

TITLE IX: LAND USAGE

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CHAPTER 90: BUILDING REGULATIONS

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Building Code¹

§ 90.00 Definitions

Words used in the International Construction Codes and the National Electrical Code shall have the meanings assigned to them herein. Words relating to buildings and building use, when not otherwise separately defined, shall have the meanings which conform to the meanings set out in the building ordinances of the City. Otherwise, they shall have their usual meaning:

Approved or Approval means inspected and accepted by the Building Inspector as having met the requirements of this Code.

Backflow Tester means any person licensed as a backflow device tester in compliance with the requirements of the Texas Commission on Environmental Quality, who holds himself out to the public as being qualified to test specific types of devices that are connected to the public water supply which will prevent contamination to the source of the public water supply.

Board means the City of Overton Zoning Board of Adjustments.

Building Official means Building Inspector, City Manager or City Manager Designee

Certificate of Occupancy means a document issued by a local government agency or building department certifying a building's compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupancy.

Commercial Building means any building, structure, or premises that advertises as or conducts a business-like occupation dealing with merchandise or services, including offices, stores, and the like, but not restricted to such.

Dwelling or Residence means the abiding place of one or more persons in which the use and management of sleeping quarters, all appliances for cooking, ventilating, heating, or lighting are under one control.

¹ **State law reference** - Authority to enforce ordinances to protect health, life, and property, see V.T.C.A., Local Government Code, § 54.001.

Electrical Sign Contractor means any person licensed as a master sign electrician in compliance with the requirements of the Texas Department of Licensing and Regulation, who works for and under the general supervision and direction of a master electrician and who does not hold himself out to the public as being qualified to contract for the doing of electrical work.

Electrical Work means any act in connection with the installing, altering, repairing, and/or maintaining of electrical installations designed or capable of carrying electrical energy, which acts ordinarily requires the use of tools.

General Contractor means any person wishing to submit for a building, demolition, pool, retaining wall, fence or various other types of permit for which the State of Texas does not currently require any specialized training or licensing to conduct business as a contractor; however, who holds himself out to the public as being qualified to do the kind of construction work or to contract for the doing of building construction or demolition work by himself or by his employees.

Journeyman Electrician means any person licensed as a journeyman electrician in compliance with the requirements of the Texas Department of Licensing and Regulation, who holds himself out to the public as being qualified to do the kind of electrical sign work or to contract for the doing of electrical sign work, by him or by the employment of journeyman sign electricians which his license authorizes him to do.

Journeyman Plumber means any person licensed as a journeyman plumber in compliance with the requirements of the Texas State Board of Plumbing Examiners, who works for and under the general supervision and direction of a master plumber and who does not hold himself out to the public as being qualified to contract for the doing of plumbing work.

Jurisdiction wherever the word "jurisdiction" is used in the building code, it shall be held to mean the City of Overton, Texas.

Master Electrician means any person licensed as a master electrician in compliance with the requirements of the Texas Department of Licensing and Regulation, who holds himself out to the public as being qualified to do the kind of electrical work or to contract for the doing of electrical work, by him or by the employment of journeyman electricians which his license authorizes him to do.

Master Plumber means any person licensed as a master plumber in compliance with the requirements of the Texas State Board of Plumbing Examiners, who holds himself out to the public as being qualified to do the kind of plumbing work or to contract for the doing of plumbing work, by him or by the employment of journeyman plumbers which his license authorizes him to do.

Mechanical Contractor means any person licensed as a master plumber in compliance with the requirements of the Texas Department of Licensing and Regulation, who holds himself out to the public as being qualified to do the kind of mechanical work or to contract for the doing of

mechanical work, by him or by the employment of journeyman which his license authorizes him to do.

Irrigation Contractor means any person licensed as an irrigator in compliance with the requirements of the Texas Commission on Environmental Quality, who holds himself out to the public as being qualified to do the kind of irrigation work or to contract for the doing of irrigation work, by him or by the employment of journeyman which his license authorizes him to do.

§ 90.01 International Code(s) Adopted

For the purpose of establishing rules and regulations for the construction, installation, alteration, removal, demolition, equipment use and occupancy, location, and maintenance of all buildings and structures, including permits and penalties, the following documents, one (1) copy of each which are on file in the office of the City Secretary of the City of Overton, and that the following Codes, together with existing amendments and amendments hereinafter, are incorporated by reference and are hereby adopted by reference as though they were copied herein fully:

- **2012 International Building Code** shall be adopted in its entirety as published; including the following appendices: Appendix C (Use and occupancy of Group “U” occupancies), Appendix D (Fire District), Appendix E (Additional Accessibility Requirements), “G” (Flood Resistant Construction).
- **2012 International Residential Code** shall be adopted with the omission of Section 313 it its entirety. The City also adopts the following appendices of the 2012 International Residential Code: Appendix A (Gas Pipe sizing requirements), Appendix B (Vent pipe sizing), Appendix C (Exhaust vent pipe terminal locations and sizing) and Appendix D (Swimming Pools).
- **2012 International Fire Code** shall be adopted in its entirety as published; including the following appendices: Appendix B (Fire Flow Requirements), Appendix C (Fire Hydrant locations and spacing), Appendix D (Fire apparatus roads) and Appendix J (Building location and address location).
- **2012 International Plumbing Code** shall be adopted in its entirety as published; including Appendix E.
- **2012 International Fuel and Gas Code** shall be adopted in its entirety as published including Appendix A.
- **2012 International Mechanical Code** shall be adopted in its entirety as published.
- **2011 National Electric Code NFPA 70** shall be adopted in its entirety as published with the following exception:
 - Section 210.12 (A) of the code is hereby amended by adding a new Exception No. 4, said new exception to read as follows:

- Exception No. 4: One 120v, 20 amp circuit, protected by a conventional heat activated overcurrent protection device, serving a single receptacle dedicated to a cold storage appliance, may be installed."
- **2012 International Energy Conservation Code** shall be adopted in its entirety as published.

(Ordinance No. 2016-01-21B adopted on January 21, 2016 amended by Ordinance No. 2016-11-17A as adopted November 27, 2016)

(a) No person shall engage in the business of contacting to furnish labor and materials for the erection, construction, addition, alteration or repair of buildings, structures or signs for which a building permit is required, without first obtaining a City issued annual Contractors Registration for the current year.

