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Official Newspaper

§ 31.01 Official Newspaper Designated¹

The Henderson Daily News a daily newspaper published in Texas is hereby declared the official newspaper for required publications by the City of Overton.

(Revised by Ordinance No. 2016-10-20C)

City Map²

§ 31.10 Official City Map Required

(a) A map showing the boundaries of the City and the boundaries of the City's extraterritorial jurisdiction shall be kept in the office of the City Secretary.

(b) Whenever any territory is annexed into the City, the City map shall be immediately updated to include the newly annexed territory and any associated change in the City's extraterritorial jurisdiction. The map shall be annotated to indicate the date of annexation, the number of the annexation ordinance, and a reference to the minutes or ordinance in which the annexation is recorded in full.

(c) If there is any change in the City's extraterritorial jurisdiction, the map shall be immediately corrected to indicate the change and the map shall also be annotated to indicate the date the extraterritorial jurisdiction was changed, the number of the ordinance, if any, by which the change was made, and a reference to the minutes or ordinance in which the change is recorded in full.

(d) Copies of the revised map shall be furnished to the County Clerk's office and to the Secretary of State at the time such annexation becomes effective.

¹ **State law reference** - V.T.C.A., Local Government Code, § 52.004, requires municipalities to designate an official newspaper.

² **State law reference** - V.T.C.A., Local Government Code, § 41.001 et seq., requires municipality to develop, designate and display an official map of the municipality.

Abandoned, Seized, and Surplus Property³

§ 31.20 Disposition of Abandoned, Seized, or Recovered Personal Property

(a) All abandoned, stolen, or recovered personal property of every kind which shall remain unclaimed with the City for a period of at least thirty (30) days without being claimed or reclaimed by the owners, whether known or not shall be delivered to the City Manager. This section does not apply to motor vehicles, outboard motors, motorboats, and other vessels as defined in V.T.C.S., Article 4477-9a, Sec. 5.01 (Texas Litter Abatement Act); to beer, whisky, or wine; to contraband subject to forfeiture under Vernon's Ann. C.C.P., Chapter 59; to property being held as evidence in a pending case; or when a magistrate orders destruction of the property.

(b) The City Manager shall give notice to the owner of any abandoned, stolen, or recovered personal property that remains unclaimed for thirty (30) days. If the owner is known, notice shall be given by certified mail to the last known address of the owner of the property and include a description of the property, the name and address of the officer holding such property, and a statement indicating that if the owner does not claim the property within six (6) months from the date of the notice, the property will be sold and the proceeds of such sale placed in the municipal treasury. If the owner is unknown or the owner's address is unknown, then the City Manager shall publish a notice of the description of the property, name of the owner, if known, the name and address of the officer holding such property, and a statement indicating that if the owner does not claim the property within six (6) months from the date of the notice, the property will be sold and the proceeds of such sale placed in the municipal treasury.

(c) Before selling any unclaimed personal property, the City Secretary or City Manager shall post a notice of the sale in a newspaper of general circulation in the city at least twenty-one (21) days before the date of the sale. The notice of the sale shall describe the property, the name of the owner if known, and designate the time, date, and place of sale.

(d) The City Manager or his designee shall conduct the sale or public auction at which unclaimed personal property is to be sold to the highest bidder. An accurate description of each piece of property sold, the sale price, and the name and address of the bidder shall also be kept. The Mayor or his designee shall provide a copy of such report to the City Secretary as soon as possible after the close of sale. A bill of sale of the property shall be executed by the City to the purchaser.

(e) The City may consider any bid as insufficient and decline such bid and re-offer the property for sale.

(f) The real owner of any personal property sold shall have the right to file a claim to the proceeds of such sale with the City Council. If the claim is allowed by the City Council, the owner shall be paid such funds as were paid into the treasury of the City as proceeds of the sale,

³ **State law reference** - Unclaimed or abandoned property, Vernon's Ann. C.C.P., Art. 18.17 - 18.19; disposition of controlled substances, V.T.C.A., Health & Safety, §§ 481.159 - 481.160.

after deducting the reasonable expense of keeping such property and the costs of such sale. If the claim is denied by the City Council or the City Council fails to act upon such claim within ninety (90) days, the claimant may sue the City in a court of competent jurisdiction, and upon sufficient proof of ownership recover judgment against the City for recovery of the proceeds of the sale.

