

ORDINANCE NO. 2019-23
Ovilla Municipal Court

AN ORDINANCE OF THE CITY OF OVILLA, TEXAS, REPEALING AND REPLACING CHAPTER 7 "MUNICIPAL COURT," ARTICLE 7.02 "FEES, COSTS AND SPECIAL EXPENSES," OF THE CITY OF OVILLA CODE OF ORDINANCES; PROVIDING FOR THE IMPOSITION AND COLLECTION OF COURT FEES AND FINES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERANCE CLAUSE; PROVIDING FOR INCORPORATION INTO THE OVILLA CODE OF ORDINANCES; PROVIDING FOR IMMEDIATE EFFECT; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Ovilla, Texas, is a Type-A General Law Municipality within the State of Texas; and

WHEREAS, on November 14, 2005, the City Council of the City of Ovilla passed and approved Ordinance No. 06-007 thereby creating a municipal court building security fund and a municipal court technology fund and establishing fees for such funds to be imposed on all persons convicted of a misdemeanor in the municipal court; and

WHEREAS, on June 15, 2019, the Texas Legislature passed Senate Bill 346 ("SB 346") which, in addition to other matters, modified and established court fees and fines to be imposed on persons convicted and misdemeanors in municipal courts; and

WHEREAS, one of the fees established by SB 346 is the Local Consolidated Fee on Conviction of Non-Jailable Misdemeanor which includes, among other things, an allocation for municipal court building security funds and an allocation for municipal court technology funds; and

WHEREAS, SB 346 further established a State Consolidated Fee of \$62 for each person convicted of a misdemeanor offense, including criminal violations of municipal ordinances, other than for convictions of an offense relating to a pedestrian or the parking of a motor vehicle; and

WHEREAS, SB 346, among other matters, amends Article 45.20(c) of the Texas Code of Criminal Procedure to provide that the governing body of a municipality may prescribe by ordinance a fine not to exceed \$25 for the offense of failing to appear under Section 38.10(e) of the Texas Penal Code or under Section 543.009 of the Texas Transportation Code; and

WHEREAS, SB 346 becomes effective on January 1, 2020; and

WHEREAS, upon the effective date of SB 346, Article 7.02, Sections 7.02.001 and 7.02.002 will not comply with the said statute and will not provide for the collection of required fees and fines; and

WHEREAS, the City Council finds and determines that it is necessary and in the best interests of the health, safety and welfare of the citizens of the City of Ovilla to amend repeal Article 7.02 of the Code of Ordinances and replace same with regulations and provisions consistent with SB 346.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVILLA, TEXAS, THAT:

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SECTION 1. REPEAL OF CHAPTER 7, ARTICLE 7.02, OF THE CODE OF ORDINANCES OF THE CITY OF OVILLA

Chapter 7, Article 7.02, of the Code of Ordinances of the City of Ovilla is hereby repealed its entirety effective January 1, 2020.

SECTION 2. ADOPTION OF NEW CHAPTER 7, ARTICLE 7.02, OF THE CODE OF ORDINANCES OF THE CITY OF OVILLA

The following provisions are hereby adopted as Chapter 7, Article 7.02 of the Code of Ordinances of the City of Ovilla effective January 1, 2020:

ARTICLE 7.02 COURT COSTS, FEES AND FINES

Sec. 7.02.001 State Consolidated Fee

- (a) Assessment of fee. Pursuant to Section 133.102 of the Texas Local Government Code, the municipal court is hereby authorized and required to assess and collect a State Consolidated Fee of \$62 for each person convicted of a non-jailable misdemeanor offense arising under the Code of Ordinances of the City of Ovilla, other than convictions relating to a pedestrian or the parking of a motor vehicle.
- (b) Persons considered convicted. A person is considered to have been convicted is:
 - (1) Judgment, sentence or both are imposed on the person;
 - (2) The person receives deferred adjudication; or
 - (3) The court defers final disposition or imposition of the judgment and sentence.
- (c) Collection and disposition of fee. The municipal court clerk is hereby authorized and required to collect the fee and pay same to the Texas comptroller as required under Section 133.001 of the Texas Local Government Code.