(b) No person shall be issued a City of Overton Contractor Registration as a contractor or builder until he has made application and provided proper proof of licensing by the Texas State Board governing his/her trade as listed below:

Backflow Tester	<ol style="list-style-type: none"> 1. Annual signed contractor's application by licensed contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License 3. Photo copy of applicant's valid Backflow Testers license 4. Copy of current instrument calibration report for all testing equipment
General Contractor & Fence/Demolition/Pool	<ol style="list-style-type: none"> 1. Annual signed contractor's application by contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License
Electrical Contractors	<ol style="list-style-type: none"> 1. Annual signed contractor's application by licensed contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License 3. Photo copy of applicant's valid Master Electricians license 4. Photo copy of applicant's valid Texas Electrical Contractors Certificate
Irrigation Contractors	<ol style="list-style-type: none"> 1. Annual signed contractor's application by licensed contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License 3. Photo copy of applicant's valid Irrigators license
Mechanical Contractors	<ol style="list-style-type: none"> 1. Annual signed contractor's application by licensed contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License 3. Photo copy of applicant's valid Master A/C & Refrigeration license
Plumbing Contractors	<ol style="list-style-type: none"> 1. Annual signed contractor's application by licensed contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License 3. Photo copy of applicant's valid Master Plumbers license

	* Verify liability insurance on the TSBPE website EACH time a permit is pulled
Electrical Sign Contractors	<ol style="list-style-type: none"> 1. Annual signed contractor's application by licensed contractor for trade applicable 2. Color photo copy of applicant's valid Driver's License 3. Photo copy of applicant's valid Master Sign Electricians license 4. Photo copy of applicant's valid Texas Electrical Contractors Certificate

(c) All Contractor Registrations issued under this Code shall expire at midnight on December 31 of the year of issuance.

(d) Any person desiring to erect, construct, alter, demolish or repair a structure owned (and homesteaded if required by law for the work being done) by that person and who personally performs such work shall not be required to obtain the required Contractor Registration, but shall be required to obtain the customary permit for the particular job under this chapter.

§ 90.04 Scope of Codes

The provisions of these Codes shall apply to all construction, erection, alterations, demolitions, replacement of equipment installed, used or maintained in the City as per listed by the applicable code for the work being performed. The following work shall be considered exempt: electrical wiring or equipment used in the generation, distribution and rendition of service to the public, which is installed by or for and owned or maintained by a public utility, telephone, or other such company permitted to operate in the City.

§ 90.05 Compliance with the Adopted Codes Required

The City Manager or his Designee (Contract Building Inspector) is hereby authorized and directed to enforce the provisions of these codes. No building, mechanical, electrical, plumbing or other construction trade work shall be approved unless the work is in conformity with these Codes, and unless such-work is in conformity with the approved methods of construction for the safety of life and property. When not specifically covered by these Codes, the City Manager or his Designee (Contract Building Inspector) shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the applicant of it provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of these codes. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in these codes.

Any person who, as owner, agent, servant, lessee or otherwise, violates, disobeys, or refuses to comply with, or who resists or opposes the execution of, or violates any provisions of these Codes, or who occupies or maintains any building or structure in which are in violation of these Codes, shall be held in violation of the Code of Ordinances. Any and all new construction, replacements, installations erected or altered in violation of these Codes shall be condemned and removed at the expense of the person erecting or altering the same.

§ 90.06 Office of Building Inspector Created

There is hereby created the office of Building Inspector. The office of Building Inspector may be filled through a contractual relationship with a qualified Building Inspector. The contract shall be subject to approval by the City Manager or City Manager Designee. The Building Inspector shall be versed in the approved methods of construction for safety of life and property and the currently adopted International Construction Codes. The Building Inspector shall receive such compensation as the City Council may decide.

§ 90.07 Powers and Duties of Building Inspector

The Building Inspector or City Manager Designee shall have the following powers and duties:

- (1) Enforce the provisions of the International Building Codes and National Electrical Code as adopted by the City.
- (2) Approve issuance of any building and /or construction trade permits.
- (3) Order the electric and / or gas service disconnected where improper or defective wiring or piping exists, or where electrical or gas construction or equipment has been installed without a permit as required herein.
- (4) Order compliance with the provisions of these Codes where a change of occupancy occurs in a building which requires changes or alterations to existing wiring, piping or the structure.
- (5) Dis-connect electrical and / or gas services in case of emergency.
- (6) Attach to electrical and / or gas equipment or meters any official notice to prevent the use of electricity and / or gas.
- (7) Order all persons to cease and desist doing any work being done without a permit and/or where such work is in violation of these Codes.
- (8) Order special rulings to govern construction or trades work for a particular occupancy, building, or installation not covered by these Codes.
- (9) Require, when deemed necessary, plans, specifications, and a complete feeder layout of large or special installations of construction or trades work.

The City Manager or his Designee (Contract Building Inspector) shall make a thorough inspection of all construction or trades work from time to time. Where such construction or trades work is in a dangerous or unsafe condition or is deemed to be in interference with the work of the Fire Department, the Building Inspector, City Manager or City Manager Designee

shall notify the person owning, using, or operating such construction or building trade work to place it in a safe, secure, and non-interfering condition. Any person failing, neglecting, or refusing within a reasonable time to make the necessary repairs or changes and have the necessary work completed within a reasonable time after the receipt of such notice shall be deemed guilty of a violation of this Code and every day which shall elapse after the expiration of such reasonable time until such necessary items are repaired, removed, or changed as required by the Building Inspector, shall be considered a separate offense within the intent and meaning of this Code.

It shall be unlawful for any person to interfere with the City Manager or his Designee (Contract Building Inspector) in the discharge of his duties or to prevent or in any manner attempt to prevent him from carrying out his duties.

§ 90.08 Permits in General

No new construction, demolition, addition, replacement, installation, alteration, or removal shall be made to any building or structure without a written permit being first obtained from the City Secretary / Community Development Coordinator or by the person, firm, or corporation having direct charge of such installation.

§ 90.09 Applications for Permits

(a) Applicants for permits shall be made in writing and shall contain the following:

- (1) Date;
- (2) Property owner;
- (3) Name of applicant.
- (4) Address where work is to be done;
- (5) Description of the work to be done; and
- (6) Other information deemed necessary by the Electrical Inspector.

(b) Applications for permits must be presented in person during regular City office hours.

(c) An application for a permit for any proposed work shall be deemed to have been abandoned one hundred eighty (180) days after the date of filing, and all fees submitted for review shall not be considered refundable unless such application has been pursued in good faith or a permit has been issued. The City Manager or his Designee (Contract Building Inspector) shall be authorized

to grant one or more extensions of time for additional periods not exceeding ninety (90) days each. Each extension shall be requested in writing and justifiable cause must be demonstrated.

§ 90.10 Permit Fees

The permit fees, as provided for in the City of Overton Code of Ordinances (Appendix A – Schedule of Fees) shall be paid prior to the work commencing for all new work, replacements, repairs, renewal, or additions. When fees are not set therein, the City Manager or his Designee shall set the fees. When work is done without first obtaining a permit from the jurisdiction a fine shall be charged not to exceed double the original permit fee cost.

