

ORDINANCE 2009-04

AN ORDINANCE OF THE CITY OF MABANK, TEXAS PERTAINING TO THE COLLECTION OF LIMBS AND BRUSH BY CITY PERSONNEL; SPECIFYING THAT TREE TRIMMING/REMOVAL AND BRUSH CLEARING CONTRACTORS SHALL DISPOSE OF SAID MATERIALS; SPECIFYING THE AMOUNT OF LIMBS AND BRUSH THE CITY WILL COLLECT AT ANY ONE TIME; PROVIDING FOR EMERGENCY CONDITIONS; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has a long-standing policy of collecting limbs and brush placed at curbside by residents; and

WHEREAS, the intention of the policy was to collect limbs and brush placed at curbside when said materials were cut by resident homeowners and not commercial service companies; and

WHEREAS, over time commercial services companies in the business of cutting and trimming trees and collecting brush have stopped hauling the debris from the site and have instead left the debris curbside for City employees to pick up; and

WHEREAS, on any given week it costs the City approximately \$1,300 to collect and dispose of limbs, tree trimmings and brush in the City limits.

SECTION 1. CONTRACTORS REQUIRED TO HAUL AND DISPOSE OF TREE TRIMMINGS AND BRUSH WITHIN THE CITY LIMITS.

On the effective date of this Ordinance, all commercial contractors who trim/cut trees or collect brush within the City limits shall haul and dispose of said materials. Commercial contractors and/or property owners are subject to the penalties imposed by the Ordinance.

SECTION 2. LIMITS ON THE AMOUNT OF LIMBS, TREE TRIMMINGS AND BRUSH THE CITY WILL COLLECT.

City employees are only authorized to collect limbs, tree trimmings and brush when the resident or property owner places the materials curbside. Said collection activities are limited to City employees hauling no more than 500 cubic feet per week per residence.

SECTION 3. EMERGENCIES

The provisions of this Ordinance will not impose restrictions on City employees in emergency situations where the public health, safety or welfare of City residents could be compromised.

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application of any provision to any person or circumstances is held invalid, the invalidity shall not affect other provisions or application of the Ordinance which can give effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

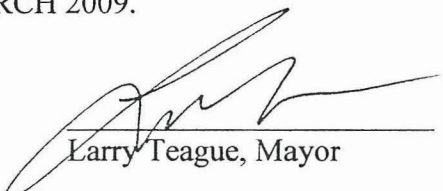
SECTION 5. PENALTIES

Any violation of the terms of this Ordinance is declared to be a Class C misdemeanor, and any person found to be guilty thereof shall be punishable by a fine up to \$500.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

SECTION 6. EFFECTIVE DATE

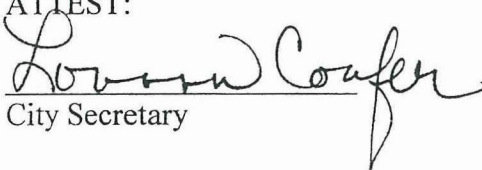
This Ordinance shall take effect on March 31, 2009.

PASSED AND APPROVED THIS 3RD DAY OF MARCH 2009.



Larry Teague, Mayor

ATTEST:



Leonard Coufer
City Secretary

ORDINANCE 2008-10

AN ORDINANCE OF THE CITY OF MABANK, AMENDING SECTION 5 OF ORDINANCE 010614 TO INCREASE FEES TO \$500.00 AND ARTICLE 217.002 OF THE MABANK CITY CODE PERTAINING TO THE REGULATION OF SANITATION; AMENDING SECTION 500 OF THE MABANK CITY CODE TO ADD FEES PERTAINING TO CODE ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance 010614 and Article 217.002 provide that property owners must maintain grass/week and debris on private property; and

WHEREAS, State law provides that a maximum fee of \$500.00 may be charged by the City by invoice or lien if the property owner does not comply with the Ordinance; and

WHEREAS, Article 214.001b of the Mabank City Code requires that unsafe buildings be demolished if the building is deemed unsafe by the Mabank City Council; and

WHEREAS, many property owners request that the City demolish an unsafe structure and agree to pay the City for the demolition expenses; and

WHEREAS, no fees have been established to cover the City expenses for mowing or demolishing an unsafe structure.