(g) If the provisions of this section have been met and the property is scheduled for sale, the police department may have any property originally seized by the department converted to department use. The police department shall return the property to the custody of the Mayor for sale when the department has completed the intended use of the property.

§ 31.21 Disposition of Surplus Property

(a) Property that is owned by the City and is determined to be surplus property may be sold through public auction. The City Manager or his designee shall conduct the public auction at which such property is to be sold to the highest bidder. An accurate description of each piece of property sold, the sale price, and the name and address of the bidder shall also be kept. The City Manager or his designee shall provide a copy of such report to the City Secretary as soon as possible after the close of sale. A bill of sale of the property shall be executed by the City to the purchaser.

(b) In lieu of selling surplus property of the City, the City Manager may offer the property in trade for other property as he considers being in the best interest of the City.

§ 31.22 Proceeds Credited To General Fund

All funds received on account of the sale of unclaimed, seized, recovered, or surplus property shall be delivered to the City Secretary who shall deposit the proceeds of the sale in the general fund of the City, after deducting reasonable expenses of keeping such property and any costs of the sale.

§ 31.23 Worthless Property

Any property which has been listed and offered for sale under the provisions of this chapter and for which no price or sum has been offered, if deemed in the opinion of the City Manager to be worthless and without value, shall be disposed of in such manner as he shall prescribe. A written description of all property destroyed or disposed of as worthless or without value shall be filed with the City Secretary, together with the date and manner of disposal.

§ 31.24 Disposition of Controlled Substances

All controlled substances, marijuana, drug paraphernalia, and money seized by the police department shall be taken into custody and disposed of in accordance with V.T.C.A., Health & Safety, §§ 481.159 -481.160.

§ 31.25 Abandoned, Stolen, And Recovered Firearms and Weapons

(a) All abandoned, stolen, or recovered firearms or other weapons and ammunition that have remained unclaimed or unidentified by the rightful owner thereof for a period of sixty (60) days and which are not being held as evidence pending a case filed by record shall be destroyed by a police officer in the presence of the City Manager and/or Police Chief. Before any such firearms or weapons shall be destroyed, any case numbers make, model, type, and serial numbers, if available, shall be prepared and kept on record along with the scheduled time, date, place, and manner of destruction.

(b) Any handguns, rifles, and/or shotguns that have been classified as antiques or collector's items as may be determined by the Police Chief or by a firearms expert selected by the Police Chief can be sold in the public interest in accordance with § 31.20 to any person holding a federal firearms license, provided that their sale is not restricted by law.

(c) Any weapon or ammunition that the Police Chief has determined to be serviceable or usable may be kept for use by the police department.

§ 31.26 Disposition of Seized Weapons

(a) Weapons seized in connection with an offense involving the use of a weapon or an offense committed under Chapter 46 of the Penal Code shall be kept by the police department, subject to the following provisions, unless:

- (1) The weapon is a prohibited weapon identified in Chapter 46 of the Penal Code; or
- (2) The weapon is alleged to be stolen property.

(b) When a weapon described in paragraph (a) is seized, and the seizure is not made pursuant to a search or arrest warrant, the person seizing the weapon shall prepare and deliver to a magistrate a written inventory of each weapon seized.

(c) A person convicted under Chapter 46 of the Penal Code is entitled to the seized weapon upon request to the police department. However, the court entering the judgment of conviction shall order the weapon destroyed or forfeited to the state for use by the police department if:

- (1) The person does not request the weapon within sixty (60) days after the date of the judgment of conviction;
- (2) The person has been previously convicted under Chapter 46 of the Penal Code; or
- (3) The weapon is defined as a prohibited weapon under Chapter 46 of the Penal Code.

(e) If the person found in possession of a weapon is convicted of an offense involving the use of the weapon, the court entering judgment of conviction shall order destruction of the weapon or forfeiture to the state for use by the police department.

§ 31.27 Deposit of Money Pending Disposition of Charges

If money is seized by the police department in connection with a violation of Chapter 47 of the Texas Penal Code, the City may deposit the money in an interest-bearing bank account until a final judgment is rendered concerning the violation. If a final judgment is rendered concerning the alleged violation, the money shall be distributed according to the terms of Chapter 18, Vernon's Ann. C.C.P.

