

**ORDINANCE NO. 2023-23**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CITY CODE OF ORDINANCES, ADDING ARTICLE 1.21 "PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS"; AND ADDING APPENDIX A, FEE SCHEDULE, SECTION A1.21 "PAYMENT BY CREDIT CARD OR OTHER ELECTRONIC MEANS"; PROVIDING FOR A PROCESSING FEE FOR CREDIT CARD PAYMENT OF FEES, FINES, COURT COSTS AND OTHER CHARGES; PROVIDING FOR A SERVICE CHARGE IF PAYMENT BY CREDIT CARD IS NOT HONORED; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, EFFECTIVE DATE, CODIFICATION, AND PROPER NOTICE OF MEETING.**

**WHEREAS**, the City of Bastrop is a home-rule municipality established and operating by the laws of the State of Texas; and

**WHEREAS**, Chapter 132 of the Texas Local Government Code authorizes the governing body of a municipality to authorize a municipal official who collects, fees, fines, court costs and other charges to accept payment by credit card; and

**WHEREAS**, Chapter 132 of the Local Government Code 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**, 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, court 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**, 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, not in an amount that exceeds five percent (5%) of the amount of the fee, fine, court cost, or other charge being paid; and

**WHEREAS**, 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, court cost, or other charge in addition to the original fee, fine, court cost or other charge for the collection of the original amount; and

**WHEREAS**, 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**, 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 Bastrop 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 Bastrop 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; and

**WHEREAS**, the Bastrop City Council authorizes a credit card processing fee or service charge, as applicable, for all fees, fines, costs, or other charges for municipal purposes; and

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

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

**Section 2: ENACTMENT** Chapter 1, Article 1.21 of the Bastrop Code of Ordinances is hereby created, and shall read in accordance with Exhibit A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

**Section 3: REPEALER** To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated.

**Section 4: SEVERABILITY** Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**Section 5: CODIFICATION** The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

**Section 6: PROPER NOTICE & MEETING** It is hereby officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**Section 7: EFFECTIVE DATE** This ordinance shall take effect October 1, 2023, if all applicable publication requirements are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

**READ and APPROVED** on First Reading on the 22<sup>nd</sup> day of August, 2023.

**READ and ADOPTED** on Second Reading on the 12<sup>th</sup> day of September, 2023.

**APPROVED:**

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Lyle Nelson, Mayor

**ATTEST:**

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Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

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Alan Bojorquez, City Attorney

**City of Bastrop**

**Code of Ordinances**

**Chapter 1: Administration**

**ARTICLE 1.21 Payments by Credit Card or Other Electronic Means**

The Code of Ordinances is amended by creating Article 1.21 and inserting the following language:

**ARTICLE 1.21 – Payment by Credit Cards or Other Electronic Means**

1. Credit Card use authorized. Each official employed by the City of Bastrop who, as part of that employment, collects fees, fines, court 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, court costs, and other charges.
2. Amount of Processing Fee. For each fee, fine, court cost, or other charge that is paid by credit card, the official collecting the same shall pass on a processing fee in an amount not to exceed three percent (3%) of the amount of the fee, fine, court cost, other charge to be paid, as authorized by Section 132.003(b), Texas Local Government Code.

The following services and form of payment are exempt from the processing fee:

- (a) Library fees.
  - (b) Recreation fees.
  - (c) Payments processed through bank draft (ACH) or check.
3. 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 may 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 132.004, Texas Local Government Code.
  4. 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.

**SECTION A1.21 Payments by Credit Card or Other Electronic Means**

Credit Card Processing Fee

3% of total amount paid