NOW, THEREFORE BE IT ORDAINED BY THE MABANK CITY COUNCIL that the fees proposed in Exhibit A attached hereto and made a part hereof are adopted shall be added to Article 500 of the Mabank City Code.

SECTION 2: SEVERABILITY

If any portion of this ordinance if found to be invalid, no other Articles of the City Code shall be affected.

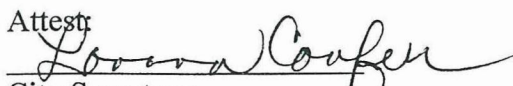
SECTION 3: EFFECTIVE DATE

This Ordinance shall take effect upon today's date or upon the first date following publication by the City Secretary.

PASSED AND APPROVED this the 1st day of July 2008.



Mayor

Attest


City Secretary

EXHIBIT A

CITY OF MABANK

CODE ENFORCEMENT

PRICE LIST OF SERVICES

Equipment used:	Price per Hour:
BAT WING MOWER	\$500.00 with 1 Hour Minimum
BRUSH HOG MOWER	\$300.00 with 1 Hour Minimum
RIDING MOWER	\$300.00 with 1 Hour Minimum
PUSH MOWER	\$200.00 with 1 Hour Minimum
WEED EATERS	\$200.00 with 1 Hour Minimum
CLEAN UP LABOR	\$100.00 with 1 Hour Minimum PER CITY EMPLOYEE
DEMOLITION OF UNSAFE BUILDING	\$1000.00 MINIMUM PLUS DISPOSAL FEES

FEES WILL BE INVOICED BY THE CITY OF MABANK.

ADMINISTRATION FEE: \$100.00 PER EACH INVOICE

ORDINANCE 2008-02 A

AN ORDINANCE OF THE CITY OF MABANK, TEXAS AMENDING SECTION 1 OF ORDINANCE 010613 AND ARTICLE 217.002a, MABANK CITY CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

SECTION 1: DEFINITIONS

Section 1 of Ordinance 010613 and Article 217.002a, Mabank City Code are hereby amended as follows:

JUNKED VEHICLE. Means a vehicle that is self-propelled and or inoperable and or:

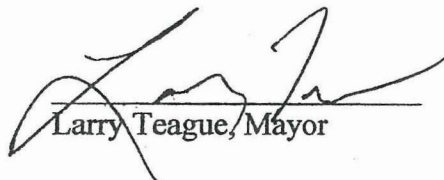
- (1) Does not have lawfully attached to it an unexpired license plate or a valid motor vehicle inspection certificate;
- (2) Is wrecked, dismantled, partially dismantled, or discarded; or
- (3) Has remained inoperable or immobile for more than 30 consecutive days.

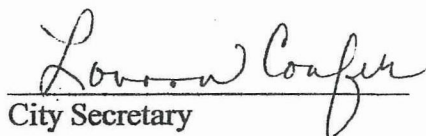
SECTION 2: SEVERABILITY

If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

SECTION 3: EFFECTIVE DATE

This Ordinance shall take effect on January 8, 2008.


Larry Teague, Mayor


City Secretary

ORDINANCE NO. 010613

AN ORDINANCE OF THE CITY OF MABANK, TEXAS, MAKING IT UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION TO STORE OR LOCATE ABANDONED OR JUNKED VEHICLES IN A MANNER WHEREBY THEY ARE DECLARED TO BE A PUBLIC NUISANCE; PROVIDING FOR DEFINITIONS; PROVIDING FOR A SCOPE OF PROVISIONS; PROVIDING FOR A DECLARATION OF PUBLIC NUISANCE AND THE CREATION AND MAINTENANCE OF SAME TO BE PROHIBITED; PROVIDING FOR NOTICE TO OWNER; PROVIDING FOR HEARINGS PRIOR TO REMOVAL OF THE VEHICLES; PROVIDING FOR AN ORDER TO REMOVE JUNKED VEHICLE; PROVIDING FOR MEASURES FOR FAILURE TO COMPLY WITH AN ORDER TO REMOVE; PROVIDING FOR PROVISIONS FOR REMOVAL OF A VEHICLE BY THE CITY; PROVIDING FOR REMOVED VEHICLES NOT TO BE MADE OPERABLE FOLLOWING REMOVAL; PROVIDING FOR THE SALE OR DISPOSAL OF JUNKED VEHICLES AND FOR PROCEEDS FROM THE SALE; PROVIDING FOR NOTICE TO THE TEXAS HIGHWAY DEPARTMENT; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR RESCINDING ANY ORDINANCE IN CONFLICT WITH THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE.

