

CITY OF VON ORMY TEXAS

ORDINANCE NO. 2010-47

AN ORDINANCE OF THE CITY OF VON ORMY, TEXAS ABOLISHING THE COURT OF RECORD AND CREATING A COURT OF NON RECORD PROVIDING THE FOLLOWING TO BE INCLUDED AND PART OF THE NON RECORD MUNICIPAL COURT FOR THE CITY OF VON ORMY: JUROR FEES; CREDIT CARD USE FOR PAYMENT OF FEES; SPECIAL EXPENSE FEE; ISSUANCE OF CITATIONS; RULES OF PROCEDURE; PROVIDING A REPEALING AND SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Von Ormy, Texas, determines that the Court of Record shall be abolished and court of non record established and there needs to be process for jurors; credit card use for the payment of fees; special expense fee; a juvenile manager fund; issuance of citations for violations; and rules of procedure for the Municipal Court and is necessary to provide a more efficient disposition of cases arising in the City. Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VON ORMY, TEXAS:

ARTICLE I.

SECTION 1: MUNICIPAL COURT: The Court of Record is hereby abolished and a court of non record is established and shall have original jurisdiction within the corporate limits in all criminal matters which arise by fine only and in all cases arising under the Ordinance of the City of Von Ormy and pursuant to State Law.

SECTION 2. FEES FOR JURORS. Each juror for the municipal court shall be paid the sum of six dollars (\$6.00) for any day or fraction of a day he may serve. Such fee shall be payable out of the city treasury.

SECTION 3. FAILURE OF JUROR TO ATTEND. Any person who is summoned by any peace officer or police officer of the city to attend the municipal court as a prospective juror, and who fails to appear at the appointed date and time, shall be subject to contempt proceedings before the judge of such court, and if convicted, shall be punished in an amount not exceed \$100.00 for contempt.

SECTION 4. FAILURE OF WITNESS TO ATTEND. In any proceeding before the municipal court, in which a witness has been subpoenaed and fails to attend, he shall be subject to contempt proceedings before the judge of the municipal court, and if convicted, may be punished in an amount not to exceed \$100.00 for contempt.

SECTION 5. CREDIT CARD USE AUTHORIZED FOR PAYMENT OF FEES, FINES, COURT COSTS. The municipal court clerk and any other municipal officer collecting fees, fines, court costs and other charges for the municipal court for the city are hereby authorized to accept payment by credit card of any fee, court costs, or other charge and to collect a fee for processing the payment by credit card.

(a) the processing fee will be in an amount equal to five percent (5%) of the amount of the fee, fine, court cost and other charges being paid. The municipal officer collecting the processing fee shall deposit the fee in the general fund of the city.

(b) if payment by credit card is not honored for any reason by the credit card company by which the funds are drawn, a service charge from the person owing the fee, fine, court cost for other charge will be imposed. The service charge is in addition to the original fee, fine, court cost, or other charge shall be in the same amount as the fee charged by the city for the collection of a check drawn on an account with insufficient funds. The municipal officer collecting a service charge shall deposit a service charge in the general fund of the city.

SECTION 6. SPECIAL EXPENSE FEE. The municipal court is hereby authorized to collect a special expense fee for services performed in cases in which the laws of the state require that the case be dismissed under the provisions of 45.051 of Texas Code of Criminal Procedure. Such special expense fee shall be the maximum amount permitted by said statutes, which presently is in the amount not to exceed the amount of the fine.

SECTION 7: JUDGE. Such Court shall be presided over by a judge appointed by the Council for a term of two (2) years to be known as the Judge of Municipal Court. The Municipal Judge shall be a resident of the State of Texas, be a citizen of the United States, be a licensed attorney at law in good standing and have one (1) or more years of experience in the practice of law in the State of Texas, or in a Federal District in the State of Texas. Any substitute Judge, acting in the absence of the Municipal Judge, has all the duties of the Municipal Judge, and must meet the qualifications prescribed for the Municipal Judge. The Municipal Judge shall assess and assign fines pursuant to State Law.

SECTION 8. TIME AND PLACE FOR SESSIONS. The following new times, dates and place for the municipal court of non record are hereby established as follows: Court sessions will be conducted in the MGM Building, 13580 IH 35 South Von Ormy, Texas and the date and times of the Court shall be established by the Judge of said Municipal Court.

SECTION 9. ISSUANCE OF CITATIONS.

(a) Definitions.

- (1) Citation means an ordinance violation notice and notice to appear before the city municipal court, as provided for in this section.
- (2) City means the City of Von Ormy, a general-rule municipality located in Bexar County, Texas.
- (3) Person means any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

(b) Administration.

