

ORDINANCE 2010-09

AN ORDINANCE OF THE CITY OF MABANK, TEXAS BANNING DOGS FROM THE MABANK CITY PARK BASEBALL, SOCCER, FOOTBALL FIELDS AND THE RODEO ARENA DURING ORGANIZED ACTIVITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE.

SECTION 1. The Mabank City Council hereby determines that it is the public interest and to protect the public health, safety and welfare, to ban dogs from the baseball, soccer and football fields and the pavilion and rodeo grounds during organized activities at those locations. This does not apply to trained service dogs assisting the handicapped.

SECTION 2. Severability.

This Ordinance shall not affect any other articles in the City of Mabank Code of Ordinances.

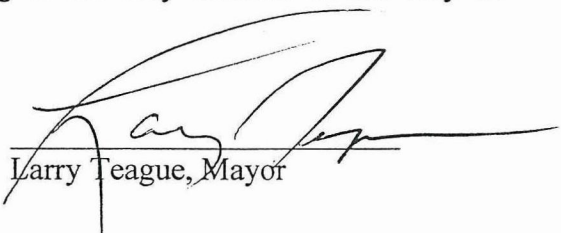
SECTION 3. Penalties

Any person violating any of the provisions of this ordinance shall be deemed guilty of a Class C Misdemeanor.

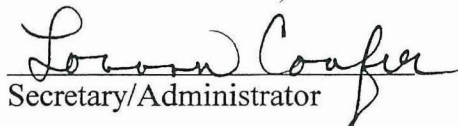
SECTION 4. Effective Date.

This Ordinance shall take effect and become effective from the date of its passage and publication as provided by law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Mabank, Texas on the 1<sup>st</sup> day of June 2010.

  
Larry Teague, Mayor

ATTEST:

  
Secretary/Administrator

## ARTICLE 215.026 ANIMAL CONTROL

Pursuant to Section 215.026 of the Texas Local Government Code the following regulations are adopted for animal control:

### SECTION I. DEFINITIONS

Animal Control Officer – person or persons designated by the City of Mabank, Texas to enforce the provisions of this Ordinance and to otherwise enforce the State laws addressing the subject of this Ordinance.

Cat – a domestic feline of either sex, including one neutered or sterilized.

Dog- a domestic canine of either sex, including one neutered or sterilized.

Domestic Animal- shall include the following species: dog, cat, horse, cow, pig, sheep and goats. Does not include hybrid individuals resulting from crossing wild with domestic species.

Harboring- the act of keeping and caring for an animal or of providing a premise to which the animal returns for a period of three (3) days.

Local Health Authority- shall mean the reporting agent for the purposes of this law, whose duties consist of the following:

- (a) receiving all reports of animal bites and scratches to humans;
- (b) receiving all reports of suspected rabid animals;
- (c) investigation of all reported animal bites and scratches and suspected rabid animals;
- (d) order quarantine, if appropriated, of any animal which has exposed an individual or which may be rabid; and
- (e) other duties as entitled by the text if this law.

Owner – any person who has right of property in an animal or who harbors any animal or allows an animal to remain about his premises for a period of three (3) days.

Pet Animal- shall include dogs, cats, rabbits, rodents, birds, reptiles and any other species of animal which is sold or retained as a household pet but shall not include any species of wild, exotic, or carnivorous animal that may be further restricted in this law.

Rabies Control- shall mean the vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the United States Department of Agriculture and administered by a veterinarian licensed by the State of Texas.

Running At Large- shall mean any animal on or off the premises of the owner or other person in charge or custody of such animal that is not kept confined by chain and stake or within an enclosure or fence of sufficient quality and strength to keep the animal from escaping the owner's or caretaker's premise or not kept under immediate control by a leash or other physical means.

Stray Animal- any animal for which there is no identifiable owner or harborer.

Vicious Animal- any animal that commits an unprovoked attack upon a person on public or private property or that attacks, threatens to attack or terrorizes a person on public property or in a public place. \*\* An animal that threatens to attack or that terrorizes a person on public or private property even if enclosed in a fenced yard, shall meet the meaning of this definition. The Animal Control Officer and the Chief of Police are authorized under this section to make a determination whether an animal meets this definition and to require the owner to meet the requirements of Section VIII – A.

Wild Animal- refers to any mammal native to North America except the domestic species (dog, cat, horse, cow, pig, sheep, and goat).