SECTION 1: DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEMOLISHER. Any person whose business is to convert the motor vehicle onto processed scrap metal or otherwise to wreck or dismantle motor vehicles.

JUNKED VEHICLE. Means a vehicle that is self-propelled and inoperable and:

- (1) Does not have lawfully attached to it an unexpired license plate or a valid motor vehicle inspection certificate;
- (2) Is wrecked, dismantled, partially dismantled, or discarded; or
- (3) Has remained inoperable for more than 30 consecutive days.

SECTION 2: SCOPE OF PROVISIONS.

It is not intended by this action to make these provisions pertain to abandoned motor vehicles as that term is defined by Texas Transportation Code 683.002.

SECTION 3: DECLARATION OF PUBLIC NUISANCE; CREATION AND MAINTENANCE PROHIBITED.

- (A) Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an unattractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic

welfare of the state, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the State of Texas, and such vehicles are therefore, declared to be a public nuisance.

- (B) It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided) within the City of Mabank any junked vehicle or parts or portion thereof, for any period of time.

SECTION 4: NOTICE TO OWNER

Whenever it is brought to the attention of the Code Enforcement Officer that a nuisance, as defined herein, exists in the city, the Code Enforcement Officer shall give or cause to be given, in writing, a ten (10) day notice stating the nature of the public nuisance and that it must be removed and abated within ten (10) days and that a request for a hearing must be made before the expiration of the ten (10) day period. The notice shall be mailed, by certified or registered mail with a five-day return requested, to the last known registered owner of the junked vehicle, any lien holder of record, and the owner or occupant of the premises where such public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last registered owner may be placed on the motor vehicle. If the last known owner is physically located, the notice may be hand delivered. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not earlier than the eleventh (11) day after the date of such return.

SECTION 5: HEARING PRIOR TO REMOVAL OF VEHICLE.

A hearing shall be held prior to the removal of the vehicle or part thereof determined to be a public nuisance. The same should be held before the Municipal Judge of the City of Mabank when such hearing is requested by the owner or occupant of the premises on which the vehicle is located, not earlier than the eleventh day after service of notice to abate the nuisance. Any order requiring the removal of the vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

SECTION 6: ORDER TO REMOVE JUNKED VEHICLE

- (A) After the hearing is held by the Municipal Judge of the City of Mabank as herein provided, if the Municipal Judge finds that such nuisance as herein defined exists, he/she shall order the owner or occupant of the premises on which the vehicle is located to remove such vehicle within ten (10) days after the order is given.
- (B) In the event the owner or occupant of the premises does not request a hearing as herein above provided, the Municipal Court shall proceed to determine whether a violation of this Ordinance exists and if such violation is found to exist, the Court shall issue an order to the owner or occupant in default requiring removal of such junked vehicle.

SECTION 7: FAILURE TO COMPLY WITH ORDER TO REMOVE.

It shall be unlawful and a violation of this Ordinance for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by the order.

SECTION 8: REMOVAL OF VEHICLE BY CITY

Not earlier than 11 days after an order requiring the removal of such junked vehicle has been served upon, or delivered to the owner or occupant of the premises on which the vehicle is located, the Code Enforcement Officer or members of the Police Department acting under the direction of the Code Enforcement Officer, may, if the nuisance has not been abated, remove or cause to be removed the vehicle which was subject of such notice to suitable city storage area designated by the City Secretary/Administrator.