- (1) Relation to related laws. A citation issued pursuant to this section SECTION 8 does not relate to authority of a peace officer to issue a citation pursuant to V.T.C.A, Code of Criminal Procedure art.14.06(d) or V.T.C.A., Transportation Code § 543.003.
- (2) Authority to issue citations. Pursuant to this section SECTION 8, and the scope of their assigned duties, a citation may be issued of the following individuals so designated by the city council:
 - a. Code enforcement officer(s);
 - b. Animal control officer(s);
 - c. Building inspector(s).
- (3) Form and content of citation. A citation issued under this section SECTION 8 must be in a form approved by the municipal court clerk that includes the following information:

- a. The name, address, date of birth, and/or driver's license number, physical description, and telephone number of the person cited;
- b. The offense for which the person is charged;
- c. The date and location of the offense;
- d. A deadline to contact the municipal court;
- e. A statement requiring the person receiving the citation to appear at municipal court on or before the deadline indicated on the citation;
- f. A statement of the person's promise to respond to the citation, pursuant to V.T.C.A., Code of Criminal Procedure art. 27.14, by the deadline indicated on the citation, including a place for the person cited to provide the person's signature; and
- g. The signature of the person issuing the citation.

(4) Pleading subsequent to issuance of citation. All pleas arising from the issuance of a citation under this section SECTION 8 shall be made pursuant to V.T.C.A., Code of Criminal Procedure art. 27.14.

(c) Related offenses and penalty.

- (1) Ordinance violation of promise to appear. A person issued a citation, as authorized by this section SECTION 8, commits an offense if the person fails to appear or enter a plea pursuant to subsection(b)(4) on or before the deadline to appear indicated on the citation as authorized by V.T.C.A., Penal Code art. 38.10.
- (2) Interference or obstruction of issuance. A person commits an offense if the person interferes with or obstructs the issuance of a citation under this section SECTION 8.

- (3) Providing false or fictitious name. A person commits an offense if the person gives a false or fictitious name, address, or other information to an individual authorized to issue a citation under this section SECTION 8.
- (4) Penalty. Each violation under this section SECTION 8 is a misdemeanor offense punishable upon conviction by a fine not to exceed \$2,000.00 per offense. Each day shall constitute a separate offense.

ARTICLE II. RULES OF PROCEDURE

SECTION 10. ADOPTED. The city council confirms and adopts the rules, regulations, practices and procedures for the municipal court of the city now in existence and as subsequently amended and compiled by the municipal judge. These rules governing the practices and procedures for the court are codified in a manual maintained and kept by the municipal court clerk and shall be open for inspection and copying by the public during normal business hours.

SECTION 11. PREPARATION OF COMPLAINT.

(a) It shall be the duty of all local law enforcement officers to turn in to the court clerk every summons written. The clerk shall then, according to instructions of the prosecutor, type the complaint, see that it is properly signed and acknowledged by the Affiant, and duly filed.

(b) If the prosecutor is of the opinion that a case cannot be successfully prosecuted, he shall so note on the case jacket and the defendant shall forthwith be advised that no complaint is being filed. If the complaint in such case has already been filed, the prosecutor shall recommend dismissal of such case in open court, and such case shall be dismissed.

SECTION 12. DISPOSITION OF THE CASE; FINE SCHEDULE.

There shall be a schedule of fines, approved by the city council for certain offenses, which shall be printed on the reverse side of the copy of the summons that is left with the defendant. The defendant may, if he shall elect, pay to the clerk such fine as is shown on the schedule and accordingly enter his plea of nolo contendere. No fine shall be accepted which is not in accord with the schedule, unless set by the judge

SECTION 13. SAVINGS/REPEALING CLAUSE. That all provisions of the ordinances of the City of Von Ormy, Texas, in conflict with the provisions of this Ordinance be and the same are hereby repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 14. SEVERABILITY CLAUSE. If any provision contained in this Ordinance shall for any reason be held to be unconstitutional, invalid, illegal or unenforceable in any respect, such unconstitutionality, invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Ordinance shall be construed as though such unconstitutional, invalid, illegal, or unenforceable provision was not contained in the Ordinance.

SECTION 15: EFFECTIVE DATE. That the City of Von Ormy City Clerk is hereby ordered and directed to cause this ordinance to be published in every issue of the official newspaper for two days; or one issue of the newspaper if the official newspaper is a weekly paper. This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect when the publication requirement is satisfied.

DULY PASSED by the City Council of the City of Von Ormy, Texas, on the 21st day of July, 2010.

CITY OF VON ORMY:


ART MARTÍNEZ DE VARA, MAYOR

ATTEST:


JULIA A. HERNANDEZ, CITY CLERK