

ORIGINAL

ORDINANCE NO. CO-2016-24

**AN ORDINANCE AMENDING TITLE III (ADMINISTRATION),
CHAPTER 38 (VILLAGE POLICIES), SECTION 38.06 (ACCEPTANCE OF
CREDIT CARD PAYMENTS) OF THE MAYWOOD CODE OF ORDINANCES IN
REGARD TO PAYMENT OF VILLAGE CHARGES, FEES AND FINES BY CREDIT CARD**

WHEREAS, the President and Board of Trustees of the Village of Maywood desire to amend the Maywood Code of Ordinances to update the regulations set forth in Title III (Administration), Chapter 38 (Village Policies) to add a new Section 38.06 entitled "Acceptance of Credit Card Payments", as set forth below, in order to comply with the Illinois Local Governmental Acceptance of Credit Cards Act (50 ILCS 345/1 *et seq.*) (the "Act") ("Code Amendments") and to adopt a Village Administrative Policy Governing Acceptance Of Payments By Credit Cards (the "Policy") (a copy of which is attached as Exhibit "A" to this Ordinance and made a part hereof); and

WHEREAS, on **November 14, 2016**, the President and Board of Trustees of the Village of Maywood held a **public hearing**, as required by Section 20 of the Act, to consider the Code Amendments, the Policy and the provisions of the Act; and

WHEREAS, after the public hearing was closed, the President and Board of Trustees of the Village of Maywood reached a consensus that it is desirable to adopt the Code Amendments and the Policy in order to amend the financial regulations of the Village to allow the Village to accept payments by credit cards for all "authorized obligations" (as defined in the Act), such as any fine, fee, charge, tax, or cost imposed by, owing to, or collected by the Village. The President and Board of Trustees further find that the acceptance of payments by credit cards is a business-friendly amenity that allows residents, businesses, property owners and the public to make on-line payments to the Village for such matters as business licenses, utility bills, vehicle stickers and programs offered by the Village; and

WHEREAS, pursuant to the authority granted by the applicable regulations of the Illinois Municipal Code (65 ILCS 5/1 *et seq.*) and the Illinois Local Governmental Acceptance of Credit Cards Act (50 ILCS 345/1 *et seq.*), and in accordance with its home rule authority under Article VII, Section 6 of the Illinois Constitution of 1970, the President and Board of Trustees of the Village of Maywood find that adoption of the below Code Amendments and the Policy is in the best interests of and in furtherance of the health, safety and welfare of the Village and its residents, property owners, businesses and the general public.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Each Whereas paragraph set forth above is incorporated by reference into this Section 1.

SECTION 2: The index to Title III (Administration), Chapter 38 (Village Policies) of the Maywood Code of Ordinances shall be amended to add a new Section entitled "38.06: ACCEPTANCE OF CREDIT CARD PAYMENTS".

SECTION 3: Title III (Administration), Chapter 38 (Village Policies) of the Maywood Code of Ordinances shall be amended to add a new Section 38.06 entitled "Acceptance of Credit Card Payments", which shall read in its entirety as follows:

"38.06. ACCEPTANCE OF CREDIT CARD PAYMENTS:

- A. Incorporation: The Village incorporates by reference the provisions of the Illinois Local Governmental Acceptance of Credit Cards Act (50 ILCS 345/1 *et seq.*) (the "Act"), as amended, into this Section of the Code. The corporate authorities of the Village held a **public hearing on November 14, 2016**, as required by the Act, for the purpose of making a determination of whether to enact rules to allow the Village to accept payment by credit cards for all "authorized obligations" (as defined in the Act), such as any fine, fee, charge, tax, or cost imposed by, owing to, or collected by the Village. The corporate authorities of the Village passed **Ordinance No. CO-2016-24 on November 14, 2016**, that amended the Code to enact this Section.
- B. Definition of Credit Card: The Act defines "credit card" as "an instrument or device, whether known as a credit card, bank card, charge card, debit card, automated teller machine card, secured credit card, smart card, electronic purse, prepaid card, affinity card, or by any other name, issued with or without fee by an issuer for the use of the holder to obtain credit, money, goods, services, or anything else of value."
- C. Policy Regarding Acceptance of Credit Cards: The Village Administrative Policy Regarding Acceptance of Payments By Credit Cards (the "Policy") (a copy of which was attached as Exhibit "A" to **Ordinance No. CO-2016-24** and made a part thereof) and any future amendments to the Policy are incorporated into this Section by reference without further action by the corporate authorities of the Village. The Policy contains the rules governing the manner of acceptance of payments by credit cards for all "authorized obligations" (as defined in the Act), such as any fine, fee, charge, tax, or cost imposed by, owing to, or collected by the Village. The Village Manager is authorized to approve and enact any amendments to the Policy that are consistent with or necessary to comply with the Act. A copy of the Policy is available from the Village Clerk's Office upon request."

