

Intro. Res. No. 1777-2022
Introduced by Legislators Bergin, Richberg, Bontempi, and Kennedy

Laid on Table 11/9/2022

**RESOLUTION NO. 594-2023, ADOPTING LOCAL LAW
NO. 26-2023, A LOCAL LAW TO RESTRICT THE USE OF
EXOTIC ANIMALS IN TRAVELING PERFORMANCES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on November 9, 2022, a proposed local law entitled, "**A LOCAL LAW TO RESTRICT THE USE OF EXOTIC ANIMALS IN TRAVELING PERFORMANCES**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 26-2023, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO RESTRICT THE USE OF EXOTIC ANIMALS
IN TRAVELING PERFORMANCES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that for profit traveling performances, shows or zoos that involve exotic, wild and/or non-domesticated animals are detrimental to animal welfare due to the adverse effect of severe confinement, lack of free exercise, physical coercion and the restriction of natural behaviors.

This Legislature also finds and determines that the traveling performance show or zoo stress can often cause exotic, wild and/or non-domesticated animals to suffer and be more prone to health, behavioral and psychological problems which can further lead to increased risks to public safety.

This Legislature finds and determines that County government has broad powers to enact legislation relating to the health, safety and welfare of its citizens.

This Legislature further finds and determines that exotic, wild and/or non-domesticated animals pose an additional risk to public safety because such animals have wild instincts and needs and have demonstrated unpredictability.

This Legislature determines that traveling performances increase the possibility of escaping exotic, wild and/or non-domesticated animals which can wreak havoc, seriously harm workers and the public.

This Legislature also finds that traveling performances involving exotic, wild and non-domesticated animals bring adults and children dangerously close to the displaying animals in inappropriate uncontrolled areas that are not suited for the exhibition of such animals.

This Legislature further determines that many of these species are physically dangerous and create a higher risk of transmitting diseases to humans.

Therefore, the purpose of this law is to reduce hazards to the physical health of the public, safeguard the public safety of residents and guests of Suffolk County, and further ensure animal welfare and promote the protection of animals by prohibiting the participation of an exotic or wild animal in a traveling performance or show held in the County.

Section 2. Amendments.

The SUFFOLK COUNTY CODE is hereby amended by the addition of a new Article IV to read as follows:

**Chapter 302.
Animal Shelters and Kennels**

* * * *

Article IV.

Use of Wild or Exotic Animals in Traveling Performances

§302-24. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ANIMAL TRAVELING PERFORMANCE OR SHOW - when an audience is entertained at a location some travel distance from where the animals incorporated therein are normally kept or reside. It can also mean any exhibition or public showing involving the transporting of animals which moves from place to place where animals are set out to be viewed or are required to perform tricks, fight or participate in performances for amusement or entertainment.

DOMESTICATED ANIMAL - mammals, birds, reptiles, amphibians or fish that have been selectively bred and genetically adapted over generations to live alongside humans. They are genetically distinct from their wild ancestors or cousins and usually fall into three main groupings: domestication for companionship (dogs and cats), animals farmed for food (sheep, cows, pigs, turkeys, etc.) and working or draft animals (horses, donkeys, camels). Other domesticated animal species are those that are raised under license or in confinement under license from the Department of Environmental Conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this section.

ENVIRONMENTAL EDUCATIONAL PROGRAM - an animal use or exhibition that is devoted to imparting knowledge or information about the exhibited animal's behavior, habitat, life cycle, migratory patterns, feeding habits or similar pedagogical information and is conducted by individuals or facilities who are accredited by the Association of Zoo and Aquarium accredited facilities, or by facilities accredited by the Global Federation of Animal Sanctuaries or to wildlife sanctuaries and their associations similarly qualified to impart such information or by any agency of the state, county or local government. Additionally, at no time during an educational exhibition will any animal be made to performance behavior that is not intrinsically natural to the animal.

EXOTIC ANIMAL - is one that is wild but originally from a different continent than the one they currently are in inclusive of all forms of hybridization with other species. See also definitions of wild animal and wild or exotic animal.

NON-DOMESTICATED ANIMAL - strictly defined is any animal kept outside its country of origin. Generally defined as animals that are not well established as common household pets, have not been domesticated by humans and are in a condition mainly independent of humans. Non-traditional or non-domesticated pets include rabbits, hamsters, guinea pigs, tropical fish, parakeets, gerbils, bearded dragons, hedgehogs and ferrets. Most of these animals are not considered domesticated, however, have been bred by humans for many generations. These enumerated non-traditional pet animals have also been commonly sold for many years as pets in the pet trade and are regulated.