## SECTION II. RABIES CONTROL

### A. Local Health Authority Designated

In the City of Mabank, Texas, the local Health Authority shall be the Cedar Creek Lake Humane Society.

### B. Vaccinations Required

Every owner of a dog or cat four (4) months of age or older shall have such animal vaccinated against rabies. Annual revaccination shall be required thereafter. Any person moving into the City from a location outside the City shall comply with this regulation within (10) days after having moved into the City.

### C. Certificate of Vaccination

Upon vaccination the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof, a certification upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy.

Such certificate shall contain the following information:

1. Owner's name, address and telephone number;
2. Animal identification: species, age, sex, size (in lbs), Predominant breed and colors;
3. Vaccine used, producer, expiration date and serial number;
4. Date vaccinated;
5. Rabies tag number;
6. Veterinarian's signature and license number.

D. Rabies Tags

Concurrent with the issuance and delivery of the certificate of vaccination referred to in Paragraph C, the owner of the dog shall cause to be attached to the collar or harness of the vaccination certificate number and bearing the year of issuance and the name of the issuing veterinarian and his address.

E. Duplicate Tags

In the event of loss or destruction of the original tag provided in Paragraph D, the owner of the dog shall obtain a duplicate tag.

F. Proof of Vaccination may be Required

It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this section.

G. Harboring Unvaccinated Animals

It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.

H. Citizen's Duty to Report Animals Suspected of Having Rabies

Any person having knowledge of the existence of any animal known to have been or suspected of being exposed to rabies must immediately report such knowledge to the local Health Authority giving him any information which he may require.

I. Disposition of Animals Exposed to Rabies

1. Domestic Animals- Vaccinated animals which have bitten or been otherwise significantly exposed to a rabid animal should be humanely destroyed or if sufficient justification for preserving the animal exists, the exposed vaccinated animal should be immediately given a booster rabies vaccination and placed in strict isolation for forty-five (45) days. Unvaccinated animals shall be immediately given a rabies vaccination and placed in strict isolation for ninety (90) days and given booster vaccinations during the third and eighth weeks of isolation. If the unvaccinated animal is under three (3) months of age at the time of the second vaccination, an additional booster should be given when the animal reaches three (3) months of age.

If a veterinarian determines that a quarantined animal does not show the clinical signs of rabies, it may be released to the owner prior to or upon expiration of the quarantine period, provided the owner has paid all of the reasonable costs of such quarantine and

any veterinarian bills. However, if the quarantined animal shows the clinical sign of the disease of rabies, the animal shall be humanely destroyed and its head or brain submitted to the nearest laboratory certified by the Texas Department of Health for rabies diagnosis in testing.

2. Wild or Exotic Animals- No wild or exotic animal will be placed in quarantine. All wild or exotic animals will be humanely destroyed in such a manner that the brain is not mutilated. The brain will then be submitted to a laboratory certified for rabies diagnosis in order to be tested.
3. Quarantining Facilities- Any animal to be placed in quarantine must be placed in an animal control facility approved by the Texas Department of Health and as directed by the local Health Authority. However, the owner of the animal may request permission for home quarantine if the following criteria can be met:
  - (a) Secure facilities must be available at the home of the animal's owner, and must be approved by a licensed veterinarian.
  - (b) The animal is currently vaccinated against rabies.
  - (c) A licensed veterinarian must observe the animal at least one of the first and last days of the quarantine period. If the animal become ill during the observation period, the City and veterinarian must be notified by the person having possession of the animal. At the end of the observation period the release from quarantine must be provided in writing by the attending veterinarian and approved by the City.
  - (d) The animal was not a stray at the time of the bite incident. If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a laboratory certified by the Texas Department of Health for rabies diagnosis.

J. Citizen's Duty to Report Animal Bites

1. Any person having knowledge that an animal has bitten a human shall immediately report the incident to the local Health Authority. Every physician or other medical practitioner who treats a person or persons for such bites shall within twelve (12) hours report such treatment to the local Health Authority or his agent, giving name, age, sex, and precise location of the bitten person or persons and such other information as the local Health Authority may require.
2. Human bites from rabbits, birds, and reptiles are excluded from the reporting requirements of this action.

K. Veterinarians to Report Suspected Rabies

Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the local Health Authority or his agent stating precisely where such animal may be found. If a known or suspected rabid animal bites or attacks a domestic animal, such incident shall also be reported as required above.

