



September 10, 2001
9:00A.M.

COMMISSIONERS COURT

of Polk County, Texas

County Courthouse, 3rd floor
Livingston, Texas

2001-090

Notice is hereby given that the Polk County Commissioners Court will be meet at a special session on the date stated above, at which time the following subjects will be discussed.

PUBLIC HEARING FOR THE PURPOSE OF ADOPTING A PROPOSED ORDINANCE ENTITLED "AN ORDINANCE DESIGNATING A SOLID WASTE DISPOSAL AREA AND PROHIBITING SOLID WASTE DISPOSAL IN ALL OTHER AREAS OF POLK COUNTY, AND PROVIDING CIVIL AND CRIMINAL PENALTIES".

1. CONSIDER THE ADOPTION OF PROPOSED ORDINANCE ENTITLED "AN ORDINANCE DESIGNATING A SOLID WASTE DISPOSAL AREA AND PROHIBITING SOLID WASTE DISPOSAL IN ALL OTHER AREAS OF POLK COUNTY, AND PROVIDING CIVIL AND CRIMINAL PENALTIES".

ADJORN

Posted: September 4, 2001

Commissioners Court of Polk County, Texas

By: 

John P. Thompson, County Judge

I, the undersigned County Clerk, do hereby certify that the above Notice of Meeting of the Polk County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice in the Polk County Courthouse at a place readily accessible to the general public at all times on Tuesday, September 4, 2001 and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

BARBARA MIDDLETON, COUNTY CLERK

BY  Deputy

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
2001 SEP -4 AM 9:14
BARBARA MIDDLETON
COUNTY CLERK, POLK CO. TEXAS



September 10, 2001
9:00 a.m.

COMMISSIONERS COURT
of Polk County, Texas
County Courthouse, 3rd floor
Livingston, Texas

ADDENDUM to Posting # 2001-090

The following will serve to amend the Agenda of the Commissioners Court Meeting scheduled for September 10, 2001 at 9:00 A.M.

AMEND TO ADD;

- 2. CONSIDER APPROVAL TO ADVERTISE REQUEST FOR PROPOSALS FOR CONTRACT OPERATIONS OF THE POLK COUNTY SOLID WASTE SYSTEM.
- 3. CONSIDER AMENDING COUNTY ORDINANCE PROHIBITING DANGEROUS WILD ANIMALS TO INCLUDE EFFECTIVE DATE OF 12/01/01.

Dated: Friday, September 7, 2001.

Commissioners Court of Polk County, Texas

By: *John P. Thompson*
John P. Thompson, County Judge

I, the undersigned County Clerk, do hereby certify that the above Addendum to the Notice of Meeting of the Polk County Commissioners Court is a true and correct copy of said Addendum and that I posted a true and correct copy of said Addendum at the door of the Polk County Courthouse at a place readily accessible to the general public at all times on Friday, September, 7, 2001 and that said Addendum remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

BARBARA MIDDLETON, COUNTY CLERK

BY *Schelana Walker*, Deputy

Barbara Middleton
BARBARA MIDDLETON
COUNTY CLERK, POLK CO
2001 SEP - 7 AM 8:44
FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

STATE OF TEXAS)

DATE: SEPTEMBER 10, 2001

COUNTY OF POLK)

"SPECIAL" MEETING
Commissioner Smith - Absent**"COMMISSIONERS COURT"**
POSTING #2001-090

BE IT REMEMBERED ON THIS THE 10th DAY OF SEPTEMBER, 2001
THE HONORABLE COMMISSIONERS COURT MET IN "SPECIAL"
CALLED MEETING WITH THE FOLLOWING OFFICERS AND MEMBERS
PRESENT, TO WIT:

JUDGE JOHN P. THOMPSON, PRESIDING.

BOB WILLIS - COUNTY COMMISSIONER PCT#1, JAMES J. "Buddy" PURVIS,
COUNTY COMMISSIONER PCT #3, R.R. "Dick" HUBERT - COUNTY COMMISSIONER
PCT #4, BARBARA MIDDLETON - COUNTY CLERK & BILL LAW-COUNTY AUDITOR,
THE FOLLOWING AGENDA ITEMS, ORDERS, AND DECREES WERE DULY MADE,
CONSIDERED & PASSED.