SECTION 4: To the extent necessary, all tables of contents, indexes, headings and internal references or cross-references to sections that need to be amended or deleted within the Maywood Code of Ordinances, as amended, as a consequence of the above Code Amendments, shall be amended by the Village's codifier so as to be consistent with the terms of this Ordinance.

SECTION 5: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

SECTION 6: Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 7: Except as to the Code Amendments set forth above in this Ordinance, all Chapters and Sections of the Maywood Code of Ordinances, as amended, shall remain in full force and effect.

SECTION 8: This Ordinance shall be in full force and effect from and after its adoption, approval, and publication in pamphlet form as provided by law.

ADOPTED this 14th day of November, 2016, pursuant to a roll call vote as follows:

AYES: Mayor Edwenna Perkins, Trustee(s) H. Yarbrough, Sr., A. Dorris,
I. Brandon, M. Rogers, M. Lightford and R. Rivers

NAYS: None

ABSENT: None

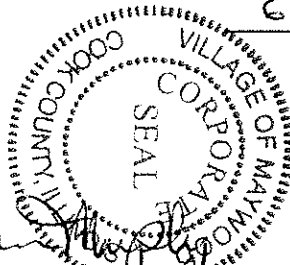
APPROVED by me as President this 17th day of November, 2016, and attested to by the Village Clerk this same day.

Edwenna Perkins

Village President

ATTEST:

Viola Minsby J. Ann Murphy
Village Clerk as Deputy Clerk



Published by me in pamphlet form this 17th day of November, 2016.

Viola Minsby J. Ann Murphy
Village Clerk as Deputy Clerk

Exhibit "A"

VILLAGE OF MAYWOOD

**ADMINISTRATIVE POLICY
GOVERNING ACCEPTANCE OF PAYMENTS BY CREDIT CARDS**

Policy:

This Policy was approved by the Village Board upon the adoption Ordinance No. CO-2016-24 on November 15, 2016, that amended the Maywood Code of Ordinances to enact Section 38.06 (Acceptance Of Credit Card Payments). This Policy was enacted in order to comply with the provisions of the Illinois Local Governmental Acceptance of Credit Cards Act (50 ILCS 345/1 *et seq.*) (the "Act"). The Act is incorporated by reference, in its entirety, into this Policy. This Policy contains the rules that govern the Village's acceptance of payment by "credit cards" for all "authorized obligations" (as those quoted terms are defined in the Act), such as any fine, fee, charge, tax, or cost imposed by, owing to, or collected by the Village.

Amendments:

The Village Manager is authorized to approve and enact any written amendments to this Policy that are consistent with or necessary to comply with the Act. A copy of this Policy is available from the Village Clerk's Office upon request.

Definitions (See Section 10 of the Act):

"Authorized obligation" means, in connection with a county, city, town, or other similar form of local municipal government, any fine, fee, charge, tax, or cost imposed by, owing to, or collected by or on behalf of a unit of local government. In connection with a community college district, "authorized obligation" means tuition costs, books, charges for meals, and other education or college-related fines, fees, charges, or costs imposed upon or incurred by students or pupils.

"Credit card" means an instrument or device, whether known as a credit card, bank card, charge card, debit card, automated teller machine card, secured credit card, smart card, electronic purse, prepaid card, affinity card, or by any other name, issued with or without fee by an issuer for the use of the holder to obtain credit, money, goods, services, or anything else of value.

Oversight of Credit Card Transactions:

The Village Manager and the Village Director of Finance are responsible for generally overseeing compliance with this Policy.

Acceptance of Credit Cards:

- A. Only Village personnel and officials who have been authorized by the Village Manager shall accept credit cards for payment of authorized obligations of the Village. Each of the Directors,

Policy Regarding Acceptance of Payments by Credit Card – Village of Maywood

and his/her designees, are authorized to accept credit cards for payment of authorized obligations of the Village.

- B. On-line or other electronic acceptance of credit cards through the Village's website or other authorized and designated electronic portals shall be allowed. The Village Director of Finance, in conjunction with the Director of Technology, shall be responsible for generally overseeing and maintaining the on-line or electronic payment methods of access.
- C. The Village may accept one or more different types of credit cards, as determined by the Village Manager. The Village is not obligated to accept payment from a type of credit card that the Village is not authorized or equipped to accept or use.
- D. Acceptance of credit card payments is limited to payment of the following Village authorized obligations: water and sewer bills, waste collection / disposal bills, fines (i.e., parking tickets), licenses, donations, Village store purchases, permits, registration fees and any other financial transactions covered by this Policy. The Village Manager is authorized to expand or restrict the scope of Village authorized obligations that are eligible to be paid by a credit card.
- E. The Village may permit multiple Village authorized obligations to be paid in one credit card transaction, but the Village Manager and/or the Director of Finance may, at any time, require that different Village authorized obligations be paid with separate credit card transactions.