L. Confinement of Dogs and Cats

Any dog or cat which has bitten a person shall be observed for a period of ten (10) days from the date of the bite. The procedure and place of observation shall be designated by the local Health Authority. If the dog or cat is not allowed an at home quarantine, confinement shall be by impoundment in the Humane Society of Cedar Creek Lake (payable in advance) or at any veterinary hospital of the owner's choice. Such confinement shall be at confined in the Humane Society of Cedar Creek Lake or a veterinary hospital. The City shall be responsible for all costs as set out in the contract agreement, however, in the event the owner is subsequently located, the owner shall reimburse the City for its costs. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce said dog or cat for impoundment, as prescribed in this section and each day of such refusal shall constitute a separate and individual violation. At no time shall a dog or cat be allowed an at-home quarantine if it is in violation of any provision of this chapter,

M. Unlawful to Remove Quarantined Dog or Cat

It shall be unlawful for any person to remove from any place of confinement any dog or cat which has been confined as authorized, without the consent of the local Health Authority.

N. Procedures for Other Animal Bites

Procedures concerning bites from other animals shall be discussed with the local Health Authority, Animal Control Officer, or the Texas Department of Health for proper disposition. Any wild animal which has bitten a person should be caught and killed and the brain immediately submitted to a qualified laboratory for rabies examination. An exception to this rule may be allowed for the large exotic, or valuable zoo species, which, by reason of their close confinement, would be unlikely rabies infectors. Rodents, rabbits, birds, and reptiles are not considered for laboratory examination for rabies.

### SECTION III. ANIMALS RUNNING AT LARGE PROHIBITED

It shall be unlawful for any animal owned, kept or harbored to run at large, as is defined in Section I of this Article. The Local Health Authority, the City of Mabank,

Texas or any duly authorized representative thereof, shall have the authority to impound such animals running-at-large. The authorized representative shall furthermore be enabled to enter onto privately owned property for this purpose.

#### SECTION IV. MAINTENANCE OF STABLES, PENS, HOUSES, YARDS \*

All stables, pens, houses, and yards used for the keeping of livestock or fowl within the City shall be kept in a clean, sanitary condition and shall not be located within one hundred feet (100') of nearest occupied residence, excluding the residence of the owner of the property upon which the stable, pen, house or yard is located. If any stable, pen, house or yard used for the keeping of livestock or fowl shall begin to emit a foul or offensive odor, as determined by the City's Animal Control Officer, such odor is declared to be a public nuisance. The City's Animal Control Officer shall investigate and, upon determination that a public nuisance exists, the owner of the animals creating the odor shall be given instructions on how to abate the nuisance and the length of time allowed for abatement. Failure to comply with the instructions on abatement shall be deemed to be a violation of this Article.

#### SECTION V. LOUD OR BARKING ANIMALS

It shall be unlawful for any owner to willfully or knowingly harbor any dog, cat, or other animal which by any sound or cry or other activity shall disturb the peace, comfort or property of the inhabitants of the neighborhood, and such disturbance is hereby declared to be public nuisance and a violation of this section.

#### SECTION VI. CONFINEMENT OF DOGS OR CATS DURING ESTRUS

Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure and said area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animal. Owners who do not comply shall be ordered to remove the animal in heat to a boarding kennel, or veterinary hospital. All expenses incurred, as a result of the confinement shall be paid by the owner. Failure to comply with the removal order of the Animal Control Officer shall be a violation of this section and the dog or cat will then be impounded as prescribed in this chapter.

#### SECTION VII. INJURED ANIMALS

Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injury animal is treated and/or impounded, the owner of such animal shall be liable for all expenses of the treatment and/or impoundment.

#### SECTION VIII. VICIOUS ANIMALS

##### A. Vicious Animals

No person shall own or harbor a vicious animal within the City Limits of Mabank, Texas. If a vicious animal is owned or harbored in violation of this section, the animal shall be impounded as a public nuisance. If impounded of said animal running at large cannot be made with safety to

the Animal Control Officer or other person, the animal may be destroyed without notice to the owner or harborer.

\*\* The Animal Control Office and the Chief of Police shall determine if an animal is deemed to be a vicious animal in conformance with Section I of this ordinance. Upon determination that a vicious animal exists within the City of Mabank, the owner shall comply with the following regulations, if the animal is to remain within the City limits.