SECTION 9: REMOVED VEHICLES NOT TO BE MADE OPERABLE

After a vehicle has been removed in accordance with or under the terms and provisions of this chapter, it shall not be reconstructed or made operable.

SECTION 10: SALE OR DISPOSAL OF JUNKED VEHICLES; PROCEEDS FROM SALE.

- (A) (1) It shall be the duty of the Code Enforcement Officer to dispose of any junked vehicle by removal to a scrap yard, or by sale to a demolisher for the highest bid or order received thereof, or to remove same to any suitable site operated by the city for processing as scrap or salvage.
- (2) If there is not a bid or offer for the junked vehicle the Code Enforcement Officer may dispose of same by causing it to be demolished or removed to a place provided by the City, or by permitting it to be removed by a demolisher who is willing to do so for the benefit of the junk or parts for salvage.
- (B) Out of the proceeds of the sale, the Code Enforcement Officer shall pay for the cost of removal and storage.

SECTION 11: NOTICE TO HIGHWAY DEPARTMENT

Notice shall be given to the Texas Highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.

SECTION 12: EXEMPTIONS.

- (A) This chapter shall not apply to:
 - (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
 - (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with a business of a licensed vehicle dealer or junkyard, or that is a special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, are maintained in an orderly manner, not a health hazard, and screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery (approved by the City).

- (3) An antique vehicle parked on private property in a lawful manner belonging to that property owner shall be screened from public view by appropriate means, including a fence, rapidly growing trees or shrubbery (approved by the city), or by an approved car cover.

(B) For the purpose of this section, the following definitions shall apply.

ANTIQUÉ VEHICLE. A passenger car or truck that is at least 30 years old.

MOTOR VEHICLE COLLECTOR. A person who owns one or more antique or special interest vehicles and acquires, collects or disposes of antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

SPECIAL INTEREST VEHICLE. A hobbyist is preserving a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest.

SECTION 13: ADMINISTRATION AND ENFORCEMENT

- (A) The administration of this chapter shall be by regularly salaried, full-time employees of the City, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person.
- (B) Wherever the City Secretary/Administrator is charged with enforcement of this chapter, he or she may delegate the authority to any regular salaried employee of the city.
- (C) A person authorized to administer the procedures of this chapter may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

SECTION 14: SEVERABILITY CLAUSE.

If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

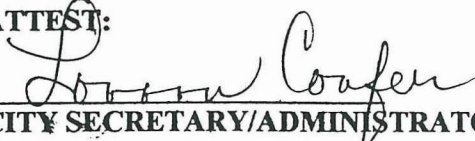
SECTION 15: RESCIND ANY ORDINANCE IN CONFLICT

This Ordinance repeals and replaces any ordinance in conflict herewith.

PASSED AND APPROVED THIS 13th DAY OF June, 2001


MAYOR

ATTEST:


CITY SECRETARY/ADMINISTRATOR

ORDINANCE NO. 010614

AN ORDINANCE OF THE CITY OF MABANK, TEXAS, MAKING IT UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION TO PERMIT WEEDS, GRASS AND BRUSH TO GROW TO A HEIGHT GREATER THAN EIGHT INCHES (8") IN DEVELOPED RESIDENTIAL AND COMMERCIAL AREAS, TWELVE INCHES (12") IN UNDEVELOPED RESIDENTIAL AND COMMERCIAL AREAS, TO PERMIT RUBBISH TO ACCUMULATE UPON SAID PREMISES; DUTY TO COMPLY; NOTICE OF FAILURE TO COMPLY AND ABATEMENT OF NUISANCE; EXPENSES OF ABATEMENT CHARGES TO PROPERTY OWNER; OBTAINING LIEN UPON NONPAYMENT; SUIT TO RECOVERY AND FORECLOSURE; PROVIDING A PENALTY THAT ANY VIOLATION OF THE TERMS OF THIS ORDINANCE IS DECLARED TO BE A MISDEMEANOR, AND ANY PERSON FOUND TO BE GUILTY THEREOF SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED \$200.00; EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; THIS SECTION SHALL BE IN ADDITION TO AND CUMULATIVE OF THE PROVISIONS FOR ABATEMENT OF THE SAID NUISANCE AND CHARGING THE COST OF SAME AGAINST THE OWNER OF THE PREMISES BY THE CITY; SEVERABILITY CLAUSE; RESCIND ANY ORDINANCES IN CONFLICT HEREWITH; AND EFFECTIVE DATE.

