

## **CHAPTER 90: BUILDING REGULATIONS**

*(last amended by Ordinance No. 2019.05.30A on 5/30/2019)*

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## **Building Code<sup>1</sup>**

### **§ 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.

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

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.

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"> <li>1. Annual signed contractor's application by licensed contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> <li>3. Photo copy of applicant's valid Backflow Testers license</li> <li>4. Copy of current instrument calibration report for all testing equipment</li> </ol>
General Contractor & Fence/Demolition/Pool	<ol style="list-style-type: none"> <li>1. Annual signed contractor's application by contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> </ol>
Electrical Contractors	<ol style="list-style-type: none"> <li>1. Annual signed contractor's application by licensed contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> <li>3. Photo copy of applicant's valid Master Electricians license</li> <li>4. Photo copy of applicant's valid Texas Electrical Contractors Certificate</li> </ol>
Irrigation Contractors	<ol style="list-style-type: none"> <li>1. Annual signed contractor's application by licensed contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> <li>3. Photo copy of applicant's valid Irrigators license</li> </ol>
Mechanical Contractors	<ol style="list-style-type: none"> <li>1. Annual signed contractor's application by licensed contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> <li>3. Photo copy of applicant's valid Master A/C &amp; Refrigeration license</li> </ol>
Plumbing Contractors	<ol style="list-style-type: none"> <li>1. Annual signed contractor's application by licensed contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> <li>3. Photo copy of applicant's valid Master Plumbers license</li> </ol> <p>* Verify liability insurance on the TSBPE website EACH time a permit is pulled</p>
Electrical Sign Contractors	<ol style="list-style-type: none"> <li>1. Annual signed contractor's application by licensed contractor for trade applicable</li> <li>2. Color photo copy of applicant's valid Driver's License</li> </ol>

	3. Photo copy of applicant's valid Master Sign Electricians license 4. Photo copy of applicant's valid Texas Electrical Contractors Certificate
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(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 Buildings<sup>2</sup>**

### **§ 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
- (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;

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<sup>2</sup> **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.

- (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 owner's 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.

### **Relocating A Structure**

#### **§ 90.80 Permit Required**

It shall be unlawful for any person to move or relocate a residence, 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, into, out of, or within the corporate limits of the City without first obtaining a Relocating a Structure permit from the City of Overton. 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 and the required inspections. 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.

As a general rule an Accessory Structure Permit is required for any structure installed that is subordinate to and serves a principal building or principal use that is greater than 120 square feet in size. If a Relocating a Structure permit is required for installation of the structure, then City will not also require an Accessory Structure Permit for the structure. If the structure exceeds stated size but does not meet size requirements for Relocating a Structure Permit, an Accessory Structure Permit will be required.

#### **§ 90.81 Application for Permit**

Any person desiring to move or relocate any old or used house, modular home, manufactured home, building or structure into, out of or within the corporate limits shall file any application with the City requesting that ~~he~~ they be permitted to do so. Written application for such permit shall be filed with the City at least seventy-two 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 and the required inspections. The application shall contain the following information:

- (1) Name, address, telephone number and email if applicable of the 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 modular home or manufactured home being relocated within the corporate city limits must also obtain relocating a structure 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.
- (7) 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;
- (8) A foundation plan will be required for all residential structures per the International Building Code, size of the structure may determine if the foundation plan will be required to be designed and stamped by an Architect.
- (9) The proposed route, including the time and date when the applicant proposes to move or relocate the house, building, or structure;
- (10) Intended use of the house, building, or structure.

### **§ 90.82 Plan Review**

Upon filing of the permit application, the City Manager or his Designee shall review the plans submitted for compliance with all applicable building and zoning codes, and may require an inspection of the proposed 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 permit staff 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.

### **§ 90.83 Inspection Required**

Upon issuance of the permit and installation of the structure, the City Manager or his Designee shall inspect the house, building, or structure for installation and compliance with all applicable building codes and other applicable regulations of the City for:

#### **Moving a Structure into or within the City:**

- (1) Water line is installed properly and meter is connected with a shut off valve on the customer side (if applicable); and
- (2) Sewer line is installed properly with a clean out 3' off the curb and within every 100' per the International Plumbing Code on the customer side (if applicable); and
- (3) Electrical service installed properly and the breaker box properly labeled; and
- (4) Gas service installed properly and gas test performed (if applicable); and
- (5) Mechanical final inspection (if applicable); and
- (5) Foundation inspected and is installed properly according to the submitted plans; and
- (6) Foundation enclosure as approved has been installed properly; and
- (7) Certificate of Occupancy inspection.

#### **Moving a Structure out of the City:**

- (1) Water line(s) capped, stubbed up and meter(s) removed (water tap is removed if applicable);
- (2) Sewer line(s) capped and stubbed up (sewer tap is removed if applicable);
- (3) Electrical service disconnected back to the bulk head;
- (4) Gas service disconnected back to the source and meter removed;
- (5) All debris has been removed from the lot and it shall be left in a sanitary state.

### **§ 90.84 Issuance of Relocating a 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 one hundred and eighty days (180) after completion of the move; and
- (5) The applicant cannot ensure that the grounds from which a building is removed will be completely cleared, leveled, and cleaned within thirty (30) days after permit is issued.

### **§ 90.85 Insurance Requirements**

- (a) 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 ensure 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 or death in any one accident one million (1,000,000) dollars
  - 2) For damage to or destruction of property in any one accident, one million (1,000,000) dollars
- (b) 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.

### **§ 90.86 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 § 90.87.

### **§ 90.87 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. A Police Escort must be scheduled with the Chief of Police at least seventy-two (72) hours in advance. 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).

### **§ 90.88 Mover to Make All Arrangements**

Upon the issuance of said moving permit, the 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.

### **§ 90.89 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.

### **§ 90.90 Water and Sewer Connection and Trash Service 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.

Once a Water / Sewer Utility Account is established with the City, trash service must also be established with the City. All dumpster or roll off container services are to be provided by the City's contracted refuse collector.

### **§ 90.91 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.

### **§ 90.92 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.

### **§ 90.93 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.

#### **§ 90.94 Exceptions**

This chapter shall not apply to the movement of oversized equipment when such equipment, is within the legal road limit as required by state statutes.

#### **§ 90.95 Violations**

A person commits a violation if he:

- (a) relocates a structure into, out of, or within the corporate limits of the City without first obtaining a Relocating a Structure Permit.
- (b) fails to contact the City for the required inspections associated with relocating a structure.
- (c) fails to meet and keep the insurance required by this code.
- (d) fails to arrange for an escort to accompany the structure through the City on City streets.
- (e) fails to establish water, sewer, and/or trash service.
- (f) fails to obtain a certificate of occupancy prior to occupying the structure.

#### **§ 90.96 Enforcement**

Upon finding a violation of Section 90.95, the name and address of the violator shall be ascertained and a citation may be issued to the violator.

#### **§ 90.97 Violations**

Any person who violates Section 90.95 of this Ordinance shall be subject to a Penalty as provided for in the current City of Overton – Schedule of Fines.

#### **§ 90.98 Severability**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

#### **§ 90.98 Publication**

The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty clauses of this Ordinance as an alternative method of publication provided by law.