMERCE AVENUE, SEBRING, FLORIDA 33870, TELEPHONE (863)471-5100, NOT LATER THAN TWENTY-FOUR (24) HOURS PRIOR TO THE PROCEEDING. IF HEARING OR VOICE IMPAIRED, PLEASE CALL THE CLERK THROUGH FLORIDA RELAY SERVICE: (TDD) 1-800-955-8771, OR VOICE (V) 1-800-955-8770, VIA FLORIDA RELAY SERVICE.

This notice shall be published on July 22, 2017.

/s/ Kathy Haley
Kathy Haley, City Clerk
City of Sebring, Florida

Robert S. Swaine
Swaine & Harris, P.A.
425 South Commerce Avenue
Sebring, FL 33870
City Attorney

July 22, 2017