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

SECTION 1: It shall be unlawful for any person, firm or corporation owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City of Mabank, Texas, to permit weeds, grass and brush to grow to a greater height than eight inches (8") in developed residential and commercial areas or twelve inches (12") in undeveloped residential and commercial areas, or to permit trash, garbage, rubbish, junk, used and/or discarded household fixtures or appliances, toxic materials, stagnant water, sewage, dead animals or any materials to accumulate on said property which may constitute a fire hazard or which may be detrimental to the health, safety, and welfare of the citizens of the City of Mabank.

SECTION 2: It shall be the duty of any person, firm or corporation owning, claiming, occupying or having supervision or control; of any real property, as provided in Section 1 hereof, to cut and remove all such weeds, brush and other objectionable or unsightly vegetation and to remove all trash, garbage, rubbish, junk used and/or discarded household fixtures or appliances, toxic materials, stagnant water, sewage, dead animals or other materials, as often as may be necessary to comply with Section 1 hereof.

SECTION 3: In the event that any person, firm or corporation owning, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City of Mabank, fails to comply with to provisions of this ordinance, it shall be the duty of the City Secretary (or he/she may delegate any responsibility hereunder to any other City employee), to give ten (10) days' notice in writing to such person, firm or corporation violating the terms of this ordinance.. Said notice shall be in writing and may be served on said person, firm or corporation by handing it to said person or to the agent of said corporation, or by posting the notice on said property, or by letter sent Certified Mail addressed to such person, firm or corporation at its post office address, or if personal services may not be had or the owner's address is unknown, by publication two (2) times within ten (10) consecutive days in the City's official newspaper. If such person, firm or corporation fails or refuses to comply with the provisions of this ordinance within ten (10) days after date of notification in writing or posting of

notice on said property, or by certified letter or the date of the second publication of notice in the City's official newspaper, the City may go upon such property and do or cause to be done the work necessary to obtain compliance with this ordinance.

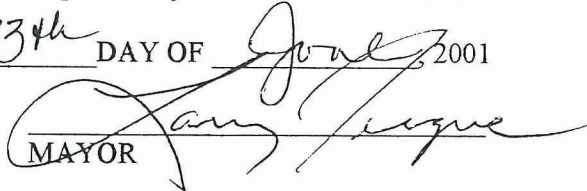
SECTION 4: The expenses of abatement of said nuisance incurred pursuant to Section 3 above and the cost of publishing notice in the newspaper shall be paid by the City and charged to the owner of such property. In the event the owner fails or refuses to pay such expense within thirty (30) days after the first (1) day of the month following the one in which the work was done, the City shall file with the County Clerk of Kaufman County, Texas, or County Clerk of Henderson County, Texas, a statement of the expenses incurred in correcting the condition on the property. When such statement is filed, the City shall have a privileged lien in such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten (10%) per annum from date the City incurs the expense. For any such expenditures and interest, suit may be instituted and recover and foreclosure had by the City. The statement of expenses filed with the County Clerk, or a certified copy thereof, shall be prima facie proof of the amount expended in such work, improvement, or correction of the property, all as more particularly specified in Art. 4436, Vernon's Annotated Texas Civil Statutes, which hereby adopted.

SECTION 5: Any violation of the terms of this ordinance is declared to be a misdemeanor, and any person found to be guilty thereof shall be punishable by a fine not to exceed \$ 200.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. This section shall be addition to and cumulative of the provisions for abatement of the said nuisance and charging the cost of it against the owner of the premises by the City.

SECTION 6: If any Provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

SECTION 7: This Ordinance repeals and replaces any ordinance in conflict herewith.