Credit Card Use Limits:

The maximum dollar amount for a single credit card transaction with the Village shall not exceed Five Hundred and No/100 Dollars (**\$500.00**) without written authorization from the Village Manager or the Director of Finance with the Village Manager's consent.

Convenience Fee or Surcharge (See Section 15 of the Act):

The Village may not receive and retain, directly or indirectly, any convenience fee, surcharge, or other fee in excess of the amount paid in connection with the credit card transaction. In addition, a financial institution or service provider accepting and processing credit card payments may not pay, refund, rebate, or return, directly or indirectly, to the Village for final retention any portion of a surcharge, convenience fee, or other fee paid in connection with a credit card transaction.

The schedule of the Village's Convenience Fee or Surcharge for acceptance of credit card payments is as follows:

- A. A One and No/100 Dollars (\$1.00) fee per credit card transaction shall be imposed on the credit card user for any registration fees or other charges applicable to the payment of a Village authorized obligation.
- B. A fee shall be imposed on the credit card user that does not exceed the lesser of Twenty and No/100 Dollars (\$20.00) or five percent (5%) of the principal amount charged in connection with the issuance of any license, sticker or permit, or with respect to any other similar transaction.
- C. A fee shall be imposed on the credit card user that does not exceed the lesser of Five and No/100 Dollars (\$5.00) or five percent (5%) of the principal amount charged in connection with the payment of any fine.

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- D. A fee shall be imposed on the credit card user that does not exceed the lesser of Forty and No/100 Dollars (\$40.00) or three percent (3%) of the principal amount charged in connection with the payment of any real estate or other tax.
- E. Notwithstanding the provisions of Subsections B, C and D above, a minimum fee of One and No/100 Dollars (\$1.00) may be imposed with respect to any transaction.
- F. The Village's Convenience Fee or Surcharge is not refundable, unless the credit card transaction is voided due to error or mutual agreement of the parties and the Village is not charged a transaction fee by the financial institution or service provider accepting and processing credit card payments.

Relief From Underlying Obligation (Section 30 of the Act):

A person who makes a payment by credit card to the Village is not relieved from liability for the underlying obligation except to the extent that the Village realizes final payment of the underlying obligation in cash or the equivalent. If final payment is not made by the credit card issuer or other guarantor of payment in the credit card transaction, then the underlying obligation shall survive and the Village retains all remedies for enforcement that would have applied if the credit card transaction had not occurred. A person making payment by credit card is not liable for any discount or fee paid to a credit card issuer or other party by the Village.

Policy approved by the Village Board: Ordinance Number CO-2016-24 , dated November 14, 2016.

Illinois Local Governmental Acceptance of Credit Cards Act (50 ILCS 345/1 et seq.) (the “Act”)

Section 10 (Definitions) of the Act.

"Authorized obligation" means, in connection with a county, city, town, or other similar form of local municipal government, any fine, fee, charge, tax, or cost imposed by, owing to, or collected by or on behalf of a unit of local government. In connection with a community college district, "authorized obligation" means tuition costs, books, charges for meals, and other education or college-related fines, fees, charges, or costs imposed upon or incurred by students or pupils.

"Credit card" means an instrument or device, whether known as a credit card, bank card, charge card, debit card, automated teller machine card, secured credit card, smart card, electronic purse, prepaid card, affinity card, or by any other name, issued with or without fee by an issuer for the use of the holder to obtain credit, money, goods, services, or anything else of value.

Section 15 (Local Government Credit Card Acceptance Program) of the Act.

(a) Any unit of local government and any community college district that has the authority to accept the payment of funds for any purpose is authorized, but not required, to accept payment by credit card.

(b) This Act shall be broadly construed to authorize, but not require, acceptance of credit card payments by all units of local government and community college districts.

(c) This Act authorizes the acceptance of credit card payments for all types of authorized obligations.

(d) This Act does not limit the authority of clerks of court to accept payment by credit card pursuant to the Clerks of Court Act or the Unified Code of Corrections.

(e) A local governmental entity may not receive and retain, directly or indirectly, any convenience fee, surcharge, or other fee in excess of the amount paid in connection with the credit card transaction. In addition, a financial institution or service provider may not pay, refund, rebate, or return, directly or indirectly, to a local governmental entity for final retention any portion of a surcharge, convenience fee, or other fee paid in connection with a credit card transaction.

