

CITY OF MABANK
ORDINANCE NO-2016-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MABANK, TEXAS, PROVIDING A PROCESS FOR THE PERMITTING OF OCCASIONAL GARAGE, ESTATE, FARM OR YARD SALES; PROVIDING DEFINITIONS; PROVIDING FOR THE ISSUANCE OF PERMITS; PROVIDING FOR RESTRICTIONS ON THE CONDUCT AND TIME PERIOD OF SUCH SALES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE .

WHEREAS, the City of Mabank, Texas is a Type A General-Law Municipality located in Kaufman and Henderson County, created in accordance with the provisions of Chapter 6 of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council of the City of Mabank, Texas, finds and determines that providing a permitting process for garage sales and yard sales is in the best interest and public health, safety, and welfare of the citizens of the City of Mabank, Texas.

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

SECTION 1: INCORPORATION OF FINDINGS

- 1.1 The findings set forth above are found to be true and correct and are hereby incorporated into the body of this Ordinance and made a part hereof for all purposes as if fully set forth herein.

SECTION 2: DEFINITIONS

- 21 "Garage Sale" shall mean a sale or an offer for sale of miscellaneous items to the general public, upon residential property not otherwise being used for commercial purposes. The term "Garage Sale" shall also include an "Estate Sale," "Farm Sale," "Patio Sale," "Porch Sale," "Driveway Sale," "Yard Sale," and any other form of sale or auction held upon

residential property within the City's corporate limits.

- 22** "Occupant" shall mean either the owner-occupant of the premises whereon such sale is to be conducted or the tenant of the owner provided such tenant is actually residing upon said premises, and dependent members of the immediate family of the owner-occupant or tenant.
- 23** "Personal Property" shall mean property that is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. This specifically excludes merchandise that was purchased or acquired for resale or attained on consignment.

SECTION 3: PERMITS AND FEES

- 3.1** No later than three (3) days prior to holding any garage sale, the occupant of the residence where such sale is to occur shall obtain a permit from the City to hold a garage sale. Members of no more than three (3) residences may join together in obtaining a garage sale permit.
- 3.2** The application on for the permit shall set forth the following information:
- A. The full name and address of each applicant;
 - B. The address/location at which the proposed garage sale is to be held;
 - C. The date/s upon which the garage sale shall be held;
 - D. The date/s of any other garage sales participated in or conducted by each applicant within the current calendar year;
 - E. If the proceeds of the garage sale are used directly for a bona fide, tax- exempt charitable, religious, fraternal or governmental organization:
 - F. An affirmative affidavit that the property to be sold is owned by the applicant or was donated for the garage sale and that it was neither acquired nor consigned for resale; and
 - G. If the garage sale is not for charitable purposes, the affidavit shall state that the property for sale is not from an inventory or a stock of goods in trade.
- 3.3** The Permit Clerk shall charge and collect, before the issuance of any garage sale permit, a fee as established by the City Council in the fee schedule ordinance for the City. First sale is Free of charge, second sale is \$10.00.

SECTION 4: RESTRICTIONS ON THE CONDUCT OF THE SALE

- 4.1** No more than three (3) separate residences, locations, and/or family units may join together, participate in, or sell property at any one garage sale, except that any bona fide tax-exempt charitable, religious, educational, fraternal or governmental organization is exempt from this requirement when the proceeds of the garage sale are used directly for the institution's or organization's charitable purposes, and the goods or articles are not sold on a consignment basis.
- 4.2** No more than (2) garage sale permits shall be issued to any one address/location and/or residence and/or family during any one (1) calendar year, provided further that at least (30) days must lapse between garage sales conducted at the same address/location. The issuance of a garage sale permit to an individual family member shall be deemed the issuance of a garage sale permit to all members of the permittee's immediate family residing with the permittee at the time the application for the garage sale permit is made. If members of more than one (1) residence join in requesting a garage sale permit, then such permit shall be considered as having been issued for each and all such residences.
- 4.3** No property acquired for the purpose of resale may be sold a garage sale.
- 4.4** A copy of the garage sale permit shall be displayed in a conspicuous place during the entire time and on the premises where the garage sale is being held.
- 4.5** No garage sale shall last in excess of all or part of seventy-two (72) consecutive hours. Must be cleaned up and moved out of sight at the end of (72) consecutive hours.
- 4.6** All personal property offered for sale may be displayed in any portion of the yard of the residence, as well as in the residence in the garage or carport, or on the driveway. However, no property shall be displayed or sold on or within fifteen (15) feet of any public road, street, highway, or sidewalk.
- 4.7** It shall be the seller's responsibility to remove any signs pertaining to his or her garage sale from any City or State right-Of-way within twenty-four (24) hours of the

end of the garage sale. Attaching or otherwise placing signs or advertisements to utility poles at any time and for any purpose is expressly prohibited.

SECTION 5: PENALTIES FOR VIOLATION OF THE ORDINANCE

- 5.1 The City Manager or his/her designee may revoke any garage sale permit or refuse any application for the issuance of a garage sale permit if the application submitted by the applicant or permit holder contains any false fraudulent, or misleading information.
- 5.2 If any person, firm or corporation is convicted of an offense under this ordinance, that person shall not participate in, benefit from, or be issued a permit for any garage sale until the expiration on of twelve (12) consecutive months from the date of the conviction.
- 5.3 Any person, firm or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10.00 or more than \$500.00. A separate offense shall be deemed committed each day or portion of a day during or on which the violation continues or otherwise occurs.

SECTION 6: SEVERABILITY

- 6.1 It is hereby declared to be the intent of the City Council that the several provisions of this Ordinance are severable. In the event that any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid, or unenforceable.

SECTION 7: REPEALER

- 7.1 This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions

of those ordinances, except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all Ordinances, resolutions and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 8: PUBLICATION

- 8.1 The City Secretary is hereby directed to publish in the Official Newspaper of the City of Mabank the Caption. Penalty and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 9: ENGROSSMENT AND ENROLLMENT

- 9.1 The City Secretary of the City of Mabank is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date Clause in the minutes of the City Council of the City of Mabank, and by filing this Ordinance in the Ordinance records of the City.

SECTION 10: SAVINGS

- 10.1 All rights and remedies of the City of Mabank are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 11: EFFECTIVE DATE

- 11.1 This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by Texas law.