WELCOME AND CALLED TO ORDER BY JUDGE JOHN P. THOMPSON 9:00 AM.

**"PUBLIC HEARING" FOR THE PURPOSE OF ADOPTING A PROPOSED ORDINANCE
ENTITLED "AN ORDINANCE DESIGNATING A SOLID WASTE DISPOSAL AREA AND
PROHIBITING SOLID WASTE DISPOSAL IN ALL OTHER AREAS OF POLK COUNTY,
AND PROVIDING CIVIL AND CRIMINAL PENALTIES."**

**JIM ALLISON, LEGAL COUNCIL FOR THE COUNTY JUDGES AND
COMMISSIONERS ASSOCIATION SPOKE REGARDING THE LEGALITIES
OF "ADOPTION OF ORDINANCE."**

JUDGE THOMPSON OPENED "PUBLIC COMMENTS" PORTION OF THE MEETING.

- A. LES LeBLANC OF SOUTHLAND PLANTATION SUBDIVISION COMMENTED ON
THE PROPOSED ORDINANCE AND HOW IT WILL EFFECT HIM.
- B. COMMISSIONER HUBERT ASKED ABOUT CITIZENS BURNING ON THEIR PRIVATE
PROPERTY AND HOW WILL IT EFFECT THEM.
- C. IRA GERTENSLAGER ASKED HOW TO GET RID OF "WASTE" TIRES THAT HAVE BEEN
DISCARDED BY OTHER INDIVIDUALS.
- D. TOMMY OVERSTREET ASKED QUESTIONS ABOUT HIS COMPANY PICKING UP
DISCARDED MATERIALS AND HAULING TO THE SOLID WASTE LANDFILL.
ASKED IF HE WOULD BE ABLE TO BURN AND DISCARD ON HIM OWN PERSONAL
PROPERTY.
- E. JIM ALLISON - ANSWERED QUESTIONS ON THE VARIOUS TOPICS ABOVE.

JUDGE THOMPSON -DECLARED THE "PUBLIC HEARING" CLOSED AT 9:27 A.M.

1. MOTIONED BY JAMES J. "Buddy" PURVIS, SECONDED BY BOB WILLIS, TO
APPROVE THE ADOPTION OF PROPOSED ORDINANCE ENTITLED,
**"AN ORDINANCE DESIGNATING A SOLID WASTE DISPOSAL AREA AND
PROHIBITING SOLID WASTE DISPOSAL IN ALL OTHER AREAS OF POLK
COUNTY AND PROVIDING CIVIL AND CRIMINAL PENALTIES."**
ALL VOTING YES. (SEE ATTACHED)

2. MOTIONED BY JAMES J. "Buddy" PURVIS, SECONDED BY BOB WILLIS,
APPROVAL TO ADVERTISE REQUEST FOR PROPOSALS FOR CONTRACT
OPERATIONS OF THE POLK COUNTY SOLID WASTE SYSTEM.
ALL VOTING YES.

3. MOTIONED BY JAMES J. "Buddy" PURVIS, SECONDED BY BOB WILLIS,
APPROVAL TO AMENDING COUNTY ORDINANCE PROHIBITING
DANGEROUS WILD ANIMALS TO INCLUDE EFFECTIVE DATE OF
DECEMBER 1, 2001.
ALL VOTING YES. (SEE ATTACHED)

- *DISCUSSION WITH GLENN DUFF, COMMISSIONER HUBERT AND
JIM ALLISON - LEGAL COUNCIL.*

4. MOTIONED BY R.R. "Dick" HUBERT, SECONDED BY BOB WILLIS, TO ADJOURN
COURT THIS 10th DAY OF SEPTEMBER, 2001 AT 10:00 A.M.
ALL VOTING YES.