PASSED AND APPROVED THIS 13th DAY OF June, 2001


MAYOR

ATTEST:


CITY SECRETARY

ARTICLE 217.002 REGULATION OF SANITATION

SECTION I. It shall be unlawful for any person, firm, or cooperation owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, with the corporate limits of the City of Mabank, Texas, to permit weeds, grass and brush, to grow to a greater height than eight inches (8") in developed residential and commercial areas or twelve inches (12") in undeveloped residential and commercial areas, or to permit trash, garbage, rubbish, junk, used and /or discarded household fixtures or appliances, toxic materials, stagnant water, sewage, dead animals or any materials to accumulate on said property which may constitute a fire hazard or which may be detrimental to the health, safety, and welfare of the citizens of the City of Mabank.

SECTION II. It shall be the duty of any person, firm, or corporation owning, claiming, occupying or having supervision or control of any real property, as provided in Section 1 hereof, to cut and remove all such weeds, brush and other objectionable or unsightly vegetation and to remove all trash, garbage, rubbish, junk used and/or discarded household fixtures or appliances, toxic materials, stagnant water, sewage, dead animals or other materials, as often as may be necessary to comply with Section I herein.

SECTION III. In the event that any person, firm or corporation owning, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City of Mabank, fails to comply with to provisions of this ordinance, it shall be the duty of the City Secretary (or he/she may delegate any responsibility hereunder to any other City employee), to be given ten (10) days notice in writing to such person, firm or corporation violating the terms of this ordinance. Said notice shall be in writing and may be served on said person, firm or corporation by handing ti to said person or to the agent of said corporation, or by posting the notice on said property, or by letter sent Certified Mail addressed to such person, firm or corporation at its post office address, or if personal services may not be had or the owner's address is unknown, by publication two (2) times within ten (10) consecutive days in the City's official newspaper. If such person, firm or corporation fails or refuses to comply with the provisions of this ordinance within ten (10) days after date of notification in writing or posting of notice on said property, or by certified letter or the date of the second publication of notice in the City's official newspaper, the City may go upon such property and do or cause to be done the work necessary to obtain compliance with this ordinance.

SECTION IV. The expenses of abatement of said nuisance incurred pursuant to Section 3 and above and the cost of publishing notice in the newspaper shall be paid by the City and charged to the owner of such property. In the event the owner fails or refuses to pay such expense within thirty (30) days after the first (1) day of the month following the one in which the work was done, the City shall file with the County Clerk of Kaufman County, Texas, or County Clerk of Henderson County, Texas, a statement of the expenses incurred in correcting the condition on the property. When such statement is filed, the City shall have a privileged lien in such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten (10%) per annum from the date the City incurs the expense. For any such expenditures and interest, suit may be instituted and recover and foreclosure had by the City. The statement of expenses filed with the

County Clerk, or a certified copy thereof, shall be prima facie proof of the amount expended in such work, improvement, or correction of the property, all as more particularly specified in Art. 4436, Vernon's Annotated Texas Civil Statutes, which hereby adopted.

Section V. Any violation of the terms of this ordinance is declared to be a misdemeanor, and any person found to be guilty thereof shall be punishable by a fine not to exceed \$200.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. This section shall be addition to and cumulative of the provisions for abatement of the said nuisance and charging the cost of it against the owner of the premises by the City.

Section VI. If any Provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

Section VII. This ordinance repeals and replaced any ordinance in conflict herewith.

Ordinance 010614 – adopted June 13, 2001

ARTICLE 217.002 REGULATION OF SANITATION

SECTION I. CONTROL OF WEEDS OR OTHER UNSANITARY MATTER

It shall be unlawful for any owner of any lot to allow weeds, rubbish, brush, or any other objectionable, unsightly, or unsanitary matter to accumulate on such property.

SECTION II. CONTROL OF STAGNANT WATER AND OTHER UNSANITARY CONDITIONS

It shall be unlawful for any person, firm, corporation or association of persons to allow stagnant water to accumulate on property under the control of such person, firm or association of persons so as to create a condition that may produce disease.

SECTION III. CONTROL OF FILTH, CARRION AND OTHER UNWHOLESOME MATTER

It shall be unlawful for any person, firm, corporation, or association of persons to allow filth, carrion, or other impure or unwholesome matter to accumulate on property under the control of such person, firm or association of persons.

