

## CHAPTER 34: FINANCE AND REVENUE; TAXATION

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## **Fiscal Year**

### **§ 34.01 Fiscal Year Designated**

The fiscal year of the City is hereby designated as beginning with the first day of October of each year and ending the last day of September next ensuing thereafter.

## **City Depository<sup>1</sup>**

### **§ 34.10 Official Depository Designated**

The City of Overton is hereby designated as the official depository of the City. Checking accounts or savings accounts, as authorized by the City Council, shall be established at said bank with the requirement that all checks written against any such account(s) shall require at least two signatures. The authorized persons who may sign City checks are the City Manager, Mayor, Mayor Pro Tem, and a City Secretary.

## **Annual Budget<sup>2</sup>**

### **§ 34.20 Budget Officer**

The budget officer shall be the Mayor of the City.

### **§ 34.21 Budget Required**

The City Manager or his designated appointee shall annually prepare a budget to cover all proposed expenditures of the City for the succeeding year.

### **§ 34.22 Budget Content**

The budget shall show all expenditures proposed and shall be carefully itemized to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also clearly show each of the various projects for which appropriations are made in the budget and the budgeted sums for each of such projects. The budget shall also contain a complete financial statement of the City showing all outstanding obligations of such City, the cash on hand to the credit of each and every fund, and funds expected to be received from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax, if any, which will be required.

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<sup>1</sup> **State law reference** - V.T.C.A., Local Government Code, Chapter 105, requires municipalities to designate an official depository for municipal funds.

<sup>2</sup> **State law reference**-V.T.C.A., Local Government Code, Chapter 102, requires annual budget, prescribes that Mayor serve as budget officer, and describes the minimum contents of the annual budget.

### **§ 34.23 Cooperation Required**

The City Manager shall have the authority to require any officer, department head, or other unit of the City government to furnish such information as may, in the Mayor's discretion, be necessary to properly prepare the proposed budget.

### **§ 34.24 Time Of Filing and Public Inspection**

The budget shall be filed with the City Secretary ten (10) days prior to the time the City Council makes its tax levy for the current fiscal year, or as close as is practical. The budget as filed with the City Secretary shall be available for public inspection during all reasonable business hours.

### **§ 34.25 Public Hearing Required**

The City Council shall hold a public hearing on the proposed budget. Such public hearing shall occur after the fifteenth (15th) day after the proposed budget has been filed with the City Secretary but before the City Council makes its tax levy. Public notice of the date, time and location of the hearing shall be given in accordance with the Texas Open Meetings Law and Chapter 102 of the Local Government Code.

### **§ 34.26 Filing Adopted Budget**

On final approval of the budget by the City Council, a copy of the budget shall be filed with the City Secretary and the Rusk County and Smith County Clerk's office.

## **Audit of City Funds<sup>3</sup>**

### **§ 34.30 Annual Audit Required**

The City shall have its records and accounts audited annually and shall have an annual financial statement prepared. The audit shall be performed by a licensed certified public accountant or a public accountant who holds a permit to practice from the Texas State Board of Public Accountancy. Such audit and financial statement shall be filed with the City Secretary within one hundred and twenty (120) days after the last day of each fiscal year.

### **§ 34.31 Financial Reporting Of Agencies Funded By City**

The City Council may condition funding of volunteer or other groups requesting City support on availability of adequate periodic financial information listing income and expenditures by type, amount, and date.

### **§ 34.32 Forfeiture Proceedings**

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<sup>3</sup> State law reference-V.T.C.A., Local Government Code, Chapter 103, requires municipalities to prepare and file an annual audit.

(a) All money received from forfeitures by the police department or from forfeitures of any other law enforcement agency shall be immediately deposited into a special bank account maintained in the City's authorized depository. Such funds shall be subject to the same signature requirements as other City accounts and payment authorizations shall be documented by the police department by case number or other reference to an eligible expenditure.

(b) In the case of monies required for the payment of informants or other criminal investigatory matters, the Police Chief shall be responsible for request documentation and for keeping the amounts withdrawn to the minimum required for the particular prospective activity. He shall also be responsible for the redeposit of unused amounts. The police department case files shall reflect amounts paid for drugs, informants, or other criminal investigatory activity with appropriate safeguards for the protection of individuals or the criminal investigatory process. Sums not required for informants or drug buys may be expended only after receiving budget approval.

(c) The City Secretary shall maintain a separate account for the special forfeiture account. Amounts budgeted for drug buys or payment of informants shall be deposited into the special account where forfeiture funds are paid.

### **Ad Valorem (Property) Tax**

#### **§ 34.40 Authority to Levy Property Tax**

There is hereby established the authority to levy and collect an annual ad valorem (property) tax not exceeding one and one-half percent (1-1/2%) on one hundred dollars (\$100.00) valuation of taxable property within the City. The tax rate shall be set annually by the City Council in an amount to fund the annual budget of the City.

#### **§ 34.41 Participation in Appraisal District**

The City hereby authorizes participation in the Rusk County Appraisal District. The said appraisal district shall be authorized to perform all appraisal and assessment functions required under the State Property Tax Code. The City shall be responsible for the collection of its municipal taxes unless other contractual arrangements are made.

#### **§ 34.42 Tax Due Date**

The property taxes levied by the City each year shall become due 90 days from receipt of the tax statement for the applicable taxing year. Penalties and interest for delinquent taxes shall be incurred in accordance with Section 34-01 of the Texas Property Tax Code.

