

## **ORDINANCE 17-15**

### **AN ORDINANCE TO ALLOW CREDIT OR DEBIT CARD PAYMENTS AND TO ESTABLISH A PROCESSING FEE FOR MUNICIPAL COURT FEES, FINES AND COSTS, UTILITY BILLS, AND OTHER LICENSES, FEES, AND OTHER MONEY TO BE COLLECTED BY THE CITY OF SPRING HILL**

**WHEREAS**, the City of Spring Hill desires to accept credit card and debit card payments of municipal court fees, fines and cost, utility bills, and other licenses, fees, and other money to be collected by the City; and

**WHEREAS**, the City of Spring Hill currently accepts payment by credit or debit card for municipal court fees, fines and cost, utility bills, and other licenses, fees, and other money due the City but does not collect a fee for processing; and

**WHEREAS**, T.C.A. 9-1-108 (c) authorizes any municipal officer to receive in payment of public taxes, licenses, fines, fees, or other moneys by credit or debit card; and

**WHEREAS**, T.C.A. 8-21-107 allows municipal court clerks responsible for the collection of fees, fines, court costs and other charges to accept payment by credit or debit card and collect a service and/or merchant fee for processing electronic payment; and

**WHEREAS**, T.C.A. 9-1-108 (c) requires the officer collecting the payment to set and collect a fee equal to the amount of the third-party processing fee paid the third-party processor; and

**WHEREAS**, T.C.A. 8-21-107 grants the municipal court clerk the ability to set the processing fee at a reasonable rate related to the expense incurred by the court in processing the payment by credit card; and

**WHEREAS**, T.C.A. 9-1-108 (c) permits collection of a service charge for processing the transaction if payment is declined unless an electronic device is used; the card and cardholder are present and the municipal official learns of the declination of payment at the time the transaction is processed; and

**WHEREAS**, T.C.A. 9-1-108 (c) requires the amount of the processing fee or the actual fee imposed be stated on the notice to the person owing the tax, fine, fee or other money.

**BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE, AS FOLLOWS:**

- Section 1. The City of Spring Hill shall accept credit or debit card payments for any taxes, license, fine, utility bill, fee or other money due the City.
- Section 2. Added to each credit or debit card payment is a processing fee equal to the amount paid to the City's third-party processor.
- Section 3. A service charge of Twenty-five dollars (\$25.00) shall be imposed on any transaction that is not honored by the credit or debit card company issuing the card or entity upon which the funds are drawn unless the card and cardholder are present and the declination is communicated to the municipal official at the time the transaction is processed.
- Section 4. Any notice to the person or customer owing the tax, fine, utility bill, fee or other money due the City shall state the percentage or amount of the processing fee for use of a credit or debit card.

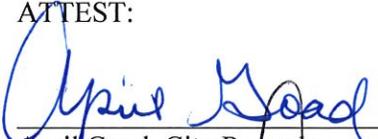
**BE IT FURTHER ENACTED**, that any Ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 18<sup>th</sup> day of September, 2017.



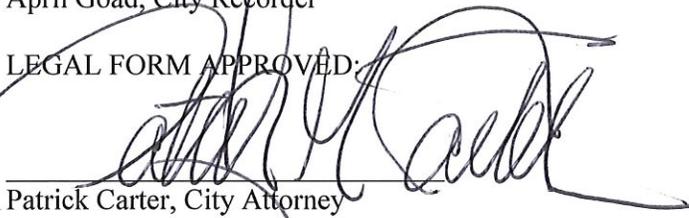
Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

PASSED ON 1<sup>ST</sup> READING: August 21, 2017

PASSED ON 2<sup>ND</sup> READING: September 18, 2017



**REQUEST:** *Approval of Ordinance 17-15*

**SUBMITTED BY:** Chuck Downham, Assistant City Administrator

**DATE:** August 7, 2017

**RE:** Enactment of Ordinance authorizing a Processing Fee for the use of Credit and Debit Cards for various types of transactions with the City of Spring Hill

**ATTACHMENTS:** Ordinance 17-15, ETS and TYLER Fee Summaries

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**PURPOSE:**

To approve Ordinance 17-15 to amend the Municipal Code of the City of Spring Hill to authorize a processing fee for the use of credit and debit cards in transactions involving municipal court fees, fines and costs, utility bills, and other licenses, fees and other monies collected by the City of Spring Hill.

**BACKGROUND:**

During preparation of the FY2017-18 fiscal budget, the Board of Mayor and Alderman identified the need to recover the transaction expenses the City was incurring from customers utilizing credit and debit cards that were estimated at approximately \$125,000 annually. The FY2017-18 fiscal budget reflects a corresponding revenue item for the implementation of a transaction or processing fee so the City would no longer be absorbing such expense for the use of credit and debit cards for various types of transactions. The adoption of the Ordinance would allow the City to begin charging a processing fee for all types of transactions where a customer is paying by credit or debit card.

Robin Bates, City Accountant, prepared the attached summary worksheets for FY2016-17 that provides detailed information on the amount of processing and administrative fees that are being charged to the City for credit and debit card transactions involving ETS and TYLER. The fees being charged by TYLER represent the most significant portion of the overall fees being incurred by the City for the various types of transactions.