JOHN P. THOMPSON, COUNTY JUDGE

ATTEST:


BARBARA MIDDLETON, COUNTY CLERK

C:\COMMISSIONERS\COURT\COMMCRT.2001\SEP10.SPEC.WPD

Item #1

AN ORDINANCE DESIGNATING A SOLID WASTE DISPOSAL AREA AND PROHIBITING SOLID WASTE DISPOSAL IN ALL OTHER AREAS OF POLK COUNTY. AND PROVIDING CIVIL AND CRIMINAL PENALTIES

Be it ORDAINED, ORDERED and ADOPTED by the Commissioners Court of Polk County, Texas:

SECTION 1. GENERAL PROVISIONS AND FINDINGS

WHEREAS, the Polk County Commissioners Court has both the responsibility and the authority to protect the health, safety and welfare of the citizens of Polk County, Texas and their property interest; and

WHEREAS, solid waste disposal, especially the disposal of solid waste in landfills, is an activity that has high potential to negatively impact the health, safety and welfare of any community; and

WHEREAS, a safe and abundant supply of drinking water is necessary to preserve and protect the health and welfare of the citizens of Polk County, Texas; and

WHEREAS, many citizens in Polk County utilize drinking water from private wells; and

WHEREAS, the Commissioners Court believes and hereby finds that a waste disposal site and development thereof anywhere in the county, except as designated by this court at the location designated below, would constitute an unacceptable risk and threat to the public health, safety and welfare for the reasons and findings stated below, among many others, to wit:

The Court finds that the presence of solid waste disposal facilities in general may negatively influence property values; and

The Court finds that under the circumstances existing in Polk County that additional solid waste facilities would constitute a public or private nuisance; and

The Court finds the use of all present technology and science with regard to the location, installation, operation and maintenance of municipal, industrial and hazardous solid waste disposal sites, cannot guarantee or ensure that such sites will not contaminate, spoil and pollute areas surrounding and distant to said disposal sites;

This Court further finds that if the substances contained within a landfill escape into the waterways, including subsurface waterways, significant threats to the public health, safety and welfare will exist; and

This Court finds that the nature of the soils of Polk County is such that it would allow migration of waste and lead to the contamination of groundwater, which many citizens rely on for drinking water.

The Court further finds that the traffic attendant to operation of a solid waste disposal facility, which involves receiving and dispatching a large number of heavy trucks hauling waste, constitutes a hazard to the public health and a threat to the public roads;

The Court further finds that waste streams that can be received in municipal and non-hazardous industrial waste facilities include chemicals that are toxic, corrosive, flammable and explosive, and that such substances present a threat to the public health, safety and welfare;

The Court finds that the prohibition of solid waste disposal as provided in this ordinance is necessary to prevent a grave and immediate threat to life and property; and

The Court finds that such a prohibition is a necessary response to a real and substantial threat to public health and safety, that such a prohibition will significantly advance the health and safety of the public and that the prohibition does not impose a greater burden than necessary to protect the public health and safety under the circumstances;

SECTION 2. SUBSTANTIVE PROVISIONS AND DEFINITIONS

For the above reasons, and pursuant to the provisions of Section 364.012 of the Texas Health and Safety Code, the Polk County Commissioners Court hereby

ORDAINS, RESOLVES, ORDERS and ADOPTS the following **ORDINANCE**:

IT IS ORDAINED AND ORDERED that the disposal of solid waste within Polk County, Texas is authorized and allowed in the following area:

1. A tract of land containing 70.769 acres, more or less, located in the Wm. Johns Survey, Abstract No. 39, Polk County, Texas, as more fully described in a special warranty deed from Champion

- International Corporation to the County of Polk recorded in Vol. 598, p. 890, Deed Records, Polk County, Texas.
2. A tract of land containing 220.000 acres, more or less, located in the Wm. Johns Survey, Abstract No. 39, Polk County, Texas as more fully described in a special warranty deed from Champion International Corporation to the County of Polk recorded in Vol. 1047, p. 994, Deed Records, Polk County, Texas
 3. A tract of land containing 3.420 acres, more or less, located in the Wm. Johns Survey, Abstract No. 39, Polk County, Texas or more fully described in a special warranty deed from Nationsbank of Texas, N.A., Trustee to Polk County recorded in Vol. 1125, p. 413, Deed Records, Polk County, Texas
 4. A tract of land containing 55.90 acres, more or less, located in the William Johns Survey, Abstract No. 39, Polk County, Texas as more fully described in a special warranty deed from Wirt Davis, II, et. al. to Polk County recorded in Vol. 1160, p. 675, Deed Records, Polk County, Texas

IT IS FURTHER ORDAINED AND ORDERED that the disposal of municipal solid waste and industrial solid waste is **PROHIBITED** in all other areas of Polk County, Texas.