### **§ 34.43 Additional Penalty for Collection Costs of Delinquent Taxes**

To enforce the collection of delinquent taxes pursuant to Section 6.30 of the Texas Property Tax Code, it is hereby provided, as authorized in Section 34.07 of the Texas Property Tax Code, that taxes that remain delinquent on July 1 of the year in which they become delinquent shall incur an additional penalty in the amount of fifteen percent (15%) of the amount of taxes, penalty, and interest due, to defray the costs of collection.

### **§ 34.44 Tax Authorized on Tangible Personal Property; Exceptions**

(a) A tax is hereby authorized on all goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products as defined in Article V111, Sec. 1-j of the Constitution of the State of Texas and in Sec. 11.251, Texas Property Tax Code in Tax Year 1990 and each year thereafter.

(b) The application of the exemption provided for in Art. VII, Sec. 1-j of the Constitution of the State of Texas is hereby repealed by the City of Overton, Texas, as authorized by Subsection (b) thereof.

(c) The rate of tax imposed by this section shall be the same as the rate imposed by the City of Overton, Texas, for all other ad valorem taxes as authorized by the legislature of the State of Texas.

(d) This section shall be cumulative of all other ordinances and regulations of the City of Overton and shall not operate to repeal or affect any of such other ordinances.

(e) The tax provided for in this section shall not serve as an offset to, be in lieu of, or in any way reduce any amount payable to the City, it being the express intent hereof that all obligations, impositions, and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

(f) This section is to be liberally construed to achieve its remedial purposes.

## **Local Sales and Use Taxes**

### **§ 34.50 Local Sales Tax Authorized**

In accordance with Chapter 321 of the Tax Code, a local sales and use tax of one percent (1%) has been adopted and is imposed as a result of an election held on January 1, 1972.

### **§ 34.51 Section 4A Sales Tax Authorized**

In accordance with 4A Section 413, art. 5190.6, V.T.C.S., as amended by the "Development Corporation Act of 1979", a local sales and use tax of one-half of one percent (0.5%) has been adopted and is imposed as a result of an election held on August 9, 1997, said election being authorized by Ordinance No. 97.3, passed June 16, 1997. Ballots from said election were

canvassed and ratified through adoption of Ordinance No. 97.4, passed August 12, 1997. Proceeds from said sales and use tax are to be used and applied to projects as authorized by the "Development Corporation Act of 1979".

### **§ 34.52 Local Sales Tax on Residential Gas and Electricity**

The imposition of the one percent (1%) City sales tax on residential use of gas and electricity within the corporate limits of the City of Overton shall be continued beyond October 1, 1979.

### **§ 34.53 Telecommunications Tax Authorized<sup>4</sup>**

(a) A tax is hereby authorized on all telecommunications services sold within the City. For purposes of this section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

(b) The application of the exemption provided for in V.T.C.A., Tax Code, § 321.210, is hereby repealed by the City, as authorized by § 321.210(b) thereof.

(c) The rate of tax imposed by this section shall be the same as the rate imposed by the City for all other local sales and use taxes as authorized by the legislature of the State of Texas.

(d) The City Secretary shall forward to the Comptroller of the State of Texas by United States registered or certified mail a copy of this section with a copy of the minutes of the City Council's vote and discussion of this section.

(e) The tax provided for herein shall not serve as an offset to, be in lieu of, or in any way reduce any amount payable to the City pursuant to any franchise, street use ordinance, statute, or without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service, it being the express intent hereof that all such obligations and impositions of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

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<sup>4</sup> **State law reference** - Authority to impose tax on telecommunications services is found in V.T.C.A., Tax Code, 321.210.

## Bidding Procedures<sup>5</sup>

### § 34.60 Bidding Procedures and Exemptions

(a) Except in the case of exempted procurements, the City may not purchase or enter into a contract that requires an expenditure of more than fifteen thousand dollars (\$25,000) without first submitting such to competitive sealed bidding, except in the case of high technology procurements in which case the City may take competitive sealed proposals. Exempted procurements shall include the following:

- (1) A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve City property;
- (2) A procurement necessary to preserve or protect the public health or safety of the City's residents;
- (3) A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- (4) A procurement for personal or professional services;
- (5) A procurement for work that is performed and paid for by the day as the work progresses;
- (6) A purchase of land or right-of-way;
- (7) a procurement of items that are available from only one source;
- (8) A purchase of rare books, papers, and other library materials for a public library;
- (9) paving, drainage, street widening, and other public improvements, or related matters, if at least one-third (1/3) of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements; and
- (10) a public improvement project authorized by the voters for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.
- (11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212; and

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<sup>5</sup> **State law reference** - The primary regulations and limitation relative to competitive bidding by municipalities are found in V.T.C.A., Local Government Code, Chapters 252 and 271; for trenching safety standards, see V.T.C.A., Health & Safety, §§ 756.021 - 756.022.

(12) Personal property sold at an auction by a state licensed auctioneer, at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code, or by a political subdivision of this state, a state agency of this state, or an entity of the federal government.

(b) Notice of the time and place at which competitive sealed bids or proposals must be published in accordance with the provisions of V.T.C.A., Local Government Code, §§ 252.023, 252.041, and 271.025.

(c) Bids may be opened by the City Council at a public meeting or by an officer or employee of the City at or in an office of the City.

(d) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.