Section 20 (Election By Local Governmental Entities To Accept Credit Cards) of the Act:

(a) The decision whether to accept credit card payments for any particular type of obligation shall be made by the governing body of the local governmental entity that has general discretionary authority over the manner of acceptance of payments. The governing body may adopt reasonable rules governing the manner of acceptance of payments by credit card. Except as provided in subsection (b) of Section 20-25 of the Property Tax Code, no decision to accept credit card payments under this Act shall be made until the governing body has determined, following a public hearing held not sooner than 10 nor later than 30 days following public notice of the hearing, that the acceptance of credit card payments for the types of authorized obligations specified in the public notice is in the best interests of the citizens and governmental administration of the local governmental entity or community college and of the students and taxpayers thereof.

(b) The governing body of the entity accepting payment by credit card may enter into agreements with one or more financial institutions or other service providers to facilitate the acceptance and processing of credit card payments. Such agreements shall identify the specific services to be provided, an itemized list of the fees charged, and the means by which each such fee shall be paid. Such agreements may

include a discount fee to cover the costs of interchange, assessments and authorizations, a per item processing fee for the service provider, and any other fee, including a payment of a surcharge or convenience fee, that may be applicable to specific circumstances. Any agreement for acceptance of payments by credit cards may be canceled by the governmental entity upon giving reasonable notice of intent to cancel.

(c) An entity accepting payments by credit card may pay amounts due a financial institution or other service provider by (i) paying the financial institution or other service provider upon presentation of an invoice or (ii) allowing the financial institution or other service provider to withhold the amount of the fees from the credit card payment. A discount or processing fee may be authorized whenever the governing body of the entity determines that any reduction of revenue resulting from the discount or processing fee will be in the best interest of the entity. Items that may be considered in making a determination to authorize the payment of fees or the acceptance of a discount include, but are not limited to, improved governmental cash flows, reduction of governmental overhead, improved governmental financial security, a combination of these items, and the benefit of increased public convenience. No payment to or withheld by a financial institution or other service provider may exceed the amounts authorized under subsection (b) of Section 25.

(d) Unless specifically prohibited by an ordinance or rule adopted by the governing body of the local governmental entity, a person may pay multiple tax bills in a single transaction.

Section 25 (Payment of Fees by Cardholders) of the Act.

(a) The governing body of a local governmental entity authorizing acceptance of payment by credit card may, but is not required to, impose a convenience fee or surcharge upon a cardholder making payment by credit card in an amount to wholly or partially offset, but in no event exceed, the amount of any discount or processing fee incurred by the local governmental entity. This convenience fee or surcharge may be applied only when allowed under the operating rules and regulations of the credit card involved. When a cardholder elects to make a payment by credit card to a local governmental entity and a convenience fee or surcharge is imposed, the payment of the convenience fee or surcharge shall be deemed voluntary by the person and shall not be refundable.

(b) No fee, or accumulation of fees, that exceeds the lesser of \$20 or 5% of the principal amount charged may be imposed in connection with the issuance of any license, sticker, or permit, or with respect to any other similar transaction. No fee, or accumulation of fees, that exceeds the lesser of \$5 or 5% of the transaction involved may be imposed in connection with the payment of any fine. No fee, or accumulation of fees, in excess of the lesser of \$40 or 3% of the principal amount charged may be imposed in connection with the payment of any real estate or other tax.

(c) Notwithstanding the provisions of subsection (b), a minimum fee of \$1 may be imposed with respect to any transaction.

Notwithstanding the provisions of subsection (b), a fee in excess of the limits in subsection (b) may be imposed by a local governmental entity on a transaction if (i) the fee imposed by the local governmental entity is no greater than a fee charged by the financial institution or service provider accepting and processing credit card payments on behalf of the local governmental entity; (ii) the financial institution or service provider accepting and processing the credit card payments was selected by competitive bid and, when applicable, in accordance with the provisions of the Illinois Procurement Code; and (iii) the local governmental entity fully discloses the amount of the fee to the cardholder.

Section 30 (Relief from Underlying Obligation) of the Act.

A person who makes a payment by credit card to a local governmental entity shall not be relieved from liability for the underlying obligation except to the extent that the local governmental entity realizes final payment of the underlying obligation in cash or the equivalent. If final payment is not made by the credit card issuer or other guarantor of payment in the credit card transaction, then the underlying obligation shall survive and the local governmental entity shall retain all remedies for enforcement that would have applied if the credit card transaction had not occurred. A person making payment by credit card is not liable for any discount or fee paid to a credit card issuer or other party by a local governmental entity.

Section 35 (Liability of Local Governmental Employees) of the Act.

A local governmental employee who accepts payment by credit card in accordance with this Act and any applicable rules shall not incur personal liability for the final collection of the payment.

Section 95 (Amendatory provisions; text omitted) of the Act.

Sec. 95. (Amendatory provisions; text omitted).

Section 99 (Effective Date) of the Act.

This Act takes effect upon becoming law (August 22, 1997).