- 1) The animal must be contained within an enclosure consisting of a fence at least six feet (6') in height. The Animal Control Officer and the Chief of Police must approve the materials used for the enclosure and the height of the enclosure. Heights of the enclosure in excess of six (6) feet may be required, depending on the investigation by the Animal Control Officer and the Chief of Police.
- 2) A permit to harbor a vicious is required. The permit fee shall be fifty dollars (\$50.00) and shall be renewed on an annual basis. Failure to renew said permit will result in a fine to the owner or harborer of the animal.
- 3) A copy of a current vaccination report must be provided on an annual basis to the Animal Control Officer. Failure to provide said report will result in a fine to the owner or harborer of the animal.
- 4) The owner of the property on which the vicious animal is located shall provide the City with a copy of a liability insurance policy in a minimum amount of \$500,000 covering the animal in case of an attack on another person, and which holds the City of Mabank harmless in the event of an attack.

B. Guard Dogs

It shall be unlawful to place or maintain any dog which has been specifically trained to attack in any area for protection of persons or property unless the dog is physically confined to a area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two inches (2") high.

## SECTION IX. IMPOUNDED ANIMALS

A. Impoundment

Animals owned or harbored in violation of this Article, or any other ordinance, or law of the State of Texas shall be taken into custody by an Animal Control Officer or other designated official and impounded. Stray animals shall be similarly impounded.

B. Animal Shelter

If an animal shelter is provided for the purpose of boarding and caring for any animal impounded under the provisions of this Article, such shelter



shall be constructed in accordance with recommendations from the Texas Department of Health.

C. Removal of Animals From Animal Shelter

It shall be unlawful for any person to remove any impounded animal from an animal shelter without consent of the Animal Control Officer or Local Health Authority.

D. Removal of Biting Dogs and Cats From Confinement

The impoundment of dogs and cats that have inflicted human bites shall be impounded for a period of ten (10) days for observation and shall not be terminated until consent from the local Health Authority is secured.

E. Disposition of Impounded Animals

As soon as practicable after impounded if the owner of the impounded animal is known, immediate notice shall be given to him. Any impounded animal may be redeemed upon payment of the care and feeding charges, veterinary charges, rabies vaccination charges and such other costs as set by the City Council. If such animal is not redeemed within three (3) days, it shall be deemed abandoned and may be placed for adoption, subject to payment of the impounded fee, care and feeding charges, veterinary charges, rabies vaccination charges and such other costs as set by the City Council or said animal may be humanely euthanized. If any impounded animal appears to be either seriously ill or injured in such a manner as to render treatment impractical, it may be humanely destroyed before the end of the three (3) day waiting period to end its suffering.

F. Disposition of Impounded Animal Being Held on Complaint

If a complaint has been filed in the City Court in the City of Mabank, Texas, against the owner of an impound animal shall n be released except on the order of the count which may also direct the owner to pay any penalties for violation of this order in addition to all impounded fees. The Court may, upon making a finding that such animal is vicious or that it represents a clear and present danger or nuisance to the citizens or other animals in the community, order said animal to be euthanized in a humane manner. Surrender does not relieve or render the owner immune *From* forms the decision of the court, nor to the fees and fines which may result form a violation or violations of this paragraph.

G. Disposition of Diseased Animals

Any animal taken into custody by the Animal Control Officer except those animals which have inflicted human bites during the preceding ten (10) days, that is visibly affected with any sign of communicable disease, other than rabies, which is being held at the impounding facility, may instead of being impounded, be humanely destroyed provided:

1. That any animal which has inflicted any human or animal bite during the preceding ten (10) days have its head removed by the Animal Control Officer and submitted to the laboratory for rabies exam.
2. Any animal exhibiting symptoms of rabies must be handled in a manner prescribed by the local health Authority.

## SECTION X. PROHIBITED ANIMALS \*

### A. Animal Which are Prohibited

It is hereby prohibited and it shall be unlawful for any person to import, offer the sale, keep, maintain, harbor or permit in the City of Mabank, Texas, any monkey, or other non-human primate, skunk, raccoon, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, wildcat, panther, bear, wolf, coyote, fox, other carnivorous animal or poisonous reptile \*\*\* caracal, cougar, hyena, jackal, serval and any hybrid of any animal listed \*or swine. Provided, however, that the Mabank Independent School District's Agricultural Facilities shall be exempt from this section regarding the location of swine within the City, and further provided that commercial uses may keep swine on commercially zoned property after receiving a permit from the Mabank City Council.