DEFINITIONS IN THIS ORDINANCE:

1. "Solid waste", "municipal solid waste" and "industrial solid waste" have the meaning assigned by Chapter 361, Texas Health & Safety Code.
2. "Solid waste facility" has the meaning assigned by Chapter 361, Texas Health & Safety Code.

SECTION 3. CIVIL REMEDIES AND PENALTIES

- (a) Any violation of this ordinance is subject to a civil penalty of \$10,000.00. for each violation. Such penalty to be forfeited to Polk County, Texas. Each day that a violation continues constitutes a separate ground for recovery.
- (b) The Commissioners Court of Polk County, Texas, may bring a legal

action to enjoin violations of this ordinance and seek judgment for any civil penalties.

SECTION 4. CRIMINAL PENALTY

- (a) Disposal of solid waste in violation of this ordinance constitutes a class C misdemeanor punishable by a fine not to exceed \$500.00.
- (b) Each day that a violation continues constitutes a separate offense under this ordinance.

SECTION 5. SEVERABILITY

If any portion of this ordinance is deemed to be in violation of the statutes or the constitution of this state or the United States by a court of competent jurisdiction, said portion shall be severed, and the remaining portions of the ordinance shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption.

Read and adopted this 11th day of September, 2001, by a vote of _____ ayes and _____ nays.

County Judge

ATTEST:

County Clerk

Item #3

AMENDED

STATE OF TEXAS
COUNTY OF POLK

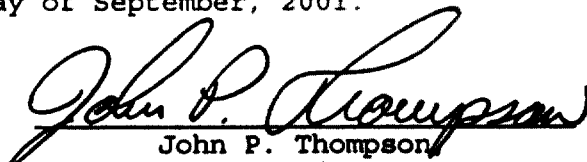


**Order Prohibiting the Keeping of
Wild Animals, Pursuant to Chapter 240,
Local Government Code And Creating a Criminal Penalty**

The Commissioners Court of Polk County hereby adopts the following order, pursuant to Chapter 240, Local Government Code:

1. The Commissioners Court hereby determines that wild animals, as defined in this order, are dangerous and in need of control in this county.
2. Wild animal means a lion, a tiger, an ocelot, a cougar, a leopard, a cheetah, a jaguar, a bobcat, a lynx, a serval, a caracal, a hyena, a bear, a coyote, a jackal, a baboon, a chimpanzee, an orangutan, a gorilla, a lesser panda, a binturong, a wolf, an ape, an elephant, a rhinoceros, or any hybrid of an animal listed in this definition.
3. The keeping of a wild animal in the unincorporated area of this county is hereby prohibited, except as otherwise specifically permitted by state or federal law.
4. A violation of this order is an offense punishable as a Class C misdemeanor.
5. A violation or threatened violation of this order may be enjoined by an action in district court.
6. This order supersedes any previously filed order and shall become effective December 1, 2001.

READ AND ADOPTED this 10th day of September, 2001.


John P. Thompson
County Judge

Attest;

Barbara Middleton, County Clerk

H.B. 1362

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AN ACT relating to the regulation of dangerous wild animals.

SECTION 1. Chapter 822, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. DANGEROUS WILD ANIMALS

Sec. 822.101. **DEFINITIONS.** In this subchapter:

(1) "Animal registration agency" means the municipal or county animal control office with authority over the area where a dangerous wild animal is kept or a county sheriff in an area that does not have an animal control office.

(2) "Board" means the Texas Board of Health.

(3) "Commercial activity" means:

(A) an activity involving a dangerous wild animal conducted for profit that is not inherent to the animal's nature;

(B) an activity for which a fee is charged and that is entertainment using or an exhibition of the animal; or

(C) the selling, trading, bartering, or auctioning of a dangerous wild animal or a dangerous wild animal's body parts.