SECTION IV. NOTICE TO OWNER

Whenever any condition described in Section I, II or III is found to exist on any premises within the City, the owner of such premises shall be notified in writing by the City to correct, remedy, or remove the condition within ten (10) days after such notice, and it shall be unlawful for any person to fail to comply with such notices.

SECTION V. NOTIFICATION PROCEDURES

The notice provided for herein shall be personally served on the owner to whom it is directed or shall be given by letter addressed to such owner at the owner's last known post office address. In the event personal service cannot be made and the owners address is unknown, such notice shall be given by a publication of at least two (2) times in a newspaper of general circulation published within the City.

SECTION VI. EACH DAY A SEPARATE OFFENSE

Each day of violation hereof, as provided for in Section IV herein shall constitute a new and separate offense. The first day of violation shall begin on the first day after the expiration of ten (10) days from the date of notice hereunder.

SECTION VII. PENALTY

The violation of this ordinance shall be a Class C Misdemeanor.

SECTION VIII.

Pursuant to the provisions of Section 342.006 of the Texas Health and Safety Code the City may do the work or make the improvements required and charge the expenses to the owner of the property.

SECTION IX.

Pursuant to the provisions of Section 342.007 of the Texas Health and Safety Code the City may obtain a lien against the property for expenses incurred under Section VIII.

ARTICLE 217.002a ABANDONED MOTOR VEHICLES

SECTION 1. DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEMOLISHER. Any person whose business is to convert the motor vehicle onto processed scrap metal or otherwise to wreck or dismantle motor vehicles.

JUNKED VEHICLE. Means a vehicle that is self-propelled and inoperable and:

- 1) Does not have lawfully attached to it an unexpired license plate or a valid motor vehicle inspection certificate;
- 2) Is wrecked, dismantled, partially dismantled, or discarded; or
- 3) Has remained inoperable for more than 30 consecutive days.

SECTION 2: SCOPE OF PROVISIONS.

It is not intended by this action to make these provisions pertain to abandoned motor vehicles as that term is defined by Texas Transportation Code 683.002.

SECTION 3: DECLARATION OF PUBLIC NUISANCE; CREATION AND MAINTENANCE PROHIBITED.

- A. Junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an unattractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the state, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities of the State of Texas, and such vehicles are therefore, declared to be a public nuisance.
- B. It shall be unlawful for any individual, company or corporation to leave or permit to remain upon public or private property (except as hereinafter provided) within the City of Mabank any junked vehicle or parts or portion thereof, for any period of time.

SECTION 4: NOTICE TO OWNER

Whenever it is brought to the attention of the Code Enforcement Officer that a nuisance, as defined herein, exists in the city, the Code Enforcement Officer shall give or cause to be given, in writing, a ten (10) day notice stating the nature of the public nuisance and that it must be removed and abated within ten (10) days and that a request for a hearing must be made before the expiration of the ten (10) day period. The notice shall be mailed, by certified or registered mail within a five-day return requested, to the last known registered owner of the junked vehicle, any lien holder of record, and the owner or occupant of the premises where such public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last registered owner may be placed on the motor vehicle. If the last known owner is

physically located, the notice may be hand delivered. If the notice is returned undelivered by the United State Post Office, official action to abate the nuisance shall be continued to a date not earlier than the eleventh (11th) day of the date of such return.

SECTION 5: HEARING PRIOR TO REMOVAL OF VEHICLE.

A hearing shall be held prior to the removal of the vehicle or part thereof determined to be a public nuisance. The same should be held before the Municipal Judge of the City of Mabank when such hearing is requested by the owner or occupant of the premises on which the vehicle is located, not earlier than the eleventh day after service of notice to abate the nuisance. Any order requiring the removal of the vehicle or part thereof shall include a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site.

SECTION 6: ORDER TO REMOVE JUNKED VEHICLE

- A. After the hearing is held by the Municipal Judge of the City of Mabank as herein provided, if the Municipal Judge finds that such nuisance as herein defined exists, he/she shall order the owner or occupant of the premises on which the vehicle is located to remove such vehicle within ten (10) days after the order is given.
- B. In the event the owner or occupant of the premises does not request a hearing as herein above provided, the Municipal Court shall proceed to determine whether a violation of this Ordinance exists and if such violation is found to exist, the Court shall issue an order to the owner or occupant in default requiring removal of such junked vehicle.