§ 90.11 Expiration of Permit

Every permit issued shall become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the work is commenced. The Building Inspector is authorized to grant, in writing, one or more extensions of time, for periods not more than one hundred eighty (180) days each. The extension shall be requested by the contractor in writing and justifiable cause demonstrated. one hundred eighty (180) days after issued.

§ 90.12 Required Inspections

Construction or work for which a permit is required shall be subject to inspection by the City Manager or his Designee (Contract Building Inspector) and such construction work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provision of these codes or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Inspector nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Failure to pass the original inspection as made by the City Manager or his Designee (Contract Building Inspector) shall result in the permit applicant being assessed a re-inspection fee.

§ 90.13 Defective Work

When a permit holder is given notice that defects exist in his work, he shall make the corrections promptly. Failure to make such within ten (10) days shall constitute a violation and subject to a re-inspection fee being charged.

§ 90.14 Work Standards

Registered Contractors with the City of Overton shall comply with the minimum standards of the International Construction Codes or National Electrical Code governing the work being performed.

§ 90.15 Signs

- a) No electronic sign or neon tubing shall be installed until a permit has been issued. An electrical permit is required for the wiring. A licensed electrician must connect the sign to the power supply.
- b) Pylon Signs must be permitted by the Community Development Coordinator with the following requirements shown in the sign plans:
 - The wiring to freestanding signs shall be underground. The wiring to all other signs shall be hidden.
 - Freestanding signs over eight (8) feet in height (from grade to top of *sign*) require structural plans sealed by a civil or structural engineer licensed in Texas.
 - Freestanding signs shall be designed for a minimum ninety (90) miles per hour wind load.
 - Freestanding signs shall be at least five (5) feet away from buildings, driveways and parking areas. For protection, they must have a curbed or protected landscape area around the *sign* of at least four (4) feet from the *sign* structure. This area must be at least four (4) times the size of the *sign* area

§ 90.16 Failure to Comply with Orders of Building Inspector

Any person, firm, or corporation who shall fail to correct any defect or defects in his work or to meet the required standards after having been given notice of the unfit condition by the Building Inspector, within a reasonable time, shall be refused any other permit until such defect or defects have been corrected and shall be subject to revocation of Contractor Registration within the City of Overton for continual defective work or either upon conviction for violation of the provision of this chapter.

§ 90.17 Interference with Building Inspector Prohibited

It shall be unlawful for any person to interfere with the Building Inspector or his agent in the discharge of his duties or to prevent or attempt to prevent him from discharging his duties.

§ 90.18 Individuals Doing Work on Own Property

Any individual desiring to perform work on his or her own property shall not be required to obtain the required state issued trade license for the work as long as the property is homesteaded

with the local County appraisal district if work to be performed is electrical, mechanical, plumbing or irrigation work, but shall be required to obtain the customary permit for that particular job and the work must comply with the current adopted codes by the jurisdiction and be by the Building Inspector. Such work done by an individual must be done by him personally on his own property and not be a way of performing a service to the public generally

§ 90.19 Certificate of Occupancy

No building or structure (commercial or residential) shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the City Manager or his designee has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. (*Ordinance No. 111594C adopted November 15, 1994*)

§ 90.20 Penalty for Violations

Any person, firm, or corporation found guilty of violating any of the provisions of this chapter shall be subject to a fine of not more than the maximum fine as provided for in the schedule of fines (Appendix B) of this Code together with the costs of such prosecution. Each day during which a violation continues shall be a separate offense.

Dangerous and Substandard Buildings²

§ 90.70 Unsafe Buildings Defined and Prohibited

Unsafe Buildings. The City may, by ordinance, hereafter order the vacation, relocation of occupants, securing, repair, removal or demolition of a building or structure that is:

- (1) dilapidated, substandard, or unfit for human habitation;
- (2) a hazard to the public health, safety and welfare;
- (3) regardless of its structural condition, unoccupied by its owners, lessees, or invitees and is unsecured from unauthorized entry to the extent that it could be entered by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

² **State law references** - Authority to declare any dilapidated wooden building a nuisance, V.T.C.A., Local Government Code, § 342.002; authority to require demolition and repair of substandard structures, V.T.C.A., Local Government Code, 214.001 - 214.002.

(4) boarded up, fenced, or otherwise secured in any manner if.

(a) the building constitutes a danger to the public even though secured from entry; or

(b) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (3) of this section.

For purposes of this chapter, such a building or structure is referred to as an "unsafe building."

§ 90.71 Minimum Standards

In order to establish minimum standards for the continued use and occupancy of all buildings, it is hereby declared that any one or more of the following conditions are prohibited:

(1) Any building with roof, ceiling, floor, seal, or foundation, or any combination thereof, which is damaged, rotted or decayed;

(2) Any building with windows out;

(3) Any building deteriorated by neglect, vandalism, fire damage, aging, or the elements;

(4) Any building in danger of failing and injuring any person or property;

(5) Any building that is a fire menace by virtue of an accumulation of trash, rubbish, or debris or other combustible material;

(6) Any building which by virtue of abandonment or neglect, is likely to attract children or transients;

(7) Any building that is damp or in an unsanitary condition and is likely to cause disease and sickness;

(8) Any building that is likely to provide breeding places and habitat for snakes, rats, mice, and other vermin which are detrimental to the public health.

§ 90.72 Public Hearing; City Council Order

(a) The City shall notify the owner, or his authorized agent or representative, lienholder, or mortgagee of any unsafe building to appear for a public hearing and show cause why such building shall not be declared to be an unsafe building and why the owner should not be ordered to vacate, secure, repair, remove or, demolish. The date of such hearing shall be not less than ten (10) days after such citation shall have been made. The citation must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of

any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(b) Such citation may be served by delivery thereof to the owner, or the person in possession, or if such premises are unoccupied, by attaching a copy of such citation in a place of prominence on such building or structure.

(c) At the hearing, the City Council shall determine whether or not such building or structure violates the standards of § 90.71. If determined to be unsafe, the City Council shall order that the building be vacated, secured, repaired, removed, or demolished. The City Council shall generally follow these guidelines:

- (1) If the unsafe building can be reasonably repaired so that it will no longer be unsafe or dangerous as above defined, it shall be ordered repaired.
- (2) If the unsafe building is of imminent danger to the health, morals, safety or general welfare of its occupants or of the public, it shall be ordered to be vacated.
- (3) If the unsafe building is fifty (50%) percent damaged or decayed, it shall be removed or demolished, and in all cases where a building cannot be repaired so that its existence will no longer be dangerous or unsafe, it shall be demolished and cleared or removed.

