

TOWN OF WESTLAKE

ORDINANCE NO. 902

AN ORDINANCE OF THE TOWN OF WESTLAKE AMENDING CHAPTER 30, COURTS, ARTICLE II, MUNICIPAL COURT BY REPEALING SECTION 30-41, AMENDING AND REPLACING DIVISION 2, REPEALING DIVISION 3, AND AMENDING SECTIONS 30-38 & 30-40; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town of Westlake, Texas (“Town”), is a general law municipality and is authorized to enact regulations as necessary to protect the health, safety and welfare of the public and, may enact ordinances relative to its citizens’ health, safety, and welfare that are not inconsistent with the Constitution and laws of the State; and

WHEREAS, the Town has created a Municipal Court of record, having concurrent jurisdiction with the justice court in criminal cases that arise in the Town and that are punishable by fine only; and

WHEREAS, Senate Bill 346 of the 86th Legislature (“SB 346”) consolidated and allocated criminal court costs contained in current law; and

WHEREAS, SB 346 has a preemptive effect on ordinances adopted prior to its effective date of January 1, 2020; and

WHEREAS, the Town Council finds and determines that the fees and costs adopted by this Ordinance are in compliance with the provisions and intent of SB 346, and are thus, revenue neutral to the greatest extent possible; and

WHEREAS, all statutory and constitutional requirements for the passage of this Ordinance have been adhered to, including but not limited to the Open Meetings Act.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTLAKE, TEXAS:

SECTION 1: That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

SECTION 2: That Chapter 30, Courts, Article II, Municipal Court, is amended by repealing Section 30-41.

SECTION 3: That Chapter 30, Courts, Article II, Municipal Court, Division 2 is amended and replaced, which shall read as following:

DIVISION 2 – ALLOCATION OF COURT COSTS

Sec. 30-56. – Municipal Court building security fund

- (a) There is hereby created a Municipal Court Building Security Fund.
- (b) The Municipal Court Building Fund consists of money allocated to the funds under Texas Local Government Code Sections 134.103.
- (c) The money deposited in the Municipal Court Building Security Fund may be used to the extent permissible under state law.

Sec. 30-57 – Juvenile case manager; local truancy prevention and diversion fund

- (a) The Municipal Court is authorized to employ one (1) or more juvenile case managers who:
 - (1) shall assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and
 - (2) may provide prevention services to a child considered at-risk of entering the juvenile justice system and intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.
- (b) There is hereby created a local Truancy Prevention and Diversion Fund.
- (c) The local Truancy Prevention and Diversion Fund consists of money allocated to the funds under Texas Local Government Code Sections 134.103.
- (d) A fund created under this section may be used to the extent permissible under state law.

Sec. 30-58 – Municipal Court technology fund

- (a) There is hereby created a Municipal Court Technology Fund.
- (b) The Municipal Court Technology Fund consists of money allocated to the funds under Texas Local Government Code Sections 134.103.
- (c) The money deposited in the Municipal Court Technology Fund may be used to the extent permissible under state law.

Sec. 30-59 – Municipal jury fund

- (a) There is hereby created a Municipal Jury Fund.

(b) The Municipal Jury Fund consists of money allocated to the funds under Texas Local Government Code Sections 134.103.

(c) The money deposited in the Municipal Jury Fund may be used to the extent permissible under state law.

SECTION 4: That Chapter 30, Courts, Section 30-38 is amended and replaced, which shall read as follows:

Sec. 30-38. – Warrant fee reimbursement

The following reimbursement fees are hereby established and shall be imposed and collected by the Town's Municipal Court of record for a defendant convicted of a misdemeanor in the following instances:

(1) When a defendant has been convicted in the Municipal Court of the Town, the defendant shall pay the sum of \$50.00 for the execution or processing of an issued arrest warrant or capias by a peace officer. The reimbursement fee shall be assessed on conviction regardless of whether the defendant was also arrested at the same time for another offense and shall be assessed for each arrest made of a defendant arising out of the offense for which the defendant has been convicted.

(2) Proceeds collected hereunder shall be retained by the Town in accordance with law.

SECTION 5: That Chapter 30, Courts, Section 30-40 is amended and replaced, which shall read as follows:

Sec. 30-40. – Credit card processing ~~reimbursement~~ fee (Credit card processing fee)

The Municipal Court shall charge ~~a reimbursement~~ nominal fee for processing a payment by credit card used to pay outstanding fines, fees, court costs, or other charges.

****Can we change the above statement to say:**

The Municipal Court shall engage a third party payment processor which will charge a nominal fee for processing a payment by credit/debit card used to pay outstanding fines, fees, court costs, or other charges.

The reason for this change is payments collected through credit card the vendor charges the defendant a 6% fee. We also don't want to have to amend this each time the fee changes.

SECTION 6: That Chapter 30, Courts, Article II, Municipal Court, Division 3 is hereby repealed.

SECTION 7: That this Ordinance shall be cumulative of all other Town Ordinances and all other provisions of other Ordinances adopted by the Town which are inconsistent with the terms or provisions of this Ordinance are hereby repealed.

SECTION 8: It is hereby declared to be the intention of the Town Council of the Town of Westlake, Texas, that sections, paragraphs, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared legally invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such legal invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the Town Council of the Town of Westlake without the incorporation in this Ordinance of any such legally invalid or unconstitutional, phrase, sentence, paragraph or section.

SECTION 9: This ordinance shall take effect immediately from and after its passage as the law in such case provides.

PASSED AND APPROVED ON THIS 16th DAY OF DECEMBER 2019.

ATTEST:

Kim Greaves, Mayor

Dianna Buchanan Plukana, Town Secretary Wade Carroll, Town Manager

APPROVED AS TO FORM:

L. Stanton Lowry, Town Attorney