NON-FOR-PROFIT PERFORMANCE - a show, mobile or stationary act, circus, photographic opportunity, carnival, fair, parade, ride, race, rodeo, party, exhibition or zoo or similar undertaking that does not earn profit for its owners and that all money earned through pursuing business activities or through donations goes right back into running the organization.

PETTING ZOO - a zoo, park reserve, wildlife or marine park, city farm, aquarium, or exhibition at which visitors especially children may handle and feed the animals.

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.

WILD ANIMAL - living things and especially mammals, birds, and fishes that are neither human nor domesticated. Additionally, a wild or exotic animal raised with humans is not domesticated, but simply a wild or exotic animal that is more accustomed to humans and possibly considered tame. See also definitions of exotic animal and wild or exotic animal.

WILD OR EXOTIC ANIMAL - the term wild or exotic animal further means any or all of the following animals, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species, the words in parentheses being intended to act as examples only and are not to be construed as being an exhaustive list or to otherwise limit the generality of each group of animals:

- A. Artiodactyla (hippopotamuses and giraffes);
- B. Canidae (wolves, foxes and jackals) but not domesticated dogs;
- C. Crocodylia (alligators and crocodiles);
- D. Elephantidae (elephants);
- E. Edentates (anteaters, sloths and armadillos);
- F. Felidae (tigers, lions, jaguars and leopards), but not domesticated cats;
- G. Hyaenidae (hyenas);
- H. Marsupialia (kangaroos and opossums);

- I. Musteloidea (skunks, weasels, otters, racoons and badgers);
- J. Non-human primates (apes, monkeys and lemurs);
- K. Perissodactyla (rhinoceroses, tapirs and zebras);
- L. Pinnipedia (seals, sea lions and walruses);
- M. Struthio (ostriches);
- N. Ursidae (bears).

WILDLIFE SANCTUARY - an area set aside exclusively where there are no public events for financial profit or any other entertainment purposes, no escorted public visitation is allowed, no direct contact between the public and wild animals is allowed and the animals within are not taken from the sanctuary or enclosures for exhibition. Additionally, under the Environmental Conservation Law, "wildlife sanctuary" means an organization as described in the Internal Revenue Code that is in compliance with all applicable provisions of the Animal Welfare Act, and operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals are provided care for their lifetime or rehabilitated and released back to their natural habitat, and, with respect to any animal owned by the organization, does not;

- A. use the animal for any type of entertainment, recreational or commercial purpose except for the purpose of exhibition as defined by the applicable state department;
- B. sell, trade, lend or barter the animal or the animal's body parts; or
- C. breed the animal.

§ 302-25. Prohibit Use of Wild or Exotic Animals in Traveling Performances.

No animal traveling performance or show may use wild or exotic animals, even if they are domesticated. This prohibition does not apply to wildlife sanctuaries and their associations, Association of Zoo and Aquarium accredited facilities, facilities accredited by the Global Federation of Animal Sanctuaries or by any agency of the state, county or local government. This prohibition further does not apply to a film, internet show, television or advertising, if such use does not involve a live public exhibition.

§ 302-26. Enforcement.

The provisions of this article will be enforced by the Department of Health or any other municipal law enforcement agency. Alternatively, or in addition thereto, the County Attorney may seek an injunction in enforcement thereof.

§ 302-2[6]7. Penalties.

A violation of any provision of this article shall be punishable with a fine of up to twenty-five hundred (\$2,500) dollars for each failure or offense. Each violation and each day during which a violation continues shall be a separate offense.

Section 3. Applicability.

This law shall apply to all activities and events occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. Reverse Preemption.

This local law shall be null and void on the day that federal and statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via duly enacted resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

Section 6. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(26), (27) and (33) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW in that the action constitutes routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 7. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: June 21, 2023

EFFECTIVE PURSUANT TO SECTION 2-15(D) OF THE SUFFOLK COUNTY CHARTER
RETURNED BY THE COUNTY EXECUTIVE UNSIGNED JULY 24, 2023

After a public hearing duly held on July 5, 2023
Filed with the Secretary of State on August 15, 2023