§ 90.73 Notice to Lienholders

(a) If the owner does not take the ordered action within the allotted time, the City shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The City shall send to each identified mortgagee and lienholder a notice containing:

- (1) an identification, which is not required to be a legal description, of the building and property on which it is located;
- (2) a description of the violation of municipal standards that is present at the building;
and
- (3) a statement that the City will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(b) As an alternative to the procedure prescribed by subsection (a) of this section, the City may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of an opportunity to comment at the hearing. In addition, the City may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of

the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(c) If the City operates under this subsection, the order issued by the City may specify a reasonable time for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the City is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

§ 90.74 Failure of Owner to Comply with Order

If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building, or relocate the occupants at its own expense.

§ 90.75 Lien for Expenses

(a) If the City incurs expenses under § 90.74 the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner, if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the City and the balance due.

If the notice is given and the opportunity to repair, remove, or demolish the building is afforded to each mortgagee and lienholder, as authorized in previous sections, the lien is a privileged lien subordinate only to tax liens.

Within ten (10) days after the date that the order is issued, the City shall:

- (1) file a copy of the order in the office of the municipal secretary or clerk; and
- (2) publish in a newspaper of general circulation in the City a notice containing:
 - (i) the street address or legal description of the property;
 - (ii) the date of the hearing;

(iii) a brief statement indicating the results of the order; and

(iv) instructions stating where a complete copy of the order may be obtained.

(d) After the hearing, the City shall promptly mail by certified mail, return receipt requested, a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building. If a notice is mailed according to this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice shall be deemed as delivered.

(e) In conducting a hearing authorized under this section, the City shall require the owner, lienholder, or mortgagee of the building within 30 days to:

(1) secure the building from unauthorized entry; or

(2) repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(f) If the City allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the City shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.

(g) The City may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

(1) submits a detailed plan and time schedule for the work at the hearing; and,

(2) establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(h) If the City allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the City shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the City to demonstrate that the owner, lienholder, or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the mayor or the mayor's designee to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the City boundaries that exceeds \$100,000 in total value, the City may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this

subsection. In lieu of a bond, the City may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the municipality. The bond must be posted or a letter of credit or third party guaranty provided, not later than the 3rd day after the date the City issues the order.

(i) In a public hearing to determine whether a building complies with the standards set out in an ordinance adopted under this section, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(j) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense.

§ 90.76 Determining Identify of Property Owner

The requirements to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee are satisfied if the City searches the following records:

- (1) county real property records of the county in which the building is located;
- (2) appraisal district records of the appraisal district in which the building is located;
- (3) records of the secretary of state;
- (4) assumed name records of the county in which the building is located;
- (5) tax records of the City; and six (6) utility records of the City.

§ 90.77 Authority to Secure Unoccupied Substandard Buildings

(a) The City, by ordinance, may establish minimum standards for the use and occupancy of buildings in the City regardless of the date of their construction.

(b) The City may secure a building the City determines:

- (1) violates the minimum standards; and
- (2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.

(c) Before the 11th day after the date the building is secured, the City shall give notice to the owner by:

- (1) personally, serving the owner with written notice;

- (2) depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owners post office address is unknown; or
- (4) posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(d) The notice must contain:

- (1) an identification, which is not required to be a legal description, of the building and the property on which it is located;
- (2) a description of the violation of the City standards that is present at the building; a statement that the City will secure or has secured, as the case may be, the building; and
- (3) an explanation of the owner's entitlement to request a hearing about any matter relating to the City's securing of the building.

(e) The City shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the City's securing of the building if, within 30 days after the date the City secures the building, the owner files with the City a written request for the hearing. The City shall conduct the hearing within twenty (20) days after the date the request is filed.

(f) A City has the same authority to assess expenses under this section as it has to assess expenses under §90.73(c). A lien is created under this section in the same manner that a lien is created under Section §90.73(c) and is subject to the same conditions as a lien created under that section.

(g) Authority to act under this section is in addition to action(s) authorized in other sections of this chapter.

§ 90.78 Authority to Order Immediate Removal of Structures

If the City Council finds that a building, bulkhead or other method of shoreline protection, fence, shed, awning, or other structure, or part of a structure, is likely to endanger persons or property, the City Council may:

- (1) order the owner of the structure, the owners agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the part of the structure, within a specified time; or

- (2) repair, remove, or demolish the structure, or a part of the structure, at the expense of the City, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

Moving of Buildings

§ 90.80 Permit Required

It shall be unlawful for any person to move or relocate a building, structure or portion thereof, except portable storage buildings not greater than twelve (12) feet in width, twenty-four (24) feet in length, and twelve (12) feet in height, within the corporate limits of the City without first obtaining a moving permit from the City Manager or his designee. Upon filing an application for a permit, the applicant shall pay a fee as provided for in the City of Overton Code of Ordinances (Appendix A – Schedule of Fees) to help defray the cost of processing the permit application. No separate city permit will be required to move a building or structure being moved over any state or federal highway within the City provided it is being moved under a permit issued by the Texas Department of Transportation and when the moving route is confined to a state or federal highway.

§ 90.81 Application for Permit

Any person desiring to move or relocate any old or used house, building or structure within the corporate limits shall file any application with the City Secretary requesting that he be permitted to do so. Written application for such permit shall be filed with the City Secretary at least twenty-four hours prior to the actual moving of the structure. Upon filing an application for a permit, the applicant shall pay a fee as provided for in the City of Overton Code of Ordinances (Appendix A – Schedule of Fees) to help defray the cost of processing the permit application. The application shall contain the following information:

- (1) Name, address, and telephone number of applicant;
- (2) Description and size of the house, building, or structure to be moved along with its present location, together with a picture thereof;
- (3) The present location of the house, together with a picture thereof;
- (4) Legal description of the lot and the local address upon which the house, building, or structure is to be moved or relocated if a permit is granted by the City Council;
- (5) A copy of the Final Plat as approved by City Council and recorded in the County Clerk's office;

- (6) A site plan or plot plan showing the dimensions of the lot or tract of land upon which the house, building, or structure is to be moved or relocated, the location of existing buildings or structures upon the lot, if any, and the location of existing buildings or structures upon adjoining lots;
- (7) The proposed route, including the time and date when the applicant proposes to move or relocate the house, building, or structure;
- (8) Intended use of the house, building, or structure.
- (9) A manufactured home being relocated within the corporate city limits must also obtain a moving permit; however, the property owner must first obtain a SPECIAL EXCEPTION APPROVAL from the Zoning Board of Adjustment for the placement of said home if the manufactured home is to be located in any zoning district other than one Manufactured Home Zoning District.

§ 90.82 Inspection Required

Upon filing of the application, the City Manager or his Designee shall investigate the application by inspecting the house, building, or structure to be moved or relocated upon the lot or tract of land, and the lot or tract of land upon which the house, building, or structure is to be located. He shall then advise the City Secretary whether the house, building, or structure meets the requirements of the building code and other applicable ordinances of the City of and whether the lot and house, building, or structure, if allowed to be moved onto the designated lot or tract of land, would meet all of the requirements of the building code and other applicable regulations of the City.

- (1) Water line(s) capped and meter(s) removed;
- (2) Sewer line(s) capped;
- (3) All debris shall be removed from the lot and it shall be left in a sanitary state.

§ 90.83 Issuance of Moving of Building / Structure Permit

A permit shall **not** be issued if:

- (1) The house, building or structure to be moved does not or cannot meet all the requirements of all applicable ordinances of the City;
- (2) The lot or tract of land with the house, building, or structure thereon would not meet all of the requirements of the applicable ordinances of the City;

- (3) The moving of such house, building, or structure upon or from the lot or tract of land would cause injury to persons or property or damage to the streets or other public improvements.
- (4) The applicant cannot ensure that he has the financial resources to bring the building up to City standards within ninety (90) days after completion of the move;
- (5) The applicant cannot ensure that the grounds from which a building is removed will be completely cleared, leveled, and cleaned within ninety (90) days after permit is issued.

§ 90.84 Insurance and Bonding Requirements

(a) No permit shall be issued unless the applicant shall file with the City Secretary a surety bond by a surety acceptable to the City in the sum of not less than five thousand (\$5,000), which bond shall protect the City from all costs and damages which may result in the moving of any building or structure.

(b) The applicant shall procure and keep in full force and affect a policy of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the State of Texas and in the standard form approved by the Texas State Board of Insurance Commissioners. Such policy shall contain a provision that the City shall be fully indemnified. Such insurance policy shall insure the public from any loss or damage that may arise to any person or property by reason of the moving of a building or structure by the applicant and providing that the following recovery limits be not less than the following:

- (1) For damages arising from bodily injury to or death of one (1) person in any one accident-two hundred and fifty thousand (\$250,000)
- (2) For damages arising from bodily injury to or death of two (2) or more persons in any one accident- five hundred thousand (\$500,000)
- (3) For injury to or destruction of property in any one accident-two hundred and fifty thousand (\$250,000)

(c) The City Council may waive any insurance or bonding requirements provided for herein or may require a lesser amount of coverage if in its opinion, the public will be adequately protected.

§ 90.85 Escort Required

No person shall move any building or structure across or along any public way within the City limits without an escort vehicle. All escort vehicles shall be adequately marked and lighted to meet the Texas Transportation Code Standards. The contractor moving the structure shall provide a copy of the TxDOT issued moving permit and moving route through the City of

Overton prior to moving the structure. If the mover will not have an approved escort vehicle, a police escort will be made available pursuant to section § 90.86.

§ 90.86 Police Escort

No person shall move a building or structure across or along any City street, public way, or public place within the City without first obtaining a moving a structure permit issued by the City of Overton. All structures moved within the City limits are required to be accompanied by police escort or an approved escort vehicle. All escort vehicles shall be adequately marked and lighted to meet the Texas Transportation Code Standards. If a Police Escort is required or requested (and a Moving Permit was not required by this Ordinance), a fee for such escort may be required pursuant to City of Overton Code of Ordinances (Appendix A - Schedule of Fees).

§ 90.87 House Mover to Make All Arrangements

Upon the issuance of said moving permit, the house mover shall make all arrangements with the public utilities, railroads, and other persons, firms, or corporations whose facilities are involved in such movement, for the removal, relocation, and replacement of wires, poles, or other improvements, to enable the building or structure to be moved without causing damage.

§ 90.88 Notice to Utility Companies

Before the moving of a building is commenced, it shall be the duty of the permit holder to give notice of the move to all companies maintaining overhead wires across or along any street or alley included in the designated route and to secure written clearance from such companies. If it is necessary to temporarily move any such wires to accommodate the moving of the building, the same shall be at the expense of the building mover, if the wires are eighteen feet (18') above the right-of-way. If the wires are less than eighteen feet (18') above the right-of-way, they shall be moved at the expense of the utility company. The shortest measurement between the overhead wire and the center point of the right-of-way shall be used for the purposes of this chapter.

§ 90.89 Water and Sewer Connection Mandatory

Any building or structure moved into the City shall be connected to the water and sewer system of the City or to a septic tank approved by the City before a certificate of occupancy can be issued for the building or structure if the building or structure is to be used for any purpose other than storage.

§ 90.90 Parking on Public Property

No building or structure for which a permit has been granted shall be allowed to remain, park, or stand upon the public streets or other public property within the City for more than twenty-four (24) hours, except in cases of emergency in which event the building or structure must be

removed from the public streets or public property within forty-eight (48) hours after the emergency has arisen.

§ 90.91 Issuance of Certificate of Occupancy

No person shall occupy such house, building, or structure permitted to be moved until the **City Manager or his Designee** issues the permittee a certificate of occupancy. No certificate of occupancy shall be issued until the house, building, or structure complies with all conditions of the permit and all requirements of all applicable ordinances of the City.

§ 90.92 Liability of City Under This Chapter

Neither the City nor any authorized agent acting under the terms of this chapter shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this chapter.

§ 90.93 Exceptions

This chapter shall not apply to the movement of oversized equipment or buildings or structures of a temporary nature, when such equipment, buildings or structures are within the legal road limit as required by state statutes.

CHAPTER 91: FLOOD PREVENTION AND FLOOD MANAGEMENT REGULATIONS³

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Statement of Purpose and Definitions

§ 91.01 Findings of Fact

- (a) The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed, or otherwise protected from flood damage.

³ **State law reference:** Local governments authorized to adopt regulations to minimize flood losses, V.A.C.S., Art. 8280-13.

§ 91.02 Statement of Purpose

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

§ 91.03 Methods of Reducing Flood Losses

The following methods may be used to reduce flood losses:

- (1) Restrict or -prohibit uses that are dangerous to health, safety, or property in times of flood or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development that may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

§ 91.04 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, AI -99, VO, V1 -30, VE, or V.

Base flood means the flood having a one percent (1 %) chance of being equaled or exceeded in any given year.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Elevated building means a non-basement building:

- (i) built, in the case of a building in Zones AI-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones VI-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and
- (ii) anchored so that the structural integrity of the building during a flood will not be compromised. In the case of Zones AI -30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) overflow of inland or tidal waters;
- (2) unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the flood; mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Flood Protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Levee means a man-made structure; usually an earthen embankment designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation designed requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97-348]), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement*" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance is a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements, see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of flood of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

General Provisions

§ 91.10 Lands to Which This Chapter Applies

The chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Overton, Texas.

§ 91.11 Basis for Establishing Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency on its Flood Hazard Boundary Map (FHBM), Community No. 48213CO125 C dated September 27, 1991 and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.

§ 91.12 Establishment of Development Permit

A Development Permit shall be required to ensure conformance with the provisions of this chapter.

§ 91.13 Compliance

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

§ 91.14 Abrogation and Greater Restrictions

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 91.15 Interpretation

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

§ 91.16 Warning And Disclaimer of Liability

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Administration

§ 91.20 Designation of the Floodplain Administrator

The Mayor is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate section of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

§ 91.21 Duties and Responsibilities of the Floodplain Administrator

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.
- (2) Review permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (3) Review, approve, or deny all applications for development permits required by adoption of this chapter.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of

the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency that is the Texas Water Commission, or its successor agency, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with § 151.11, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of §§ 91.30 - 91.33.

§ 91.22 Permit Procedures

(a) Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of § 91.31(2);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) Maintain a record of all such information in accordance with § 91.21(1).

(b) Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (8) The necessity to the facility of a waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (10) The relationship of the proposed use to the comprehensive plan for that area.

§ 91 .23 Variance Procedures

- (a) The Appeal Board as established by the City Council shall hear and render judgment on requests for variances from the requirements of this chapter.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (d) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in § 91.22(b) have been fully considered. As the lot size increases beyond the one-half acre size, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (§ 91.02).

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Prerequisites for granting variances shall include the following:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon,

(i) showing a good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(j) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(i) the criteria outlined in § 91.22(a) - (i) are met; and

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Provisions for Flood Hazard Reduction

§ 91.30 General Standards

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 91.31 Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) § 91.11, (ii) § 91.21(8), or (iii) § 91.32(d), the following provisions are required:

(1) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in § 91.22(a)(1) is satisfied.

(2) Nonresidential Construction

New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or

above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of Construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) Manufactured Homes

(a) Require that all manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) All manufactured homes shall be in compliance with § 91.31(1).

§ 91.32 Standards for Subdivision Proposals

(a) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with § 91.01 - 91.03 of this chapter.

(b) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet Development Permit requirements of § 91.12; § 91-22; and the provisions of §§ 91.30 - 91.31.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to § 91.11 or § 91.21 of this chapter.

(d) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

CHAPTER 92: FENCES

Section

- 92.01 Definitions
- 92.02 Permit required
- 92.03 Application required
- 92.04 Fee required
- 92.05 Encroachment of public property
- 92.06 Rear yard height limitation
- 92.07 Side yard height limitation
- 92.08 Front yard fences
- 92.09 Use of barbed wire or electrically charged fences
- 92.10 Gates or openings
- 92.11 Inspection; maintenance
- 92.12 Conflicts between chapter and zoning regulations

§ 92.01 Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

Corner lot. A lot situated at the junction of two or more public streets.

Front yard. An open, unoccupied space on a lot facing a street and extending across the front of a lot between the side yard lines.

Interior lot. A lot situated in a block with frontage on only one public street and specifically not a corner lot.

Interior lot line. The side yard lot line of a corner lot that is adjacent to an interior lot's side yard line.

Rear yard. A space unoccupied by principal structure extending for the full width of the lot between a principal structure and the rear lot line.

Reverse frontage corner lot. A corner lot where the rear lot line is adjacent to a side lot line of an adjoining lot or across an alley from such side lot line.

Side yard. An open unoccupied space on the same lot with the building, situated between the building and the sideline of the lot, and extending through from the street or the front line to the rear line of the lot. Any lot lying not a rear line or a front line shall be deemed a sideline.

§ 92.02 Permit Required

It shall be unlawful for any person to erect or have erected a fence or any part of a fence, of permanent construction in the City without first obtaining a fence permit from the office of the City Manager and City Secretary.

§ 92.03 Application Required

Any person making application for a fence permit shall sign an application for the same showing the following information:

- (1) Applicants name, address and, if the applicant represents a company or corporation, the name and address of the supervisor or foreman of the company or corporation and the name of its president.
- (2) Name of owner of property.
- (3) Local address where fence is proposed to be erected.
- (4) Type of fence construction.
- (5) Height of fence.
- (6) Plat showing lot on which fence proposed to be erected, location of adjoining or adjacent lots and with heavy black lines outline the location of proposed fence.
- (7) Approximate evaluation.

§ 92.04 Fee Required

A minimum fence permit fee as prescribed in § 20.00 of Appendix 1 - Fee Schedule shall be charged for each permit issued.

§ 92.05 Encroachment of Public Property

No fence, guy wires, braces or any post of such fence shall be constructed upon, or cause to protrude over property, that the City or the general public has dominion and control over, owns or has an easement over, under, around or through, except upon utility easements that are permitted to be fenced.

§ 92.06 Rear Yard Height Limitation

It shall be unlawful to erect a fence at a height exceeding twelve feet in any rear yard or along any rear yard lot line.

§ 92.07 Side Yard Height Limitation

It shall be unlawful to erect a fence at a height exceeding eight feet in any side yard or along any side yard lot line.

§ 92.08 Front Yard Fences

(a) Corner lots. It shall be unlawful to erect a fence in the required front yard building set-back area on any corner lot, except along the interior lot line in accordance with subsection (b) of this section.

(b) Interior lots:

(1) It shall be unlawful to erect a fence over thirty-six inches in height in the required front yard area on any interior lot.

(2) It shall be unlawful to erect a fence in the required front yard area on any interior lot that does not have at least fifty percent through vision.

(3) It shall be unlawful to maintain a fence in the required front yard area of an interior lot in a manner that does not permit at least fifty percent (50%) through vision.

§ 92.09 Use of Barbed Wire or Electrically Charged Fences

(a) No fence erected on property zoned for residential use or used for residential use shall be electrically charged in any manner or form. This exclusion includes but is not limited to fences electrical charged by battery or those tied in with the regular electrical outlet, unless such fence is erected for the purpose of controlling a dog.

(b) No fence erected on property zoned for residential use or used for residential uses shall be constructed of barbed wire fencing unless the same is approved by the officer(s) mentioned in § 92.02.

(c) In nonresidential areas, fences armed with barbed wire and arms are permitted on fences over six (6) feet in height. Such arms may not extend over public right-of-way or easements or over private property of another person.

