

ORDINANCE NO. 007-13

**AN ORDINANCE AMENDING THE CITY OF NAPOLEON'S
ORDINANCE NO. 010-07 AND AUTHORIZING THE FINANCE
DIRECTOR AND OTHER CITY OFFICES TO ACCEPT
PAYMENTS THROUGH USE OF A FINANCIAL TRANSACTION
DEVICE OR CONTRACTED SERVICE(S); AND DECLARING AN
EMERGENCY.**

WHEREAS, the City desires to exercise its home rule authority and permit the use of Financial Transaction Devices or contracted services to those individuals and entities making payment of City taxes, fines, fees and other types of monetary obligations; and,

WHEREAS, such devices or contracted services are permitted by Ohio Law for County Offices and State Offices subject to certain regulations; and,

WHEREAS, this Council desires to substantially follow the regulations established in State Law as it relates to County and State government;

WHEREAS, this Council desires to amend City Ordinance No. 010-07 to allow for the use of contracted services to those individuals and entities making payment of City taxes, fines, fees and other types of monetary obligations; Now Therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON,
OHIO:**

Section 1. That, the City Finance Director is authorized to accept payments related to taxes, fines, fees and/or other types of monetary obligations from individuals and/or entities by use of a financial transaction device ***OR CONTRACTED SERVICE(S)***.

Section 2. That, for the purpose of this Ordinance, the words of this Section 2 shall have the following meaning:

"Financial transaction device" includes a credit card, debit card, charge card, or prepaid or stored value card or automated clearinghouse network credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications.

"CONTRACTED SERVICE(S)" MEANS ANY SERVICE PROVIDED BY THIRD PARTY TO ACCEPT, TAKE, AND/OR PROCESS A CREDIT CARD, DEBIT CARD, CHARGE CARD, OR PREPAID OR STORED VALUE CARD OR AUTOMATED CLEARINGHOUSE NETWORK CREDIT, DEBIT, OR E-CHECK ENTRY THAT INCLUDES, BUT IS NOT LIMITED TO, ACCOUNTS RECEIVABLE AND INTERNET-INITIATED, POINT OF PURCHASE, AND TELEPHONE-INITIATED APPLICATIONS.

"City expenses" includes fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person or entity owes to a City office.

Section 3. That, the Finance Director may have paid all City expenses through the use of the financial transaction device ***OR CONTRACTED SERVICE***.

Section 4. That, the Finance Director shall determine which financial transaction device or **CONTRACTED SERVICE(S)** will be utilized, which may include all devices **OR SERVICE(S)** defined as such in Section 2 of this Ordinance.

Section 5. That, if a person elects to make a payment to the City by a financial transaction device **OR CONTRACTED SERVICE(S)** and a surcharge or convenience fee is imposed, the payment of the surcharge or fee **IS PAYABLE AND** shall be considered voluntary and the surcharge or fee is not refundable.

Section 6. That, a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device **OR CONTRACTED SERVICE(S)** shall be as follows:

~~\$3.00 per each Payment Transaction less than or equal to \$10,000.00; and,
\$15.00 per each Payment Transaction greater than \$10,000.00.~~

A FIXED RATE FEE OR PERCENT OF PAYMENT TRANSACTION NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00) PER DEVICE OR CONTRACTED SERVICE TRANSACTION, THE FIXED FEE OR PERCENT OF PAYMENT TRANSACTION SHALL BE AMENDABLE FROM TIME TO TIME BY THE APPROVAL OF THE CITY COUNCIL BY SIMPLE MOTION. THE ORIGINAL FIXED FEE AND PERCENT OF PAYMENT ARE INCLUDED AS EXHIBIT A, WHICH IS ATTACHED AND INCORPORATED HEREIN.

Section 7. That, the surcharge or convenience fee as found in Section 6 of this Ordinance shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device **OR CONTRACTED SERVICE(S)**.

Section 8. That, if a surcharge or convenience fee is imposed, every City office accepting payment by a financial transaction device **OR CONTRACTED SERVICE(S)**, regardless of whether that office is subject to a resolution or ordinance adopted by City Council, shall clearly post a notice in that office and shall notify each person making a payment by such a device **OR CONTRACTED SERVICE(S)** about the surcharge or fee. Notice to each person making a payment shall be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice shall include all of the following:

- (1) A statement that there is a surcharge or convenience fee for using a financial transaction device **OR CONTRACTED SERVICE(S)**;
- (2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever is applicable;
- (3) A clear statement that the surcharge or convenience fee is **PAYABLE AND** nonrefundable.

Section 9. That, uniform application of surcharges or convenience fee among different types of City expenses is not required; however, any changes shall not take effect until approved by Council.

Section 10. That, if a person makes payment by financial transaction device **OR CONTRACTED SERVICE(S)** and the payment is returned or dishonored for any reason, the person is liable to the City for payment of a penalty over and above the

amount of the expense due. A penalty fee for returned or dishonored transactions shall be as follows:

~~\$4.00 as a Returned Transaction Fee for each Return Transaction.~~

AS STATED IN EXHIBIT A, WHICH MAYBE AMENDED FROM TIME TO TIME BY CITY COUNCIL BY SIMPLE MOTION.

The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

Section 11. That, no person making any payment by financial transaction device ***OR CONTRACTED SERVICE(S)*** to the City or its departments shall be relieved from liability for the underlying obligation except to the extent that the City realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device ***OR CONTRACTED SERVICE(S)*** issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the City shall retain all remedies for enforcement that would have applied if the transaction had not occurred.


Section 12. That, to the extent permitted by law, a City elected or appointed official or employee who accepts a financial transaction device ***OR CONTRACTED SERVICE(S)*** payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments.

Section 13. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 14. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.


Section 15. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time to assure the prompt and efficient conduct of the municipal operations related to public peace, health or safety of the City; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and effect at the earliest time permitted by law.

Passed: _____

 March 4, 2013


John A. Helberg, Council President

Approved: March 4, 2013



Ronald A. Behm, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:



Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 007-13 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Gregory J. Heath, Clerk/Finance Director