#### NON-CONFORMING USES:

Any lawful use of property existing at the time of passage of this ordinance that does not conform to the regulations prescribed herein, shall be deemed a non-conforming use and may be continued subject to such regulations as to the maintenance of the premises. If such non-conforming use is discontinued for a period of three (3) months, any future use of said premises shall be in conformity with the provisions of this Ordinance. A non-conforming use, if changed to a conforming use, may not thereafter be changed back to any non-conforming use.

#### SEVERABILITY:

If any provision, exception, section, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and, to this end, all provisions of this ordinance are declared to be severable.

### B. Endangered Species

It is hereby prohibited and it shall be unlawful for any person to import, offer for sale, keep, maintain, harbor, or permit in the City of Mabank, Texas, any endangered species of animal as defined by the United States Department of the Interior or the Texas Department of Parks and Wildlife.

### C. When These Provisions Do Not Apply

This section shall not apply to:

1. A bona fide publicly or privately owned zoological park.
2. A bona fide research institution using animals for scientific research.
3. A circus duly authorized to do business in the City of Mabank, Texas.

## SECTION XI. INHUMANE TREATMENT

### A. Cruelty to Animals

It is hereby prohibited and it shall be unlawful for an person to commit or cause to be committed any act of cruelty, harassment, or torture to an animal or intentionally cause such animal to be mutilated or inhumanely killed. Ownership, or the commission of such cruelty on private property shall not be a justifiable defense for violation of this section.

### B. Poisoning

It is hereby prohibited and it shall be unlawful for any person to poison any domestic animal or to distribute poison or toxicants on public or private property in any manner whatsoever with the intent of poisoning any domestic animal.

### C. Abandoning Animals

It is hereby prohibited and shall be unlawful for any person to willfully abandon any animal; or to withhold food or water form any animal such that its health is endangered, or it is caused to suffer unduly.

### D. Fighting Animals

It is hereby prohibited and it shall be unlawful for any person to cause, instigate, or encourage a dog or other animal to fight with another of its own species or with another of a different species. It shall be unlawful for any person to maintain a place where any dog or other animal is permitted to fight for exhibition or roe wager or for sport.

## SECTION XII. INTERFERENCE WITH THE LOCAL HEALTH AUTHORITY

It shall be unlawful for any person to interfere with, molest, hinder, or prevent the local Health Authority or authorized representatives in the discharge of their duties as herein prescribed, or to violate any of the provisions of this Article.

## SECTION XIII. KEEPING OF WILD AND EXOTIC ANIMALS AND POISONOUS RETILES

It shall be unlawful to harbor, keep, or maintain any wild or exotic animals or poisonous reptile within the city limits such as bats, skunks, coyotes, foxes, wolves,

alligators, lions, tigers, leopards, monkey, etc. The City however may grant exceptions from time to time, such as for special events (circuses, menagerie, animal auctions, ect.)

#### SECTION XIV. PENALTY

Any violation of this Ordinance shall be a Class C Misdemeanor.

#### SECTION XV. NOTICES

Any and all notices or other communications required by this ordinance may be gives orally or in a writing, however, if in writing, the notice shall be deemed duly given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when deposited in the United States mail, postage prepaid and addressed to the party's last known address.

\* Prohibited Animals and Housing amended with adoption of ordinance on November 7, 1996

\*\* Vicious Animals amended with adoption of Ordinance 021002 on October 2, 2002

\*\*\* Prohibited Animals amended by adoption of Ordinance 011106 on November 6, 2001

ORDINANCE 021002

AN ORDINANCE PERTAINING TO VICIOUS ANIMALS WITHIN THE CITY LIMITS OF MABANK, AMENDING SECTION I AND SECTION VIII.A OF ARTICLE 215.016 OF THE MABANK CITY CODE, PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

215.024

SECTION 1. Section 1 of Article ~~215.015~~ of the Mabank City Code is hereby amended to read:

Vicious Animal – Any animal that commits an unprovoked attack upon a person on public or private property, or that attacks, threatens to attack or terrorizes a person on public or private property or in a public place. An animal that threatens to attack or that terrorizes a person on public or private property even if enclosed in a fenced yard, shall meet the meaning of this definition. The Animal Control Officer and the Chief of Police are authorized under this section to make a determination whether an animal meets this definition and to require the owner to meet the requirements of Section VIII.A.