§ 92.10 Gates or Openings

In order to allow ingress and egress for fire department personnel and fire department equipment, there shall be at least one gate or opening, with a minimum width of three (3) feet in each fence, adjacent to or running parallel to any public alley, drainage easement or utility easement. This provision shall not apply to utility easements that the City has allowed to be completely fenced in.

§ 92.11 Inspection; Maintenance

Upon completion of the installation of a fence, the building inspector and/or City Manager shall be called upon for inspection. A certificate of acceptance will then be issued or a rejection slip indicating the defects in the same. All fences constructed under the provisions of this chapter shall be maintained as to comply with the requirements of this chapter at all times.

§ 92.12 Conflicts Between Chapter and Zoning Regulations

In all cases of direct conflict between this chapter and the zoning regulations of the City, concerning construction and maintenance of fences, this chapter shall prevail. In all cases of conflict between this chapter and any specific ordinance changing the zoning on a particular tract of land, the ordinance changing the zoning shall prevail.

CHAPTER 93: TOWERS, REFLECTORS, ANTENNAS

Section

- 93.01 Purposes
- 93.02 Scope
- 93.03 Required conditions
- 93.04 Permit and site plan required
- 93.05 Approval for changes to existing towers/antennas
- 93.06 Tower/antenna height
- 93.07 Entire lot
- 93.08 Antenna support structure
- 93.09 Existing towers/antennas
- 93.10 Federal requirements
- 93.11 Abandoned towers/antennas
- 93.12 Public towers/antennas
- 93.13 Television satellite dish regulations

§ 93.01 Purposes

The purposes of this chapter are:

- (a) To provide for broadcasting or reception towers or antennas which are intended for transmitting and receiving television, radio, cellular, or telephone communications to be situated on non-residential sites.
- (b) To establish guidelines for the placement of towers and antennas.
- (c) To balance the need of providers of telecommunications services to provide quick, effective service with the safety and welfare of the public pursuant to state and federal law.

§ 93.02 Scope

The regulations set forth in this chapter govern broadcasting and communication towers/antennas in all non-residential districts.

§ 93.03 Required Conditions

Any commercial, radio, television, cellular, or microwave towers, reflectors, antennas, or support structures must be in commercially zoned areas within the City limits.

§ 93.04 Permit And Site Plan Required

Broadcasting and communications towers or antennas may not be constructed unless the Planning and Zoning Commission has reviewed and the City Council has approved a Tower Permit (TP) and site plan. The following procedures shall apply:

(a) Any person wishing to construct a new broadcasting or communication tower/antenna shall make application to the Planning and Zoning Department for a tower permit (TP). A fee as prescribed in § 21.00 of Appendix 1 - Fee Schedule will be charged for this permit. A detailed site plan shall be submitted with the TP application for each tower/antenna location, and shall contain the following:

(1) Location of proposed tower/antenna, including the zoning and land use of adjacent property.

(2) All significant structures within one-half mile of the proposed tower/antenna location. Significant structures, including all publicly or privately owned buildings (excluding utility poles), and street or traffic light standards that are over 75 feet in height.

(3) Propagation for the area as provided for the initial site determination (if applicable).

(4) A detailed landscape/screening plan that includes the complete pad site.

(5) Name, address, and telephone number of the person or entity responsible for removal of a tower/antenna in the event of abandonment. Should any of this information change after a TP has been approved, such updated information shall be provided to the Planning and Zoning Department within ten (10) days.

(6) Copies of FAA application or approval.

(7) Explanation justifying the requested height of the tower/antenna.

(8) Written confirmation from owners, or their authorized agents, of structures identified as significant according to subsection (a) (2) above that details the reason(s) why the proposed tower/antenna cannot be co-located on a significant structure or building.

(b) The application shall be placed on the agenda for review at the next available meeting of the Planning and Zoning Commission. Any decision by the Commission to deny a TP shall be in writing and supported by substantial evidence contained in a written record. The denial of a TP may be appealed to the City Council.

(c) Upon appeal, the application for a TP shall be placed on the next regularly scheduled City Council meeting. The City Council shall approve or deny the application for the TP no later than sixty (60) days after the original filing with the Planning and Zoning Department. If the application is not denied within said sixty (60) day period, then the application shall be deemed to be approved. Any decision by the City Council to deny a TP shall be in writing and supported by substantial evidence in a written record.

§ 93.05 Approval for Changes to Existing Towers/Antennas

Broadcasting and communication towers or antennas that are to be constructed on the sites of previously permitted towers, antennas, buildings or structures within any zoning district shall not require a special use permit and may be approved by the Planning and Zoning Commission subject to the following:

(a) The Planning and Zoning Commission shall approve or reject the request within thirty (30) days after the filing of the request. If the application is not denied within the thirty (30) day period, then it shall be deemed approved.

(b) Any decision by the Planning and Zoning Commission to deny a request for a change or alteration to a previously permitted tower, antenna, building, or structure shall be in writing and supported by substantial evidence contained in a written record. The written decision of denial by the Planning and Zoning Commission shall also indicate that the applicant may appeal, within ten (10) days, the decision of the Planning and Zoning Commission to the City Council. In the event of such an appeal, the provisions of § 93.04, subsection (c), shall govern.

(c) If the tower or antenna will increase the overall height of an existing tower, antenna, building, or structure by more than 15 feet, then a TP shall be required and the provisions of § 93.04, subsection (c), shall govern.

§ 93.06 Tower/Antenna Height

(a) No commercial radio, television, cellular, or microwave reflector tower/antenna or support structure shall exceed 50 feet in height. Tower/antenna height is approved as part of the TP and administrative approval process under this section.

(b) Publicly owned towers/antennas shall not be subject to maximum height requirements.

(c) No commercial radio, television, cellular or microwave reflector tower/antenna or support structure shall be within 500 feet of any like tower.

§ 93.07 Entire Lot

For purposes of determining whether the installation of a tower/antenna complies with development regulations, setback requirements, and other zoning regulations, the dimensions of the entire lot shall control, even though the tower/antenna may only be located on portions of such lots.

§ 93.08 Antenna Support Structure

(a) Towers/antennas and required accessory buildings located within commercial and industrial districts shall comply with the building setbacks for the specific zoning district.

(b) A minimum setback equal to the height of the tower/antenna shall be required from any residential zoning district line.

§ 93.09 Existing Towers/Antennas

Any tower or antenna lawfully existing at the time of the passing of this ordinance may continue to exist under the standards in effect at the time that the tower/antenna was originally permitted. However, any changes or alterations to such previously permitted tower/antenna shall be subject to this ordinance.

§ 93.10 Federal Requirements

All towers/antennas must meet current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other federal agency having authority to govern towers/antennas.