Equal Opportunity Policy⁴

§ 31.30 Nondiscrimination Policy

It is the policy of the City or any employee or officer of the City not to discriminate on the basis of race, color, national origin, sex, religion, age, or handicap status in employment, contracting, or the provision of services. Discrimination against any person in the recruitment, examination, appointment, training, promotion, discipline, or any other aspect of personnel administration; contracting for construction, rehabilitation, alteration, conversion, extension, demolition or repair of City facilities; and the provision of City services shall be prohibited unless such discrimination constitutes a bona fide occupational qualification. A nondiscriminatory clause shall be provided in all solicitations or advertisements whenever practicable or feasible.

Identification of City Vehicles and Equipment⁵

§ 31.40 City Vehicles to Be Marked

The City Manager shall have printed upon each side of every City-owned motor vehicle displaying exempt tags (except undercover law enforcement vehicles) and piece of heavy equipment the name of the City in letters that are plainly legible. Lettering shall be at least ___ inches.

Copying Charges for Public Records

§ 31.50 Fee for Copying Authorized

A service fee for copying public records shall be as prescribed in the Schedule of Fees (Appendix A of this Code).

Claims for Damages⁶

⁴ State law reference-V.T.C.A., Civil Practice and Remedies Code, Chapter 106, prohibits discrimination in refusing to issue licenses, permits or certificates or to use or participate in any public programs or public facilities.

⁵ State law reference-V.A.C.S., Art. 6701 m-2, requires identification of City owned vehicles and heavy equipment.

⁶ State Law reference-See immunity of certain governmental functions, V.T.C.A., Civil Practice & Remedies Code, § 101.055; for limitation on amount of liability, see V.T.C.A., Civil Practice & Remedies Code, § 101.023; tort claim payments, V.T.C.A., Civil Practice & Remedies Code, Chapter 102; for volunteer firefighters, see V.T.C.A., Civil Practice & Remedies Code, § 78.001.

§ 31.60 Notices to Be Served Upon City Secretary

All notice required by this ordinance shall be effectuated only by personally serving them upon the City Manager or City Secretary at the Overton City Hall, 1200 Commerce, Overton, Texas, 75684.

§ 31.61 Exception

The above written notice requirements shall be waived if the City has actual knowledge of death, injury or property damage likely to result in a claim against the City. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate City official whose job duties include the authority to investigate and/or settle claims against the City.

§ 31.62 Sworn Statement Required

The written notice required under this ordinance shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the City Council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

Emergency Actions by Officers, Agents, or Employees of the City

§ 31.70 Emergency Actions Authorized⁷

Every officer, agent or employee of the City, while responding to emergency situations, is hereby authorized to act in such a manner as to most effectively deal with the emergency. This provision shall prevail over every other ordinance of the City and, to the extent to which the City has the authority to so authorize, over any other law establishing a standard of care in conflict with this section. Neither the City nor the employee shall be liable for any failure to use ordinary care in such emergency.

Municipal Memberships

§ 31.80 Membership in East Texas Council of Governments

The City of Overton shall be a member of the East Texas Council of Governments for the purpose of joint planning and coordination of governmental services and policies as authorized by V.T.C.A., Local Government Code, Chapter 391, and the City Secretary is hereby authorized to pay the annual dues required for membership in said Council of Governments.

⁷ **State law reference** - Immunity of certain governmental functions, V.T.C.A., Civil Practice & Remedies Code, § 101.055; for volunteer firefighters, see V.T.C.A., Civil Practice and Remedies Code, § 78.001.

§ 31.81 Membership in Texas Municipal League

The City of Overton shall be a member of the Texas Municipal League for the purpose of better representation, information, advice, and other such services that may be provided. The City Manager is hereby authorized to pay the annual dues required for membership in said league.

Incorporation of State Law

§ 31.90 Incorporation of Local Government Code

The provisions of V.T.C.A., Local Government Code of Texas, insofar as its provisions are applicable to this City, are hereby adopted and incorporated by reference as fully set forth herein.

Smoking in City Buildings

§ 31.100 Smoking In City Buildings Prohibited

(a) It shall be unlawful for a person to smoke in a building owned or leased by the City of Overton and used for City purposes:

(b) "Smoke", "smokes", or "smoking" includes:

- (1) Carrying or holding a lighted pipe, cigar, or cigarette of any kind or any other lighted smoking equipment or device;
- (2) Lighting a pipe, cigar or cigarette of any kind or any other smoking equipment or device; or
- (3) Emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.

(c) The City Manager shall place signs visible at each entrance of all buildings owned or leased by the City and used for City purposes to notify persons entering that smoking is prohibited.