215.024

SECTION 2. Section VIII. Vicious Animals, of Article ~~215.015~~ of the Mabank City Code is hereby amended to read:

A. Vicious Animals.

No person shall own or harbor a vicious animal within the City Limits of Mabank, Texas. If a vicious animal is owned or harbored in violation of this section, the animal shall be impounded as a public nuisance, or the person who owns or harbors the animal shall comply with the requirements of this section. If impoundment of an animal running at large cannot be made with safety to the Animal Control Officer or other person, the animal may be destroyed without notice to the owner or harborer.

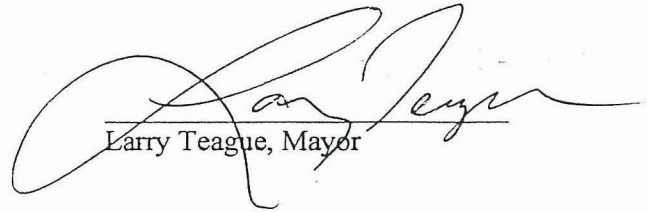
The Animal Control Office and the Chief of Police shall determine if an animal is deemed to be a vicious animal in conformance with Section 1 of this ordinance. Upon determination that a vicious animal exists within the City of Mabank, the owner shall comply with the following regulations, if the animal is to remain within the City limits:

- 1) The animal must be contained within an enclosure consisting of a fence at least 6 feet in height. The Animal Control Officer and the Chief of Police must approve the materials used for the enclosure and the height of the enclosure. Heights of the enclosure in excess of 6 feet may be required, depending on the investigation by the Animal Control Officer and the Chief of Police.
- 2) A permit to harbor a vicious animal is required. The permit fee shall be \$50.00 and shall be renewed on an annual basis. Failure to renew said permit will result in a fine to the owner or harborer of the animal.
- 3) A copy of a current vaccination report must be provided on an annual basis to the Animal Control Officer. Failure to provide said report will result in a fine to the owner or harborer of the animal.
- 4) The owner of the property on which the vicious animal is located shall provide the City with a copy of a liability insurance policy in a minimum amount of \$500,000 covering the animal in case of an attack on another person, and which holds the City of Mabank harmless in the event of an attack.

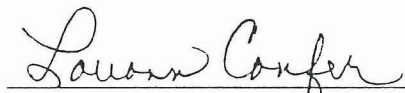
SECTION 3. Severability

The Code of the City of Mabank, as amended, shall remain in full force and effect, save and except as amended by this Ordinance. The terms and provisions of this ordinance are severable and are governed by the Code of the City of Mabank, as amended.

PASSED AN APPROVED ON THIS 2<sup>nd</sup> DAY OF OCTOBER 2002.

  
Larry Teague, Mayor

Attest:

  
City Secretary/Administrator

ORDINANCE 011106

AN ORDINANCE OF THE CITY OF MABANK, TEXAS, AMENDING ARTICLE 215.026, MABANK CITY CODE, PERTAINING TO ANIMALS WHICH ARE PROHIBITED WITHIN THE CITY LIMITS OF MABANK, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Texas repealed their restrictive wild animal permit and regulations in 1997 leaving Texas with no regulation of dangerous wild animals; and

WHEREAS, the H.B. 1362, the Dangerous Wild Animal Bill, authorizes any city to establish a registration program to regulate the ownership of certain dangerous wild Animals by December 1, 2001 or to totally prohibit the keeping of a dangerous wild animal by anyone within the City limits; and

WHEREAS, Article 215.026 of the Mabank City Code currently prohibits certain dangerous wild animals within the City of Mabank to protect the public health, safety and welfare; and

WHEREAS, the list of animals in Article 215.026 should be amended to include all animals on the list authorized by H.B. 1362.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MABANK TEXAS:

Section 1. Article 215.026, Section X, Subsection A shall be amended as follows:

SECTION X. PROHIBITED ANIMALS.

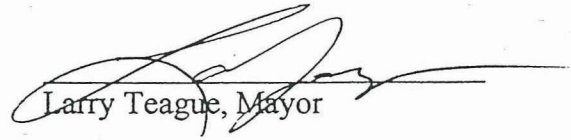
A. Animals Which are Prohibited

It is hereby prohibited and it shall be unlawful for any person to import, offer for sale, keep, maintain, harbor or permit in the City of Mabank, Texas, any monkey or other non-human primate, skunk, raccoon, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, wildcat, panther, bear, wolf, coyote, fox other carnivorous animal or poisonous reptile, caracal, cougar, hyena, jackal, serval and any hybrid of any animal listed.