(4) "Dangerous wild animal" means:

(A) a lion;

(B) a tiger;

(C) an ocelot;

(D) a cougar;

(E) a leopard;

(F) a cheetah;

(G) a jaguar;

(H) a bobcat;

(I) a lynx;

(J) a serval;

(K) a caracal;

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(L) a hyena;

(M) a bear;

(N) a coyote;

(O) a jackal;

(P) a baboon;

(Q) a chimpanzee;

(R) an orangutan;

(S) a gorilla; or

(T) any hybrid of an animal listed in this subdivision.

(5) "Owner" means any person who owns, harbors, or has custody or control of a dangerous wild animal.

(6) "Person" means an individual, partnership, corporation, trust, estate, joint stock company, foundation, or association of individuals.

(7) "Primary enclosure" means any structure used to immediately restrict an animal to a limited amount of space, including a cage, pen, run, room, compartment, or hutch.

(8) "Wildlife sanctuary" means a nonprofit organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code of 1986, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals are provided care for their lifetimes or released back to their natural habitats and, with respect to any animal owned by the organization, does not:

(A) conduct any commercial activity; or

(B) breed the animal except as an integral part of a species survival plan of the American Zoo and Aquarium Association.

Sec. 822.102. APPLICABILITY OF SUBCHAPTER. (a) This subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) a wildlife sanctuary;

(5) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

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H.B. 1362

(6) an injured, infirm, orphaned, or abandoned dangerous wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

(7) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state;

(8) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(9) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(10) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(11) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; and

(12) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(B) an integral part of that species survival plan.

(b) This subchapter does not require a municipality that does not have an animal control office to create that office.

Sec. 822.103. CERTIFICATE OF REGISTRATION; FEES. (a) A person may not own, harbor, or have custody or control of a dangerous wild animal for any purpose unless the person holds a certificate of registration for that animal issued by an animal registration agency.

(b) A certificate of registration issued under this subchapter is not transferrable and is valid for one year after its date of issuance or renewal unless revoked.

(c) The animal registration agency may establish and charge reasonable fees for application, issuance, and renewal of a certificate of registration in order to recover the costs associated with the administration and enforcement of this subchapter. The fee charged to an applicant may not exceed \$50 for each animal registered and may not exceed \$500 for each person registering animals, regardless of the number of animals owned by the person. The fees collected under this section may be used only to administer and enforce this subchapter.

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Sec. 822.104. CERTIFICATE OF REGISTRATION APPLICATION. (a) An applicant for an original or renewal certificate of registration for a dangerous wild animal must file an application with an animal registration agency on a form provided by the animal registration agency.

(b) The application must include:

- (1) the name, address, and telephone number of the applicant;
- (2) a complete identification of each animal, including species, sex, age, if known, and any distinguishing marks or coloration that would aid in the identification of the animal;
- (3) the exact location where each animal is to be kept;
- (4) a sworn statement that:
 - (A) all information in the application is complete and accurate; and
 - (B) the applicant has read this subchapter and that all facilities used by the applicant to confine or enclose the animal comply with the requirements of this subchapter; and
- (5) any other information the animal registration agency may require.

(c) An applicant shall include with each application:

- (1) the nonrefundable fee;
- (2) proof, in a form acceptable by the animal registration agency, that the applicant has liability insurance, as required by Section 822.107;
- (3) a color photograph of each animal being registered taken not earlier than the 30th day before the date the application is filed;
- (4) a photograph and a statement of the dimensions of the primary enclosure in which each animal is to be kept and a scale diagram of the premises where each animal will be kept, including the location of any perimeter fencing and any residence on the premises; and
- (5) if an applicant holds a Class "A" or Class "B" dealer's license or Class "C" exhibitor's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments, a clear and legible photocopy of the license.

(d) In addition to the items required under Subsection (c), an application for renewal must include a statement signed by a veterinarian licensed to practice in this state stating that the veterinarian:

- (1) inspected each animal being registered not earlier than the 30th day before the date of the filing of the renewal application; and
- (2) finds that the care and treatment of each animal by the owner meets or exceeds the standards prescribed under this subchapter.