§ 93.11 Abandoned Towers/Antennas

Any tower/antenna that has not been in operation for a continuous period of twelve (12) months shall be considered abandoned, and the owner or person in control shall remove the same within ninety (90) days after receipt of written notice from the City at such owner's expense. If there is more than one user of a single tower/antenna, then this subsection shall not apply until all users cease using the tower/antenna.

§ 93.12 Public Towers/Antennas

All publicly owned antennas or communication structures shall be license, lease, or other form of approval has been obtained from the City.

§ 93.13 Television Satellite Dish Regulations

(a) The purpose of this section is to provide for installation of satellite dish antennas designed and used for reception of television or other electronic communications broadcast or relayed from an earth satellite.

(b) Required conditions:

(1) Administrative approval of site plan by Building Official.

(2) It may be a solid, open mesh, or bar configured structure, typically eight (8) to twelve (12) feet in diameter, in the shape of a shallow dish or parabola.

(3) A satellite dish antenna may be located in a residentially zoned district if it complies with the following conditions:

- (i) The dish is ground-mounted.
- (ii) The dish is not located in a front yard; or in the front yard or exterior side yard of a corner lot; or in the front yard or exterior rear yard of a through lot.
- (iii) The dish complies with the setback requirements for accessory structures for the district in which it is located. For this purpose, satellite dishes that are attached to a structure shall be considered a part of the structure; satellite dishes that are freestanding shall be considered an accessory building.
- (iv) The dish does not exceed twelve (12) feet in height above the existing grade.
- (v) Only one satellite dish antenna shall be permitted per lot.
- (vi) Satellite dish antennas with a diameter measuring less than one meter (3.28 feet) may be installed in a manner consistent with typical television antennas.
- (vii) Satellite dish antennas in residentially zoned districts shall be used only for private, noncommercial purposes.

CHAPTER 94: GARAGE SALES

Section

- 94.01 Purpose
- 94.02 Definitions
- 94.03 Scope
- 94.04 Days Garage Sales allowed
- 94.05 Permit Required
- 94.06 Removal of Garage Sales Signs Mandatory

§ 94.01 Purpose

To insure the general welfare and quality of life of its citizens has on this day, passed and approved this ordinance regulating garage sales.

§ 94.02 Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

Garage Sale: The sale of any personal belongings, personal property or merchandise from a residence within the city limits of Overton, Texas.

§ 94.03 Scope

For purposes of this Ordinance, yard sales, estate sales and any other type of sale based from one's residence within the city limits of Overton, Texas, shall fall under the parameters of this Ordinance.

§ 94.04 Days Garage Sales allowed

All sales falling under the perimeters of this Ordinance shall be conducted on Thursday, Friday, and Saturday. Sales conducted on any other day are prohibited.

§ 94.05 Permit Required

Before conducting any type of sale that falls under the parameters of this Ordinance, an individual must obtain a permit from city hall authorizing such a sale. At the time of the issuance of any such permit, a copy of this Ordinance shall be provided to the individual. A permit shall be issued free of charge.

§ 94.06 Removal of Garage Sales Signs Mandatory

Any signs, banners, or other publicly posted advertisements for a sale shall be removed by Sunday at 12:00 noon.

CHAPTER 95: CURFEW HOURS FOR MINORS

Section

- 94.01 Definitions
- 94.02 Offenses
- 94.03 Defenses to Prosecution
- 94.04 Enforcement
- 94.05 Penalties

§ 95.01 Definitions

Chief of Police means the chief of Police of the City of Overton or a designated representative.

Curfew hours means:

- (a) 11:00 p.m. to 6:00 a.m. any day except Friday or Saturday; and
- (b) 12:00 midnight to 6:00 a.m. Friday and Saturday.

Emergency means, but is not limited to, a fire, a natural disaster, and automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Holding Location means a place designated according to law, by the chief of police to which a minor taken into custody for a violation of the section will be delivered to await pick up by a parent or juvenile authorities.

Minor means any person under seventeen (17) years of age.

Parent means a person who is:

- (a) a natural or adoptive parent of a minor.
- (b) a court-appointed guardian of a minor; or
- (c) at least eighteen (18) years of age and authorized by a parent or court-appointed guardian to have the care and custody of a minor.

Public Place means any street, alley, highway, sidewalk, playground, park, plaza, building, or other place used by or open to the public.

Remain means to:

- (a) linger or stay unnecessarily; or
- (b) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

§ 95.02 Offenses

1. A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
2. A parent of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

§ 95.03 Defenses to Prosecution

It is a defenses to prosecution under Subsection § 95.02 that the minor was:

1. Accompanied by the minor's parents.
2. On an errand or other legitimate business at the direction of the minor's parent;
3. In a motor vehicle involved in interstate or intrastate travel;
4. Engaged in an employment activity, including but not limited to newspaper delivery;
5. Involved in an emergency
6. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police officer about the minor's presence;
7. Attending an official school or religious activity or returning home from an official school or religious activity;
8. Exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech, and the right of assembly, or
9. Married or had been married or has disabilities of minority removed in accordance with Chapter 13 of the Texas Family Code.

§ 95.04 Enforcement

1. A police officer, upon finding a minor in violation of Subsection § 95.02 (1), shall ascertain the name and address of the minor and shall inquire into the reasons for the minor being in a public place. If the police officer reasonably believes that the minor has violated the ordinance and that no defenses apply, a citation may be issued to the minor, and the police officer may order the minor to go promptly

home by a direct route or may take the minor into custody and deliver the minor to a holding location.

2. When a minor is taken into custody under this subsection, the police department shall immediately notify a parent to pick up the minor at the holding location. After a parent arrives at the holding location and provides the information required by the chief of police to file an incident report, the minor shall be released into the custody of the parent. If a parent cannot be located or fails to take charge of the minor, the minor shall be released to the juvenile authorities,
3. If a minor is not taken into custody for a violation of Subsection § 95.02 (1), the police department shall notify a parent of the minor that the minor has violated Subsection § 95.02 (2) and may issue a citation to the minor's parent if reasonable grounds exist to believe that the parent has violated Subsection § 95.02 (2) of this section.
4. A police officer shall, within 24 hours after finding a minor in violation of Subsection (§ 95.02 (1), file a written report on the incident.

§ 95.05 Penalties

1. Any minor who violates Subsection § 95.02 (1) of this section is guilty of a misdemeanor and upon conviction, shall be punishable by a fine as provided for class C misdemeanor offenses by the State of Texas.
2. A parent of a minor who violates Subsection § 95.02 (2) of this section is guilty of a misdemeanor and, upon conviction, shall be punishable by a fine as provided for class C misdemeanor offenses by the State of Texas.