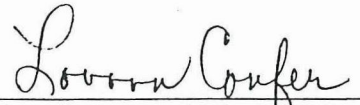
Section 2. That the code of the City of Mabank, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Section 3. That the terms and provisions of this ordinance are severable and are governed by the Code of the City of Mabank, as amended.

PASSED AND APPROVED ON THIS 6<sup>TH</sup> DAY OF NOVEMBER 2001.

  
Larry Teague, Mayor

Attest:

  
City Secretary/Administrator



ORDINANCE NO. 961107

AN ORDINANCE OF THE CITY OF MABANK, TEXAS AMENDING SECTION IV. MAINTENANCE OF STABLES, PENS, HOUSES, YARDS AND SECTION X.A. PROHIBITED ANIMALS, OF ARTICLE 215.026, ANIMAL CONTROL OF THE MABANK CITY CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that it is in the best interest of the citizens of Mabank to adopt an animal control ordinance to protect the public safety and welfare; and

WHEREAS, concentrations of large numbers of animals can create nuisances and disturb the peace, comfort or property of the inhabitants of the neighborhood and other residents of the City, and

WHEREAS, it has become necessary to provide additional controls on the placement of stables, pens, houses and yards for the keeping of animals to ensure that public nuisances do not occur.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MABANK, TEXAS:

That Article 215.026, Mabank City Code, be amended as follows:

Section 1. Section IV. MAINTENANCE OF STABLES, PENS, HOUSES, YARDS is amended to read as follows:

All stables, pens, houses and yards used for the keeping of livestock or fowl within the City shall be kept in a clean, sanitary condition and shall not be located within 100 feet of nearest occupied residence, excluding the residence of the owner of the property upon which the stable, pen, house or yard is located. If any stable, pen, house or yard used for the keeping of livestock or fowl shall begin to emit a foul or offensive odor, as determined by the City's Animal Control Officer, such odor is declared to be a public nuisance. The City's Animal Control Officer shall investigate and, upon determination that a public nuisance exists, the owner of the animals creating the odor shall be given instructions on how to abate the nuisance and the length of time allowed for abatement. Failure to comply with the instructions on abatement shall be deemed to be a violation of this Article.

Section 2. Section X.A. PROHIBITED ANIMALS is amended to read as follows:

A. Animals Which Are Prohibited

It is hereby prohibited and it shall be unlawful for any person to import, offer for sale, keep, maintain, harbor or permit in the City of Mabank, Texas, any monkey or other non-human primate, skunk, raccoon, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, wildcat, panther, bear, wolf, coyote, fox or other carnivorous animal, poisonous reptile, or swine. Provided, however, that the Mabank Independent School District's Agricultural Facilities shall be exempt from this section regarding the location of swine within the City, and further provided that commercial uses may keep swine on commercially zoned property after receiving a permit from the Mabank City Council.

Section 3. NON-CONFORMING USES

Any lawful use of property existing at the time of passage of this ordinance that does not conform to the regulations prescribed herein, shall be deemed a non-conforming use and may be continued subject to such regulations as to the maintenance of the premises. If such non-conforming use is discontinued for a period of three (3) months, any future use of said premises shall be in conformity with the provisions of this Ordinance. A non-conforming use, if changed to a conforming use, may not thereafter be changed back to any non-conforming use.

Section 4: SEVERABILITY

If any provision, exception, section, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and, to this end, all provisions of this ordinance are declared to be severable.

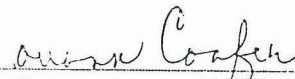
Section 4. EFFECTIVE DATE

This Ordinance shall become effective after publication in a newspaper of local publication. The City Secretary is hereby directed to give notice hereof by causing the caption of this Ordinance to be published once in the official newspaper of the City of Mabank after passage of this Ordinance.

INTRODUCED, READ AND PASSED by the affirmative vote of the City Council of the City of Mabank Texas this the 5th day of November, 1996.

  
\_\_\_\_\_  
Mayor, City of Mabank, Texas

ATTEST:

  
\_\_\_\_\_  
City Secretary/Administrator