

ORDINANCE 2021.5.3

AN ORDINANCE OF THE CITY OF FLATONIA, TEXAS AMENDING ARTICLE 1.02, ADMINISTRATION, DIVISION 1. GENERALLY, BY ADDING A NEW SECTION 1.02.011, PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS, AUTHORIZING THE ACCEPTANCE OF CREDIT CARDS FOR PAYMENT OF UTILITY PAYMENTS, FEES, FINES, COSTS AND OTHER CHARGES; PROVIDING FOR A PROCESSING FEE FOR ONLINE AND TELEPHONE CREDIT CARD PAYMENT, FOR FEES, FINES, COSTS AND OTHER CHARGES AS DETERMINED APPROPRIATE BY THE CITY MANAGER; PROVIDING FOR A SERVICE CHARGE IF PAYMENT BY CREDIT CARD IS NOT HONORED; PROVIDING FOR SEVERABILITY, CUMULATIVE AND SAVING CLAUSE; PROVIDING AN EFFECTIVE DATE AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the City of Flatonia is a "Type A" municipality established by the laws of the State of Texas; and

WHEREAS, generally, Chapter 132 of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects, fees, fines, costs and other charges to accept payment by credit card and further authorizes the collection of a *processing fee* for use of a credit card and the collection of a *service charge* if a credit card is not honored by the credit card company; and

WHEREAS, more specifically as it relates to *authorizing the processing fee*, Chapter 132, Section 132.002(b) and (c) of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects fees, fines, costs or other charges to accept payment by credit card and to collect a fee for processing the payment by credit card. The governing body may also authorize the acceptance of payment by credit card without requiring collection of a fee; and

WHEREAS, more specifically as it relates to the *processing fee amount*, Chapter 132, Section 132.003(b) of the Texas Local Government Code authorizes a municipality to set a processing fee in an amount that is reasonably related to the expense incurred by the municipality in processing the payment by credit card. However, the governing body may not set the processing fee in an amount that exceeds five percent (5%) of the amount of the fee, fine, cost, or other charge being paid; and

WHEREAS, more specifically as it relates to a *service charge fee for credit card not honored*, Chapter 132, Section 132.004 of the Texas Local Government Code states that if, for any reason, a credit card payment is not honored by the credit

card company on which the funds are drawn, the municipality may collect a service charge from the person who owes the fee, fine, cost, or other charge. The service charge is in addition to the original fee, fine, cost or other charge and is for the collection of the original amount. The service charge fee is the same amount as a fee charged for the collection of a check drawn on an account with insufficient funds; and

WHEREAS, more specifically as it relates to the *deposit of processing and service charge fees*, Chapter 132, Section 132.006 of the Texas Local Government Code requires the municipal official collecting a fee or charge to deposit it in the general fund of the municipality; and

WHEREAS, the Flatonia City Council has determined that acceptance of credit cards is beneficial to the City and its citizens' public convenience and should be authorized without all citizens incurring the costs for it; and

WHEREAS, the Flatonia City Council recognizes that the City incurs additional expenses to accept credit card payments and shall set the processing fee in an amount that is reasonably related to the expenses incurred;

WHEREAS, the Flatonia City Council wants to authorize a credit card processing fee for all utility payments, fees, fines, costs, or other charges as determined to be appropriate by the City Manager.

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

Section 1. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2. The City of Flatonia Code of Ordinances are hereby amended by adding a new Section 1.02.011, **PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS**, to read as follows:

Use of Credit Cards. Debit Cards. or Other Electronic Means for Payment Due to the City.

(a) Credit Card use authorized. Each official employed by the City of Flatonia who, as part of that employment, collects utility payments, fees, fines, costs, or other charges from members of the public that are due to the City is authorized to accept credit cards as payment for such fees, fines, costs, and other charges.

(b) Amount of Transaction Fee. For each utility

payment, fee, fine, cost, or other charges that are paid by credit card, the official collecting the same shall also collect a processing fee in an amount determined by contract. As of June 1, 2021 there is a \$1.25 charge per transaction.

(c) Amount of Processing Convenience Fee. For each utility payment, fee, fine, cost, or other charges that are paid by credit card, the official collecting the same shall also collect a processing fee in an amount not to exceed five percent (5%) of the amount of the utility payment, fee, fine, court cost, or other charge to be paid, as authorized by Section 132.003(b), Texas Local Government Code.

(d) Service Charge. If for any reason a payment by credit card is not honored by the company on which the funds are drawn, the officer shall collect from the member of the public who attempted to pay by credit card an additional service charge in an amount equal to the fee then being charged for the collection of a check drawn on an account with insufficient funds, as authorized by Section 132.005, Texas Local Government Code

(e) Deposit of Processing Fees and Service Charges. Processing fees and service charges collected pursuant to this Ordinance shall be deposited in the general fund of the City, as provided by Section 132.006, Texas Local Government Code. Utility payments will be deposited in such city account as designated by the City Manager.

Section 3. This ordinance shall be cumulative of all other ordinances of the City of Flatonia, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Flatonia except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section 4. 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, such unconstitutionality or invalidity 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 City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.


Section 5. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed,

considered, and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

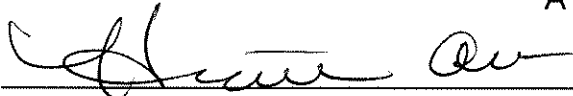
Section 6. This Ordinance shall be effective immediately from and after its final passage and any publication in accordance with the requirements of the City of Flatonia and the laws of the State of Texas.

PASSED AND APPROVED by the City Council of the City of Flatonia, Texas, on this the 11th day of May, 2021.

CITY OF FLATONIA, TEXAS

By: 
Bryan Milson
Mayor

ATTEST:


Heather Ambrose
City Secretary

APPROVED AS TO FORM AND LEGALITY:


Maria Angela Flores Beck
City Attorney