SECTION 7: FAILURE TO COMPLY WITH ORDER TO REMOVE

It shall be unlawful and a violation of this Ordinance for any such person to whom such order is given to fail or refuse to comply therewith and to remove such junked vehicle within the time provided by the order.

SECTION 8: REMOVAL OF VEHICLE BY CITY

Not earlier than 11 days after an order requiring the removal of such junked vehicle has been served upon, or delivered to the owner or occupant of the premises on which the vehicle is located, the Code Enforcement Officer or members of the Police Department acting under the direction of the Code Enforcement Officer, may, if the nuisance has not been abated, removed or caused to be removed the vehicle which was subject to such notice to suitable city storage area designated by the City Secretary/Administrator.

SECTION 9: REMOVED VEHICLES NOT TO BE MADE OPERABLE

After a vehicle has been removed in accordance with or under the terms and provisions of this chapter, it shall not be reconstructed or made operable.

SECTION 10: SALE OR DISPOSAL OF JUNKED VEHICLES; PROCEEDS FORM SALE

- A. 1) It shall be the duty of the Code Enforcement Officer to dispose of any junked vehicle by removal to a scrap yard, or by sale to a demolisher for the highest bid or order received thereof, or to remove same to any suitable site operated by the city for processing as scrap or salvage.
- 2) If there is not a bid or offer for the junked vehicle the Code Enforcement Officer may dispose of same by causing it to be demolished or removed to a place provided by the City, or by permitting it to be removed by a demolisher who is willing to do so for the benefit of the junk or parts for salvage.
- B. Out of the proceeds of the sale, the Code Enforcement Officer shall pay for the cost of removal and storage.

SECTION 11: NOTICE TO HIGHWAY DEPARTMENT

Notice shall be given to the Texas Highway Department within five (5) days after the date of removal identifying the vehicle or part thereof.

SECTION 12: EXEMPTIONS

- A. This chapter shall not apply to:
- 1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
 - 2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with a business of a licensed vehicle dealer or junkyard, or that is a special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, are maintained in an orderly manner, not a health hazard, and screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery (approved by the City).
 - 3) An antique vehicle parked on private property in a lawful manner belonging to that property owner shall be screened from public view by appropriate means, including a fence, rapidly growing trees or shrubbery (approved by the City), or by an approved car cover.
- B. For the purpose of this section, the following definitions shall apply.

ANTIQUE VEHICLE. A passenger car or truck that is at least 30 years old.

MOTOR VEHICLE COLLECTOR. A person who owns one or more antique or special interest vehicles and acquires, collects or disposes of antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

SPECIAL INTEREST VEHICLE. A hobbyist is preserving a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest.

SECTION 13: ADMINISTRATION AND ENFORCEMENT

- A. The administration of this chapter shall be by regular salaried, full-time employees of the City, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person.
- B. Wherever the City Secretary/Administrator is charged with enforcement of this chapter, he or she may delegate the authority to any regular salaried employee of the city.
- C. A person authorized to administer the procedures of this chapter may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

SECTION 14: SEVERABILITY CLAUSE.

If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are declared to be severable.

SECTION 15: RESCIND ANY ORDINANCE IN CONFLICT

This ordinance repeals and replaces any ordinance in conflict herewith.

Ordinance 010613 adopted June 13, 2001

ARTICLE 217.002a ABANDONED MOTOR VEHICLES

SECTION I. The City of Mabank, Texas, acting under its general police powers shall regulate abandoned motor vehicles pursuant to the provisions of Article 4477-9a of Vernons Annotated Texas Statutes.

SECTION II. The City of Mabank, Texas, acting under its general police powers adopt the procedures contained in Article 4477-9a, Section 5.09 of Vernons Annotated Texas Statutes for the abatement and removal of a junked vehicle, or a part thereof, as a public nuisance.