

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AMENDING CHAPTER 1, "GENERAL PROVISIONS," BY ADDING SECTION 1-16 "PAYMENT OF FEES AND OTHER COSTS BY CREDIT CARD/DEBIT CARDS OR ELECTRONIC MEANS; CHARGE OF PROCESSING FEES" ALLOWING THE CITY TO CHARGE AND COLLECT PROCESSING AND OTHER FEES ON CREDIT CARD PAYMENTS AND ELECTRONIC PAYMENTS AND SECTION 1-17 "NON-SUFFICIENT FUND FEE" ALLOWING THE CITY TO CHARGE A NON-SUFFICIENT FEE ON RETURNED PAYMENTS; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE INCORPORATION OF THE RECITALS; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, credit card processing fees are charged by third-party credit processors for transactions where a credit card or debit card is used; and

WHEREAS, for purposes of credit card processing fees, credit cards and debit cards are defined as the same; and

WHEREAS, Texas Local Government Code § 132.002(b) authorizes municipalities to set credit card processing fees in an amount that is reasonably related to the expense incurred by the municipality in processing the payment by credit card and debit card; and

WHEREAS, the City Council desires to allow individuals who owe fees, costs, and other charges to the City to be able to pay the same by credit card; and

WHEREAS, the City contracts with one or more third-parties for the purpose of collection of payments for municipal fees, costs, or other charges by credit cards; and

WHEREAS, the City Council finds it would not be feasible for the City to provide a credit card payment service without the reimbursement of processing fees; and

WHEREAS, the City Council further finds that the credit card processing fees charged by one or more third-parties varies by City department; and

WHEREAS, the City Council finds that the provisions set forth in this ordinance are in the best interest of the citizens of the municipality, for a public purpose, for the good government, peace, and order of the municipality, and for the trade and commerce of the municipality.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON:

**SECTION 1
AMENDMENT**

That Chapter 1 “General Provisions” of the Burleson Code of Ordinances is hereby amended by adding Section 1-16 “Payment of Fees and Other Costs by Credit Card or Electronic Means; Charge of Processing Fees,” and Section 1-17 “Non-Sufficient Fund Fee” to read as follows:

“§ 1-16 Payment of Fees and Other Costs by Credit Card or Electronic Means; Charge of Processing Fees.

- (a) Definitions. For purposes of this section, the term “credit card” shall mean a credit card, debit card, or the like whereby, upon presentation of the card, chip, or number, the City utilizes a third-party credit processor to access the monetary funds.
- (b) Payment of Fees and Other Costs. The City is authorized to collect fees, fines, court costs, or other charges by (1) accepting payment by credit card or electronic means of a fee, fine, court cost, or other charge; and (2) collecting a fee for processing the payment by credit card or electronic means.
- (c) Processing Fee. The City is authorized to collect a processing fee in an amount that is reasonably related to the expense incurred in processing the payment by credit card. The amount of the processing fee, if any, shall be set by the City Council through the annual fee schedule ordinance. The processing fee shall not exceed five percent (5%) of the amount of the fee, fine, court cost, or other charge being paid.
- (d) Service Fee. If, for any reason, a payment by credit card is not honored by the credit card company on which the funds are drawn, the City is authorized to collect a service charge from the person who owes the fee, fine, court cost or other charge. The service charge is in addition to the original fee, fine, court cost or other charge and is for the collection of the original amount. The amount of the service charge, if any, shall be set by the City Council through the annual fee schedule ordinance.

§ 1-17 Non-Sufficient Fund Fee. The City is authorized to collect a non-sufficient fund fee on all items returned to the City unpaid. The amount of the non-sufficient fund charge, if any, shall be set by the City Council through the annual fee schedule ordinance.”

SECTION 2.

CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and 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 phrase, clause, sentence, paragraph or section.

SECTION 4. RECITALS INCORPORATED

The findings and recitals set forth above in the preamble of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 5. OPEN MEETING

It is hereby officially found and determined that the meetings at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meetings was given as required by law.

SECTION 6. PENALTY CLAUSE

Any person, firm, association of persons, company, corporation, or their agents, its servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by state law.

SECTION 7. PUBLICATION

The City Secretary shall provide for the publication of this ordinance after its passage as required by law.

**SECTION 8.
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED the _____ day of _____, 20_____.

First Reading: the _____ day of _____, 20_____.

Final Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney