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Credit Card Surcharges for Municipalities.

In the course of providing services and resources to its community, a municipal government might consider accepting credit card payments from its citizens. Just like any business, a city, county, township, or village must enter into a merchant agreement with each credit card brand it intends to accept before it can begin dealing in plastic.

It is easy to assume that all of the major credit card companies offer generally the same things, but each contract is likely to have nuanced differences that may be important to you as the municipal merchant. We recommend that you reach out to an experienced municipal or financial services attorney before entering any credit card agreement.

However, understanding a few general guidelines may help your community know what to expect. To accept credit cards, most merchants will need to enter into an agreement with both a credit card company and a bank known as an “acquirer” which administers the transactions in exchange for a fee. Not every merchant will use the same acquirer which means that not every merchant agreement will be consistent in its administration costs. A significant aspect of most merchant agreements is the way surcharges are assessed and passed on to the consumer.

There are three things to know:

1. It is important to understand that surcharges apply only to credit card transactions and cannot be assessed for debit card or prepaid money card purchases.
2. Most credit card companies differentiate between a “brand-level surcharge,” where all credit cards from a particular company (e.g. Visa, Mastercard, etc.) are charged at the same rate and a “product-level surcharge,” where the charge is determined by the particular credit product offered by a brand. Merchants may typically impose a surcharge in either way, but must make a choice.
3. Merchant agreements will have a “maximum surcharge cap,” meaning a maximum amount that a merchant can pass along to a customer for a transaction. In most instances, the cap is around 4%, but charges may not exceed the actual merchant costs, which are the fees payable from the merchant to the credit card company and acquirer bank. This could effectively provide a cap below 4%.

Some cards may even have built-in restrictions for handling surcharges with competitive brands, demanding consistency across all cards you accept. That may be an important aspect of deciding which credit cards you want to accept and which you’d prefer to decline. Additionally, each card has specific rules for how information about the cards you accept must be displayed. Often these rules relate to the font, language, and location of specific disclosures that must appear at both at the point-of-entry for your merchant and at the point-of-transaction.

Credit card processing services like Square or Clover may simplify and streamline your processes and remove some of the work from accepting credit. However, municipalities should always consult with counsel before entering any agreement with lasting implications.

Foster Swift Collins & Smith PC - Alexander J. Thibodeau

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