Sec. 822.105. DENIAL OR REVOCATION OF CERTIFICATE OF REGISTRATION; APPEAL. (a) If the animal registration agency finds that an application for an original or renewal certificate of registration under this subchapter does not meet the requirements of Section 822.104 or, after inspection,

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that an applicant has not complied with this subchapter, the animal registration agency shall deny the applicant a certificate of registration and give the applicant written notice of the denial and the reasons for the denial.

(b) If the animal registration agency finds, after inspection, that a registered owner provided false information in or in connection with the application or has not complied with this subchapter, the animal registration agency shall revoke the certificate of registration and give the owner written notice of the revocation and the reasons for the revocation.

(c) A person may appeal the denial of an original or renewal certificate of registration or the revocation of a certificate of registration to the justice court for the precinct in which the animal is located or the municipal court in the municipality in which the animal is located not later than the 15th day after the date the certificate of registration is denied or revoked. Either party may appeal the decision of the justice or municipal court to a county court or county court at law in the county in which the justice or municipal court is located. The decision of the county court or county court at law may not be appealed.

(d) The filing of an appeal of the denial or revocation of a certificate of registration under Subsection (c) stays the denial or revocation until the court rules on the appeal.

Sec. 822.106. DISPLAY OF CERTIFICATE OF REGISTRATION. (a) A holder of a certificate of registration shall prominently display the certificate at the premises where each animal that is the subject of the certificate of registration is kept.

(b) Not later than the 10th day after the date a person receives a certificate of registration, the person shall file a clear and legible copy of the certificate of registration with the Texas Department of Health. The department shall establish a procedure for filing a certificate of registration and shall charge a reasonable fee in an amount sufficient to recover the cost associated with filing a certificate of registration under this subsection.

Sec. 822.107. LIABILITY INSURANCE. An owner of a dangerous wild animal shall maintain liability insurance coverage in an amount of not less than \$100,000 for each occurrence for liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous wild animal.

Sec. 822.108. INSPECTION. An owner of a dangerous wild animal, at all reasonable times, shall allow the animal registration agency, its staff, its agents, or a designated licensed veterinarian to enter the premises where the animal is kept and to inspect the animal, the primary enclosure for the animal, and the owner's records relating to the animal to ensure compliance with this subchapter.

Sec. 822.109. RELOCATION OR DISPOSITION OF ANIMAL. (a) An owner of a dangerous wild animal may not permanently relocate the animal unless the owner first notifies the animal registration agency in writing of the exact location to which the animal will be relocated and provides the animal registration agency, with respect to the new location, the information required by Section 822.104.

(b) Within 10 days after the death, sale, or other disposition of the animal, the owner of the animal shall notify the animal registration agency in writing of the death, sale, or other disposition.

Sec. 822.110. ATTACK BY ANIMAL; ESCAPE OF ANIMAL; LIABILITY. (a) An owner of a dangerous wild animal shall notify the animal registration agency of any attack of a human by the animal within 48 hours of the attack.

(b) An owner of a dangerous wild animal shall immediately notify the animal registration agency and the local law enforcement agency of any escape of the animal.

(c) An owner of a dangerous wild animal that escapes is liable for all costs incurred in apprehending and confining the animal.

(d) An animal registration agency, a law enforcement agency, or an employee of an animal registration agency or law enforcement agency is not liable to an owner of a dangerous wild animal for damages arising in connection with the escape of a dangerous wild animal, including liability for damage, injury, or death caused by the animal during or after the animal's escape, or for injury to or death of the animal as a result of apprehension or confinement of the animal after escape.

Sec. 822.111. POWERS AND DUTIES OF BOARD; CAGING REQUIREMENTS AND STANDARDS. (a) The board by rule shall establish caging requirements and standards for the keeping and confinement of a dangerous wild animal to ensure that the animal is kept in a manner and confined in a primary enclosure that:

- (1) protects and enhances the public's health and safety;
- (2) prevents escape by the animal; and
- (3) provides a safe, healthy, and humane environment for the animal.

(b) An owner of a dangerous wild animal shall keep and confine the animal in accordance with the caging requirements and standards established by the board.

(c) An animal registration agency may approve a deviation from the caging requirements and standards established by the board, only if:

- (1) the animal registration agency has good cause for the deviation; and
- (2) the deviation:
 - (A) does not compromise the public's health and safety;
 - (B) does not reduce the total area of the primary enclosure below that established by the board; and
 - (C) does not otherwise adversely affect the overall welfare of the animal involved.

