

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

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Creation of Departments, Commissions, and Committees

§ 32.01 Creation of Departments

The City Council may by ordinance create such departments as it determines to be in the best interest of the City and its inhabitants.

§ 32.02 Creation of Commissions and Committees

The City Council may by ordinance create such commissions and committees as it determines to be in the best interest of the City and its inhabitants.

32.03 Planning & Zoning Commission Created

A Planning and Zoning Commission is hereby created in order to accomplish the following purposes:

- A. To identify community needs and to advise the City Council of their short-range and long-range implications for the total development of the City;
- B. To recommend achievable community goals as a basis for long-range planning and development programs;
- C. To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- D. To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies.

- **Planning & Zoning Commission Organization and Appointment**

There is hereby created a Planning and Zoning Commission referenced in Texas Local Government Code, §211.007, which shall be organized, appointed by the City Council and function as follows:

A. Membership:

1. The Planning and Zoning Commission shall consist of five (5) members and a Chairman who are residents of the City of Overton, each to serve for a term of two (2) years and removable for cause by the City Council. Appointees shall fill positions which shall be designated by place numbers (e.g. Place 1, Place 2, etc.).
2. The Chairman shall vote only in the case of a tie.
3. Vacancies shall be filled for the remaining term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The Mayor and City Council may appoint two (2) alternate members of Planning and Zoning Commission who shall serve in the absence of one or more of the regular members when requested to do so by the Chairman of the Planning and Zoning Commission.

B. Terms:

1. The terms of members filling Places 1, 3, and 5 shall expire on September 30th of each odd-numbered year and the terms of members filling the position of chairman and Places 2 and 4 shall expire on September 30th of each even-numbered year.
2. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms.
3. Newly appointed members shall be installed at the first regular commission meeting after their appointment.

C. Quorum and Compensation:

1. A quorum for the conduct of business shall consist of three (3) members and/or alternate members of the Commission.
2. The members shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

D. Commission Actions:

1. A motion may be made by any member other than the presiding officer.
2. A motion to approve any mater before the Commission or to recommend approval of any request requiring Council action shall require a majority of favorable votes of the members present.

E. Disqualification From Voting:

1. A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the Commission.
2. A member may disqualify himself from voting whenever any applicant or his agent has sought to influence the vote of the member of his application, other than in the public hearing.

F. Attendance:

1. Both members and alternate members are expected to attend meetings of the Planning and Zoning Commission.
2. Any member or alternate member who misses three regular meetings in any calendar year shall be deemed to have forfeited his or her position and the City Council shall appoint a person to fill the resulting vacancy.
3. The person who forfeited such office may be reappointed.

• **Planning & Zoning Commission Duties and Authority**

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

- A. Hold public hearings and make recommendations to Council on all proposed amendments to the zoning ordinance and amendments to the zoning of property. Exercise all powers of a planning commission as to approval or disapproval of plans, plats, or replats as authorized under state law. Hear and consider issues assigned by council.
- B. Initiate, in the name of the City, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on the area-wide basis.
- C. In the month of September of each year, a progress report shall be submitted to the City Council summarizing the Commission's activities for the past year and propose a work program for the coming year.

• **Planning & Zoning Commission Withdrawal**

Any proposal or application may be withdrawn by the applicant after the Commission makes its final report, and such proposal or application shall not be subject to the provision hereof that a period of time must pass before a new application is considered, if such proposal is withdrawn,

the City Council will not consider it. Any proposal or application withdrawn may be resubmitted and shall be subject to all fees and notice requirements as an original application.

(Ordinance No. 2014-06-19A)

32.04 Zoning Board of Adjustment Created

The City Council the City of Overton is granted authority to act as the Zoning Board of Adjustment for the City of Overton as authorized by Section 211.008(g), Texas Local Government Code.