Sec. 7.02.002 Local Consolidated Fee

- (a) Assessment of fee. Pursuant to Section 134.103 of the Texas Local Government Code, the municipal court is hereby authorized and required to assess and collect a Local Consolidated Fee of \$14 as court costs for each person convicted in the municipal court of a non-jailable misdemeanor offense arising under the Code of Ordinances of the City of Ovilla.
- (b) Persons considered convicted. A person is considered to have been convicted is:
 - (1) Judgment, sentence or both are imposed on the person;
 - (2) The person receives deferred adjudication; or
 - (3) The court defers final disposition or imposition of the judgment and sentence.
- (c) Collection and disposition of fee. The court clerk shall collect and remit the to the city's treasurer or financial official the Local Consolidated Fee. Local Consolidated Fees collected as court costs imposed for offenses committed on or after January 1, 2020 shall be allocated according the percentages provided herein. Local Consolidated Fees collected as court costs

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imposed for offenses committed before January 1, 2020, shall be allocated, to the extent practicable, the same amount of money that the account or fund would have received if the court costs for the accounts and funds had been reported and collected separately, except that the account or fund may not receive less than the percentages provided herein:

- (1) Municipal Court Security Fund – 35 percent
- (2) Local Truancy Prevention and Diversion Fund – 35.7143 percent
- (3) Municipal Court Technology Fund – 28.5714 percent
- (4) Municipal Jury Fund - 0.7143 percent

Sec. 7.02.003 Fine for Failure to Appear

Any person convicted of failure to appear under Section 38.10(e) of the Texas Code of Criminal Procedure or Section 543.009 of the Texas Transportation Code shall, after due notice, be liable for a fine in the amount of \$25. Fines collected under this section shall be paid into the municipal treasury of the use and benefit of the city.

Sec. 7.02.004 Other Cost, Fees and Fines

The municipal court is hereby authorized and directed to access and collect any and all other costs, fees and fines authorized or required under any applicable statutory provision including, without limitation, provisions of the Texas Local Government Code, Texas Code of Criminal Procedure or Texas Transportation Code that is, or shall become, effective on or after the effective date of this ordinance.

Sec. 7.02.005 Collection Fee

In accordance with article 103.0031 of the Texas Code of Criminal Procedure, there is hereby imposed an additional fee of thirty percent (30%) on all debts and accounts receivable, *i.e.* fines, fees, court costs, restitution, and other debts, that are more than sixty (60) days past due and have been referred to a private firm for collection

SECTION 2. SAVINGS CLAUSE

In the event that any other Ordinance of the City of Ovilla, Texas, heretofore enacted is found to conflict with the provisions of the Ordinance, this Ordinance shall prevail.

SECTION 3. SEVERANCE CLAUSE

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. INCORPORATION INTO THE CODE OF ORDINANCES

The provisions of this ordinance shall be included and incorporated in the City of Ovilla Code of Ordinances and shall be appropriately renumbered if and as necessary to conform to the uniform numbering system of the Code.

SECTION 5. EFFECTIVE DATE

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Because of the nature of interest and safeguard sought to be protected by this Ordinance and in the interest of the citizens of the City of Ovilla, Texas, this Ordinance shall take effect January 01, 2020 after passage, approval and publication, as required by law.

SECTION 6. PUBLICATION

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

PASSED, ADOPTED and APPROVED by the City Council of Ovilla, Texas, on this the 11 day of NOVEMBER, 2019.



Richard Dormier, Mayor

ATTEST:



Pamela Woodall, City Secretary



APPROVED AS TO FORM:



Ron G. MacFarlane, Jr., City Attorney