



## Administrative Report

### DISCUSSION ITEM

**TO:** HONORABLE CITY COUNCIL

**FROM:** Carl Alameda, Assistant City Manager  
Mark Scott, Interim City Manager

**DATE REPORT PREPARED:** September 19, 2023

**MEETING DATE:** September 26, 2023

**SUBJECT:** Second Reading and Adoption of Ordinance Adding the Right to Bodily Liberty for Elephants to Chapter 4, Title 5 of the Ojai Municipal Code

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#### **Recommendation**

That the City Council adopt the attached ordinance and waive further reading.

#### **Executive Summary**

Title 5, Chapter 4, of the City of Ojai Municipal Code ("OMC") sets forth the regulations which protect animals within the City of Ojai's jurisdiction. At the August 22, 2023 meeting of the City Council, Councilmember Rule introduced the potential expansion of the City's Animal Code to add protections and establish rights for elephants held in captivity.

Attached is a proposed Article 10 (Right to Bodily Liberty for Elephants) that would be added to Title 5, Chapter 4 of the Municipal Code. Adoption of the attached ordinance would add protections to ensure the standing of the Right to Bodily Liberty for Elephants within the City of Ojai, unless the elephant is held in conditions that meet standards set in the ordinance.

The City Council conducted a first reading and introduced the proposed ordinance on September 12, 2023. The ordinance is now ready for second reading and adoption by the City Council.

#### **Background**

The issue of Elephant Bodily Rights, has been raised in recent years by a number of advocacy and animal civil rights groups. The issue remains in litigation in multiple courts. According to the Nonhuman Rights Project, the effort to recognize Elephant Bodily Rights, stems from the findings of animal researchers who have found elephants to be similarly situated to humans, as they have long-term memories, learning abilities, empathy and self-awareness.

#### **Fiscal Impact**

The costs of drafting the ordinance is included in the City's Annual Budget for Legal Services.

A handwritten signature in black ink, reading "Carl Alameda".

Prepared by:  
Carl Alameda, Assistant City Manager

A handwritten signature in blue ink, reading "Mark Scott".

Submitted by:  
Mark Scott, Interim City Manager

Attachment: A – Proposed Ordinance - Ordinance Adding the Right to Bodily Liberty for Elephants to Chapter 4, Title 5 of the Ojai Municipal Code.

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**CITY OF OJAI**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI,  
CALIFORNIA ADDING ARTICLE 10 - RIGHT TO BODILY LIBERTY  
FOR ELEPHANTS TO CHAPTER 4 - ANIMALS OF TITLE 5 -  
SANITATION AND HEALTH OF THE OJAI MUNICIPAL CODE.**

**WHEREAS**, in accordance with evolving standards of morality, scientific discovery, and human experience the Ojai City Council recognizes elephants' fundamental right to bodily liberty; and

**WHEREAS**, the City Council intends to adopt an ordinance to codify elephants' fundamental right to bodily liberty, thereby prohibiting the keeping of elephants in captive settings that deprive them of their autonomy and ability to engage in their innate behaviors.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

**SECTION 2. Code Amendment.** A new Article 10 – Right to Bodily Liberty for Elephants is added to Chapter 4 of Title 5 of the Ojai Municipal Code to read as follows:

**Article 10 – Right to Bodily Liberty for Elephants**

**Section 5-4.1001. Definitions.**

For the purposes of this chapter, certain words and phrases are defined as follows:

- (a) “Bodily liberty” means freedom from forced confinement, extraneous control, or restricted choice imposed by any person, and entails the ability to act autonomously without restraint, coercion, or control by any person.
- (b) “Designated species” means all animals under the family *Elephantidae*.
- (c) “Person” includes a natural person, a corporation, a partnership, limited partnership, or other unincorporated association, a general partner of a partnership or limited partnership, a limited liability company, a public entity, a trust, or any other corporate form cognizable under California law.

**Section 5-4.1002. Rights.**

- (a) Each member of the designated species within the City of Ojai, California has the right to bodily liberty.
- (b) No person shall prevent any member of the designated species from exercising their right to bodily liberty.

#### **Section 5-4.1003. Exceptions.**

No person confining a designated species within the City of Ojai shall be in violation of Section 5-4.1002 if the designated species is being held captive: (1) at a sanctuary accredited by the Global Federation of Animal Sanctuaries, or (2) at a sanctuary that will allow the designated species to exercise their autonomy, will not place the designated species on public display, will not breed or attempt to breed the designated species, and will house the designated species in a setting that closely resembles its natural habitat. These regulations under this chapter shall control for the designated species instead of Article 7 of Chapter 4 of Title 5 of this Code.

#### **Section 5-4.1004. Enforcement.**

- (a) Peace officers, code enforcement officers, and other persons designated by the City Manager shall enforce this chapter. The City Manager may publish written regulations in the manner required by law for the publication of ordinances and may take any and all other actions rational and necessary to enforce this chapter.
- (b) Any person violating any provision of this chapter shall be guilty of an infraction as provided in Title 1, Chapter 2, Section 1-2.03 of this Code.
- (c) In addition to any other remedies available by law and under this Code, a violation of this chapter is subject to the administrative enforcement provisions of Section 1-2.03 of this Code.
- (d) The remedies specified in this chapter shall be cumulative and the City may resort to any other remedy available at law or in equity and resort to any one remedy shall not cause an election precluding the use of any other remedy with respect to a violation.
- (e) The city attorney may seek injunctive, legal, or other equitable relief to enforce this chapter.

**SECTION 5. Environmental Determination.** The City Council determines that the following findings and conclusions reflect the independent judgment of the City Council. The City Council finds that the adoption of the foregoing amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following independent reasons:

- a. This ordinance adopting protections for elephants is an action taken by the City to preserve elephants who are each individually natural resources, and thus exempt from CEQA review under the CEQA Guidelines, Title 14, section 15307.
- b. This ordinance adopting protections for elephants is an action taken by the City to preserve elephants who constitute a critical part of the natural environment, and thus exempt from CEQA review under the CEQA Guidelines, Title 14, section 15308.
- c. This ordinance adopting protections for elephants is an action taken by the City to preserve elephants and will not result in any significant adverse impact on the environment, and thus exempt from CEQA review under the CEQA Guidelines, Title 14, section 15061(b)(3).

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

**SECTION 7. Effective Date.** This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

**SECTION 8. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

CITY OF OJAI, CALIFORNIA

By\_\_\_\_\_

Betsy Stix, Mayor

ATTEST:

\_\_\_\_\_  
Weston Montgomery, Interim Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Matthew T. Summers, City Attorney

STATE OF CALIFORNIA   )  
COUNTY OF VENTURA   )  
CITY OF OJAI               )

I, Weston Montgomery, Interim Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a meeting of the City Council of the City of Ojai held \_\_\_\_\_ and adopted at a meeting of the City Council of the City of Ojai held \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Weston Montgomery  
Interim Deputy City Clerk for the City of Ojai