- **Zoning Board of Adjustment Duties and Powers**

The Board of Adjustment shall have the powers and exercise the duties of a Board in accordance with Texas Local Government Code § 211.009. Board members are representatives of the city and shall have the right to inspect premises where required in the discharge of their responsibilities under the laws of the state and the ordinances of this city. The Board's jurisdiction shall extend to and include the hearing and deciding of the following types of appeals and applications and to that end shall have the necessary authority to ensure continuing compliance with its decision:

1. Interpretation: To render an interpretation of the zoning regulations or the manner of their application where it is alleged that there is error in any order, requirement or determination made by the enforcing officer in the administration of such provisions. In reaching its decision, the Board shall establish firm guidelines for future administrative actions on like manners;
2. Special exception: To decide upon those applications for a special exception to use or develop property when the same is authorized under these regulations subject to Board approval;
3. Variance: To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest. Such variances shall not be authorized unless the Board makes an affirmative finding to all the following requirements:
 - a. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property;
 - b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district;
 - c. That the relief sought will not injure the permitted use of adjacent conforming property;

- d. That the granting of the variance will be in harmony with the spirit and purposes of these regulations.

- **Zoning Board of Adjustment Interpretation Request; Variance Appeal**

A request for interpretation of regulations or an appeal for variance from development controls may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by a decision of the enforcing officer. Such appeal shall be taken within fifteen (15) days after the decision has been rendered by filing with the enforcing officer a notice of appeal specifying the grounds thereof. The enforcing officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

- **Zoning Board of Adjustment Stay of Proceedings**

An appeal shall stay all proceedings of the action appealed from, unless the enforcing officer, after the notice of appeal has been filed with him, certifies to the Board that by reason of facts stated in his certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application on [of] notice to the enforcing officer and on due cause shown.

- **Zoning Board of Adjustment Form of Appeal or Application**

The appeal or application shall be in such form and shall contain such information as the Board may require under its rules of procedure. It shall be accompanied by the required fee. An incomplete appeal or application shall be deemed only to give notice of intent to appeal or apply to the Board and shall not be reviewed or scheduled for hearings until brought to completion.

- **Zoning Board of Adjustment Notice of Hearing**

Official written notice of public hearing on every application for a variance or special exception or for an interpretation of regulations applying solely to an individual property shall be sent to all owners of property, of the person rendering the same for taxes, affected by such application, located within two hundred (200) feet of any property affected thereby, excluding any intervening public street, at least ten (10) days before such hearing is held. Such notice shall be served by using the last known address as listed on the city tax roll and depositing the notice, postage paid, in the United States mail. Notice of hearings shall also be given by causing publication of the time and place of such hearing in the official newspaper at least ten (10) days prior thereto, together with a brief description of the subject matter of the hearing.

- **Zoning Board Of Adjustment. Hearing**

1. Upon the hearing, any party may appear in person or by attorney or agent. Evidence supporting the grant or denial of an appeal shall be submitted only through the enforcing officer or to the Board in public meeting.

2. Any appeal or application may be withdrawn upon written notice to the enforcing officer, but no appeal shall be withdrawn after posting of hearing notice and prior to Board action thereon without formal consent of the Board.
3. The Board shall make its decision on any application on any application [sic] within forty-five (45) days from the time the initial hearing is held or the application will be deemed to have been denied.

- **Zoning Board of Adjustment Decision and Voting**

1. Every decision of the Board shall be based upon findings of fact and every finding of fact shall be supported in the record of proceedings. The enumerated conditions required to exist on any matter upon which the Board is authorized to pass under these regulations shall be construed as limitations on the power of the Board to act.
2. Nothing contained in this section shall be construed to empower the Board to change the terms of these regulations, or to effect changes in the zoning districts. The power of the Board shall be so applied that the terms of these regulations will be strictly enforced.
3. In exercising its powers, the Board of Adjustment, in conformity with the provisions of Texas Local Government Code §211.008–211.010, may modify in whole or in part any order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
4. The concurring vote of four (4) members of the Board shall be necessary to reverse, on appeal, any order, requirement, decision or determination of the enforcing officer, or to approve any application upon which it is required to pass under these regulations or to effect any variance in such regulations.
 - a. A member shall disqualify himself from voting whenever he has a personal or monetary interest in the property under appeal, or will be directly affected by the decision of the Board.
 - b. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the member's vote on the appeal, other than in the public hearing.

