

ORDINANCE 2011-08

AMENDING SECTION 7.01 OF THE LA FERIA CODE OF ORDINANCES RELATING TO AUTHORIZING A COLLECTION FEE IN THE AMOUNT OF 30% OF DEBTS, COSTS AND ACCOUNTS RECEIVABLE, RESTITUTION AND IN CASES WHERE THE ACCUSED HAS FAILED TO APPEAR TO BE USED TO DEFRAY THE COSTS OF HIRING A COLLECTION FIRM, PRIVATE VENDOR OR ATTORNEY TO COLLECT SUCH AMOUNTS DUE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Code of Ordinances of the City of La Feria currently provides for the assessment of collection fees related to fines and fees assessed by the Municipal Court as authorized by the provisions of Art. 103.0031, Texas Code of Criminal Procedure;

WHEREAS, the City Commission of the City of La Feria has determined that it would be in the best interest of the public to amend and clarify the provisions of Section 7.01 of the Code of Ordinances to insure compliance with the applicable provisions of Article 103.0031, Texas Code of Criminal Procedure;

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF LA FERIA, TEXAS, SITTING AS A GOVERNING BODY OF SAID CITY, THAT:

SECTION 1:

Section 7.01.001 of the Code of Ordinances is deleted in its entirety as it currently exists and the following is substituted therefor.

Sec. 7.01.001 Authorization of collection fee

(a) A collection fee is hereby authorized and imposed, as provided by Art. 103.0031, Texas Code of Criminal Procedure, in the amount of 30% of debts and accounts receivable, such as unpaid fines, fees, court costs other than forfeited bonds, and restitution ordered paid by the Municipal Court or hearing officer serving the City when such debt or account receivable is more than 60 days past due and has been referred to an attorney, private vendor or collection firm for collection pursuant to a contract as authorized by the City Commission.

(b) A collection fee is hereby authorized and imposed, as provided by Art. 103.0031, Texas Code of Criminal Procedure, in the amount of 30% of amounts in cases in which the accused has failed to appear:

- (1) as promised, under Subchapter A, Chapter 543, Texas Transportation Code, or other law;

- (2) in compliance with a lawful written notice to appear issued under Art. 14.06(b), Texas Code of Criminal Procedure, or other law;
- (3) in compliance with a lawful summons issued under Art. 15.03(b), Texas Code of Criminal Procedure, or other law; or
- (4) in compliance with a lawful order of the court or hearing officer serving the City;

when such amounts are more than 60 days past due and have been referred to an attorney, private vendor, or collection agency for collection pursuant to a contract as authorized by the City Commission.

Sec. 7.01.002: Waiver or reduction of collection fee

The collection fee does not apply to a case that has been dismissed by a court of competent jurisdiction or to any amount which has been satisfied through time served credit or community service. The collection fee may be applied to any balance remaining after a partial credit for time served or community service if the balance is more than sixty days past due. A defendant is not liable for the collection fee authorized under this resolution if the court or hearing officer with original jurisdiction has determined that the defendant is indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs.

Sec. 7.01.003: Calculation of collection amount and payment to court

Unless the a qualified collection contract provides otherwise, the court shall calculate the amount of any collection fee due to the governmental entity or to the private attorney, private vendor or collection agency performing the collection services and shall receive all fees, including the collection fee.

Sec. 7.01.004: Collection for failure to appear

With respect to cases in which the defendant has failed to appear as provided in Sec. 7.01.001(b) above, the amount to which the 30% collection fee applies is the amount to be paid that is communicated to the accused as acceptable to the court under its standard policy for resolution of the case, if the accused voluntarily agrees to pay that amount; or the amount ordered paid by the court after plea or trial.

Sec. 7.01.005: Proportional reduction of fee

If after entering into a contract with a private attorney, vendor or collection agency as described herein, a person who owes the fine, fee, etc. as described herein pays less than the aggregate total to be collected, the allocation to the State of Texas, the City and the private attorney, private vendor or collection agency shall be reduced proportionally.

Sec. 7.01.006: Definition of item that is past due and subject to collection

An item subject to collection services under this ordinance is considered more than 60 days past due if it remains unpaid after the 61st day after the following appropriate date:

- (A) When such item is described in Sec. 7.01.001(a) above, the date on which the debt, fine, fee, or court cost or other amount due must be paid in full as determined by the court or hearing officer; or
- (B) With respect to an item described in Sec.7.01.001(b) above, the date by which the accused promised to appear or was notified, summoned, or ordered to appear.

Sec. 7.01.007: Collection fee for limited purpose

The City may not use the additional 30% collection fee authorized hereunder for any purpose other than compensating the private attorney, vendor or collection agency who earns the fee.

Sec. 7.01.008: Exclusion of bail bonds

This ordinance does not apply to the collection of commercial bail bonds.

Sec. 7.01.009: Notice

A communication to the accused person regarding the amount of payment that is acceptable to the court under the court's standard policy for resolution of a case must include a notice of the person's right to enter a plea or go to trial on any offense charged.

SECTION 2:

The City Secretary is hereby directed to publish the caption of this ordinance in the official newspaper of the City in compliance with the City Charter.

SECTION 3:

In the event of any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this ordinance or of the application of the same to any person or circumstance shall for any reason be adjudged invalid and held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this ordinance as a whole or any part of any provision hereof other than the part declared to be invalid, or unconstitutional.

SECTION 4:

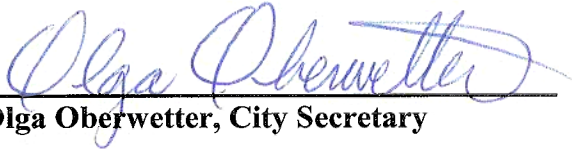
This ordinance shall be effective immediately following adoption by the City Commission.

PASSED, APPROVED AND ADOPTED THIS 24TH DAY OF MAY 2011.



STEVE BREWER, Mayor

ATTESTED BY:



Olga Oberwetter, City Secretary

APPROVED AS TO FORM:



Richard S. Talbert, City Attorney