Based upon research performed by City staff with additional input and guidance from the Municipal Technical Advisory Service (MTAS), several provisions of Tennessee Code Annotated were identified that allow customers to utilize credit and debit cards for various types of transactions and that municipalities for those transactions using a credit or debit card are authorized to set and collect a processing fee equal to the amount of the third-party processing fee paid to the third-party processor. These various provisions of TCA provide the ability for the City of Spring Hill to adopt an Ordinance that allows for the creation and implementation of a processing fee for various types of transactions paid by credit or debit card. Many of the surrounding jurisdictions, both cities and counties, have processing fees in place that provide a fee equal to the amount charged by the third-party vendor when the transaction involves the use of a credit or debit card.

City staff has prepared Ordinance 17-15 for consideration and approval by the Board of Mayor and Aldermen that would amend the Municipal Code to create provisions for the implementation of a transaction or processing fee to be charged for transactions that utilize a credit or debit card. Once adopted, the Finance Department will coordinate the implementation of the transaction or processing fee with the City's credit card vendor (ETS) so that the processing fee is charged for each type of transaction using a credit or debit card including providing information to notify customers of the processing fee charge for those choosing to use credit or debit card for transactions with the City.

City staff also contacted MTAS regarding the fees being charged by TYLER on all types of transactions. Upon conferring with MTAS, it was their determination that the fee being charged by TYLER is not considered a transaction or processing fee from a third-party credit or debit card processor and instead viewed such as charge as an accounting software vendor charge and as such, the City does not have legal authority under TCA 9-1-108 (C)(3) to pass the accounting software vendor's charge on to the customer. Further, it was MTAS' opinion that there was no statutory authority under TCA allowing the City to assess the accounting software vendor's fee back to the customer. Based upon ongoing discussions with TYLER, the City is limited to three (3) different vendors that are authorized by TYLER of which the City is utilizing ETS who is one of the three authorized vendors. There does not appear to be a way to eliminate the accounting software vendor charge from TYLER which represents the most significant portion of the transaction charges being incurred by the City. Finance Department staff will continue to explore ways to reduce or eliminate the accounting software vendor charge.

The City will also be filing required pre-implementation and post-implementation reports to the State of Tennessee.



**FINANCIAL IMPACT:**

The FY2017-18 fiscal budget included both a budget expense line item for transaction costs being incurred by the City as well as an offsetting revenue line item in the amount of \$125,000. The adoption of Ordinance 17-15 is the first step of a multistep process that will be implemented to address the transaction and other fees incurred by the City with ETS and TYLER for various types of transactions using credit or debit cards. Finance Department staff will continue to follow up with both the Budget and Finance Committee and Board of Mayor and Alderman on recommendations on alternatives identified that could reduce or eliminate software vendor charges.

**STAFF RECOMMENDATION:**

Staff recommends approval of Ordinance 17-15 to amend the Municipal Code of the City of Spring Hill to authorize a processing fee for the use of a credit or debit card for transactions involving municipal court fees, fines and costs, utility bills, and other licenses, fees and other monies collected by the City of Spring Hill.

**ACTION REQUIRED (INCLUDE DEADLINE /PRIORITY):**

The Board of Mayor and Alderman will need to act upon Ordinance 17-15 to authorize a processing fee for the use of credit and debit cards for transactions involving municipal court fees, fines and costs, utility bills, and other licenses, fees and other monies collected by the City of Spring Hill. Following adoption of Ordinance 17-15, the Finance Department will coordinate with ETS and TYLER to implement a processing fee to be charged to customers when they utilize a credit or debit card in accordance with the Ordinance and state regulations including proper disclosure of such charges with all transactions and written notices prepared by the City.



ANALYSIS OF TYLER INSITE TRANSACTION FEES  
 FY2016-17

| ITEM            | CHARGE: | JULY - SEPT 2016 | UNITS  | OCT - DEC 2016 | UNITS  | JAN - MARCH 2017 | UNITS  | APRIL - JUNE 2017 | UNITS  | TOTAL FEES   | TOTAL UNITS |
|-----------------|---------|------------------|--------|----------------|--------|------------------|--------|-------------------|--------|--------------|-------------|
| COURT           | \$ 2.50 | \$ 97.50         | 39     | \$ 275.00      | 110    | \$ 485.00        | 194    | \$ 797.50         | 319    | \$ 1,655.00  | 662         |
| PROPERTY TAX    | \$ 3.50 | \$ 38.50         | 11     | \$ 455.00      | 130    | \$ 1,088.50      | 311    | \$ 108.50         | 31     | \$ 1,690.50  | 483         |
| UTILITY BILLING | \$ 1.25 | \$ 18,457.50     | 14,766 | \$ 19,351.25   | 15,481 | \$ 20,115.00     | 16,092 | \$ 20,517.50      | 16,414 | \$ 78,441.25 | 62,753      |
|                 |         | \$ 18,593.50     |        | \$ 20,081.25   |        | \$ 21,688.50     |        | \$ 21,423.50      |        | \$ 81,786.75 | 63,898      |