- **Zoning Board of Adjustment Approval of Request**

1. In approving any request, the Board may designate such conditions including time limits, if appropriate, in connection therewith in order to secure substantially the objectives of the regulation or provision to which variance is granted and provide adequately for the maintenance of the integrity and character of the zone in which such permit is granted.

2. When necessary, the Board may require guarantees, in such form as it deems proper, to insure that conditions designated in connection therewith are being or will be complied with.
3. Upon approval of a variance, the applicant shall apply for occupancy or construction permits within sixty (60) days after the Board's decision, unless a greater time is requested in the application and is authorized by the Board. Any approval may be granted one (1) emergency extension of sixty (60) days on written request filed with the Board before expiration of the original approval. Failure of the applicant to apply for occupancy of [or] construction permits within the authorized time period shall void the right to secure such permits except upon the filing of a new application or appeal.

- **Zoning Board of Adjustment Denial of Request**

No application for variance or special exception shall be considered within one year of denial of a request for a variance on the same property.

- **Zoning Board of Adjustment Appeal Of Board Action**

Any person or persons, jointly or separately, or any taxpayer, or any officer, department, board or bureau of the city aggrieved by any decision of the Zoning Board of Adjustment may present to the appropriate court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision complained of in the offices of the Board and not thereafter.

(Ordinance No. 2014-06-19B)

Police Department¹

§ 32.10 Police Department Created

(a) There is hereby created and established a police department in the City of Overton which shall consist of a Chief of Police and such police officers as the City Council may from time to time deem necessary and proper.

(b) The Chief of Police shall be the commander and administrative head of the police department.

§ 32.11 Appointment of Police Officers; Oath of Office

(a) All police officers shall be appointed and/or terminated by the Chief of Police with the approval of the City Manager.

(b) All police officers appointed to the police department shall take and subscribe to the official oath prescribed by the Constitution of the State of Texas.

§ 32.12 Bond

Each police officer shall execute a bond, payable to the City, as required by law, conditioned that the police officer will faithfully perform the duties of the office. The City Council shall determine the amount of the bond at least annually. If the council fails to determine the amount of the bond for the succeeding year, the amount last prescribed shall continue to be the amount of bond required to be executed. Such bond shall be a corporate surety bond and the City shall pay all costs, premiums, and expenses associated with the bond.

§ 32.13 Qualifications

All police officers shall meet the minimum standards for licensing as a peace officer as established by the Texas Commission on Law Enforcement Officer Standards and Education and have a current and valid peace officer license at the time of appointment. All police officers shall retain such license during their employment as a police officer with the City and will be subject to discharge if such license is suspended, revoked, or becomes invalid for any reason. In addition, all police officers must have a valid Texas vehicle operator's license and must be insurable as a vehicle driver by the City's automobile insurance carrier.

§ 32.14 Duties Generally

All Police officers and other members of the police department shall be and are hereby invested with all the power and authority given to them as peace officers under the laws of the State of Texas in enforcing the criminal and traffic laws of the state and the ordinances of this City within

¹ **State law reference** - Authority of City to establish and regulate a municipal police force, V.T.C.A., Local Government Code, § 341.001.

the jurisdictional limits of the City. It shall also be the general duty of all police officers to quell riots, disorders and disturbances. Of the peace and to take into custody all persons so offending against the public peace. Such officers shall further use their best endeavors to prevent the commission within the city of offenses against the laws, of the state and of the ordinances of the City; to observe and enforce all such laws and ordinances; to detect and arrest offenders against the same; to preserve the good order of the City and to secure the inhabitants thereof from violence, and the property therein from injury. Such officers shall have no power or authority in civil matters, but shall execute any criminal warrant or warrant of arrest which may be placed in their hands by the duly constituted authorities of the City. In addition, all police officers shall execute all writs and processes issued from the municipal court of the City.

§ 32.15 Uniforms, Badges, and Armament

The Chief of Police shall prescribe the uniforms and badges for the members of the police department and direct the manner in which the members of said force shall be armed.

§ 32.16 Police Department Policies Manual Adopted

The Overton Police Department Manual, as amended, containing the general policies, procedures, and rules for operation of the police department of the City is hereby adopted as the official departmental policy manual of the police department

§ 32.17 Courteous Behavior Required Of Officers

It shall be the duty of all policemen to treat all City officers, as well as other persons with whom they come in contact in the discharge of their duties, in a courteous and respectful manner.

Police Reserve

§ 32.20 Police Reserve Separate and Distinct From Police Department

An auxiliary police force to be known as the police reserve is hereby established.

§ 32.21 Powers of Chief of Police Relative to Reserve

The Chief of Police shall be the head of the police reserve and the members of the reserve shall be under the authority, control and command of the chief of police, subject to all ordinances of the City and provisions of this chapter.

The Chief of Police may, by order, establish rules and regulations to govern the police reserve force, to fix specific duties of its members, and to provide for the maintenance of discipline. He may change such orders from time to time, and he may command members of the police reserve force to obey the instructions of regular police officers in carrying out their orders.

§ 32.22 Composition

The police reserve force shall be composed of personnel who have volunteered to join the organization and whose applications for membership have been accepted and who have complied with all the rules, regulations and orders provided for the conduct and control of the members thereof. It shall be composed of not more than twenty (20) members.

§ 32.23 Diminishing Or Expanding Membership

The Chief of Police may by order diminish or expand the membership of the police reserve force as exigency may require, within the limit established by § 33.24.

§ 32.24 Application for Membership

Application for membership in the police reserve shall be filed with the police department. Such application shall be on a form prescribed by the Chief of Police.

§ 32.25 Applicant's Qualifications And References

Each applicant for membership in the police reserve shall furnish satisfactory proof of good character, temperate habits, freedom from communicable diseases, and physical ability to perform the duties of the position for which he seeks appointment.

§ 32.26 Oath Required Of Applicants

Every police reserve shall subscribe to an oath that he will observe and obey the Constitution of the United States, the Constitution of this state, and the laws of this nation, this state, and this City and that he will carry out the duties of a member of the police reserve force to the best of his ability.

§ 32.27 Duties

The duties of the police reserve force, subject at all times to the direction, supervision and control of the Chief of Police, shall be to assist the regular members of the police department in the enforcement of law and the maintenance of peace and order during periods of emergency designated by the Chief of Police. The Chief of Police may prescribe other duties than those mentioned herein to be performed by the police reserve force, not inconsistent with the provisions of this article.

§ 32.28 Power to Arrest

A member of the police reserve force shall have the following powers of arrest and none other.

- (1) He may arrest only while on active duty.
- (2) He may arrest for a breach of the peace or a felony committed in his presence.

- (3) He may lend physical aid to any regular member of the police department in making any lawful arrest, when authorized by the Chief of Police or requested by any regular member of the police department.

§ 32.29 Termination of Membership

Membership of any person in the police reserve may be terminated by the Chief of Police at any time for any cause deemed sufficient by the Chief of Police, and any member may resign from the police reserve at any time, but it shall be his duty to notify the Chief of Police of his resignation.

In addition to the penalties provided by law, any violation of law under color of the performance of his duty as a member of the police reserve force, and any breach of the rules and regulations established by the Chief of Police, shall subject any member to summary expulsion and the fact thereof may be published at the order of the chief.