Sec. 822.112. CARE, TREATMENT, AND TRANSPORTATION OF ANIMAL. (a) For each dangerous wild animal, the owner shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act relating to:

- (1) facilities and operations;
- (2) animal health and husbandry; and
- (3) veterinary care.

(b) An owner of a dangerous wild animal shall maintain a separate written log for each dangerous wild animal documenting the animal's veterinary care and shall make the log available to the animal registration agency or its agent on request. The log must:

- (1) identify the animal treated;
- (2) provide the date of treatment;
- (3) describe the type or nature of treatment; and
- (4) provide the name of the attending veterinarian, if applicable.

(c) When transporting a dangerous wild animal, the owner of the animal, or a designated carrier or intermediate handler of the animal, shall comply with all transportation standards that apply to that animal under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments or the regulations adopted under that Act.

(d) A person is exempt from the requirements of this section if the person is caring for, treating, or transporting an animal for which the person holds a Class "A" or Class "B" dealer's license or a Class "C" exhibitor's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments.

Sec. 822.113. OFFENSE AND PENALTY. (a) A person commits an offense if the person violates Section 822.103(a), Section 822.106, or Section 822.110(a) or (b). Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

(b) A person commits an offense if the person knowingly sells or otherwise transfers ownership of a dangerous wild animal to a person who does not have a certificate of registration for that animal as required by this subchapter.

(c) An offense under this section is a Class C misdemeanor.

Sec. 822.114. CIVIL PENALTY. (a) A person who violates Section 822.103(a) is liable for a civil penalty of not less than \$200 and not more than \$2,000 for each animal with respect to which there is a violation and for each day the violation continues.

(b) The county or municipality in which the violation occurs may sue to collect a civil penalty. A civil penalty collected under this subsection may be retained by the county or municipality.

(c) The county or municipality in which the violation occurs may also recover the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the animal registration agency in the civil action. Costs or fees recovered under this subsection shall be credited to the operating account from which payment for the animal registration agency's expenditures was made.

Sec. 822.115. INJUNCTION. Any person who is directly harmed or threatened with harm by a violation of this subchapter or a failure to enforce this subchapter may sue an owner of a dangerous wild animal to enjoin a violation of this subchapter or to enforce this subchapter.

Sec. 822.116. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) This subchapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of this state or a political subdivision of this state.

(b) This subchapter does not prevent a municipality or county from prohibiting or regulating by ordinance or order the ownership, possession, confinement, or care of a dangerous wild animal.

SECTION 2. Section 240.002(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county by order may prohibit or regulate the keeping of a wild animal in the county{:

~~[(1) at a residence; or~~

~~[(2) within 1,000 feet of a residence or public school].~~

SECTION 3. Section 42.09, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) It is a defense to prosecution for an offense under this section that the person had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

SECTION 4. Section 42.01, Penal Code, is amended by adding Subsection (e) to read as follows:

(e) It is a defense to prosecution for an offense under Subsection (a)(9) or (11) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

SECTION 5. Section 240.0025, Local Government Code, is repealed.

SECTION 6. (a) Except as provided by this section, this Act takes effect September 1, 2001.

(b) A person is not required to obtain a certificate of registration for a dangerous wild animal under Subchapter E, Chapter 822, Health and Safety Code, as added by this Act, before June 1, 2002.

(c) Not later than December 1, 2001, each municipality and county shall adopt any ordinance or order necessary to implement and administer the certificate of registration program created by Subchapter E, Chapter 822, Health and Safety Code, as added by this Act, including ordinances or orders relating to the applications for original and renewal certificates of registration, fees for registration and renewal, and the form and content of the application and the certificate of registration.

(d) Not later than March 1, 2002, the Texas Board of Health shall adopt the rules required under Section 822.111, Health and Safety Code, as added by this Act.

H.B. 1363

AN ACT relating to the mediation of certain disputes by collaborative law procedures.

SECTION 1. Subchapter G, Chapter 6, Family Code, is amended by adding Section 6.603 to read as follows: