

## **City of Santa Clara, California Payment Acceptance & Processing Fees Policy**

**Purpose.** The purpose of this Payment Acceptance & Processing Fees Policy (the “Policy”) is to establish requirements for the acceptance and processing of credit/debit card and eCheck payments. The Policy’s purpose is also to comply with Payment Card Industry Data Security Standards (PCI DSS) and National Automated Clearing House Association (NACHA) rules.

**Scope.** This Policy applies to all City of Santa Clara (the “City”) departments that accept credit or debit cards and eChecks (“Payment Cards & eChecks”) for payment of goods and services. All City employees that process Payment Cards & eChecks transactions or provide support for the cardholder data environment (process, review, reconcile, approve, system support, etc.) are subject to the terms of this Policy.

Cash, paper checks and direct electronic payments to City’s bank accounts are not in scope.

**Authority.** California Government Code Section 6159(b)(5) authorizes the acceptance of a credit card, debit card, or electronic funds transfer for the payment for services rendered by a city, county, city and county, or other public agency.

- In 1985, California passed a law (Civil Code section 1748.1) that prohibited merchants from adding a surcharge on transactions paid by credit card. That law allowed merchants to give customers discounts for paying by cash, check, or debit card, as long as the discount was offered to all customers. The law was challenged and in January 2018 a federal court held that the law could not be enforced as to the businesses which brought that case. (*Italian Colors v. Becerra* (9th Cir. 2018) 878 F.3d 1165.) The California Attorney General has stated that it will generally apply the Italian Colors decision to merchants that are similarly situated to the Italian Colors plaintiffs.
- Prior to 2013, credit card surcharges were prohibited by payment brands. A 2013 class action lawsuit against VISA and Mastercard resulted in a settlement that allows businesses to pass fees on to customers in the form of a credit card surcharge. The lawsuit has been upheld, and it is legal for merchants to assess a surcharge for credit card fees, subject to state law requirements.
- California Code Section 6159(g) provides that cities may impose a fee for the use of a credit card, debit card, or electronic funds transfer so long as the fee does not exceed the city’s cost to accept such payment method and the fee is approved by the city’s governing body.
- The Finance Department shall work with City departments to ensure payment brand rules are followed, including, but not limited to, notifying the payment brands (e.g., VISA, Mastercard, Discover, AMEX, etc.) of the City’s intent to implement transactions fees and disclosing transaction fees to customers.

**Authorization.** City departments shall contact the Finance Department and complete a New Payment Cards Merchant Request Form for approval to establish a merchant

account and accept Payment Cards & eChecks as forms of payment for goods and services. The Finance Department shall review requests from City departments to determine if accepting Payment Cards & eChecks are prudent considering the department's needs and circumstances. The Finance Department shall provide guidance to City departments considering accepting Payment Cards & eChecks and may offer alternative payment options to departments for whom a merchant account is not suitable. While accepting Payment Cards & eChecks is a convenience for customers, it also entails legal and financial risk for the City and requires substantial compliance activities. Departments should consider the risks and responsibilities associated with accepting Payment Cards & eChecks, as well as Payment Cards & eChecks alternatives, before requesting a merchant account.

**Card Association Rules and Regulations.** Visa, MasterCard, Discover, and American Express are the only credit/debit cards that may be accepted by the City. Departments are expected to comply with the rules and regulations set forth by each of the card associations in the processing of credit/debit card payments. Each card association's rules and regulations can be found on their company website. Card associations may impose fines or revoke the privilege of accepting credit cards for not complying with their rules and regulations.

**Acceptance and Processing.** Payment Cards & eChecks shall be accepted for the sole purpose of processing payment transactions for goods and services provided by the City to the payee. All returns and credits shall be applied only to the Payment Cards used during the original transaction. Cash advances or cash withdrawals are prohibited and shall not be processed.

**Payment Cards & eChecks Fees and Limits.** The City may assess processing fees (the "Processing Fees") and impose certain limitations on Payment Cards & eChecks transactions.

Processing Fees and transaction limits shall apply, unless such fees or limits conflict with other City-approved rate or fee schedules, negotiated contracts (e.g., Silicon Valley Power Rate Schedule CB-6), or otherwise prohibited by law. The actual fee charged and the methodology used in calculating the fee shall be determined by the Director of Finance and shall be in accordance with contracts the City has established with its payment processing vendors, if applicable. City contracted third-party payment processing portals may impose separate fees and limits.

Processing fees and transaction limits shall apply to all payments made to the City and municipal fees covered in the Adopted Municipal Fee Schedule, unless otherwise noted; and a summary of major service areas covered by this Policy is as follows:

Apply Processing Fee?	Transaction Type	City Service	Example
<b>YES</b>	<b>Utilities</b>	Electric, Water, Sewer, Solar, Storm Drain, Fiber Optic, Recycling or Refuse	- Residential, Commercial and Industrial Utility Bills
	<b>Permit Center / Development Related</b>	Building Services, Fire Permits, Planning Services, Public Work Services	- Building Permits - Plan Review Fees - Fire Annual Renewable Permits
	<b>Taxes</b>	Business License, Transient Occupancy Tax	- Annual Business Tax - Monthly/Quarterly Transient Occupancy Tax
	<b>General City Payments</b>		
		Library	- Book Sales - Garbage Tags
		Triton Museum Special Permits	- Outdoor Events
		Miscellaneous Payments	- Property Damage
		Parks & Recreation <sup>1</sup>	- Classes & Activities - Theater - Facility Rentals - Athletic Field Rentals - Cemetery
	Police	- Parking Permits <sup>1</sup> - Alarm Permits <sup>1</sup> - Records - Fines & Citations	
<b>NO</b>	<b>Donations</b>	Various Services	- Help Your Neighbor
	<b>Parks &amp; Recreation Payments</b>	Seasonal Events Special Events	- Art & Wine Festival - Movies & Swim

<sup>1</sup> Credit card fees are assessed by third-party vendors utilized to manage classes, rentals, and ticket sales.

Transaction Amount Limits	Commercial	Resident
Minimum	\$5	\$5
Maximum <sup>#</sup>	\$100,000	\$7,500

<sup>#</sup>Maximum transaction limit does not apply to **Cemetery** and **Industrial** customers.

This Policy may be implemented for certain departments or transactions and not Citywide at the discretion of the Director of Finance.

**Payment Card Industry Data Security Standards.** PCI DSS is the global data security standard adopted by the payment card brands for all entities that process, store, or transmit cardholder data. Noncompliance may result in loss of the City's ability to accept credit cards. To ensure compliance with PCI DSS requirements an annual PCI Self-Assessment Questionnaire shall be completed annually by the Finance and IT Departments. PCI DDS requirements are located at <https://www.pcisecuritystandards.org/>.

**Payment Card Information Security.** All City departments and personnel are subject to and shall comply with the City's Payment Card Compliance and Processing Policy, including annual training requirements, as well as PCI DSS and payment brand rules, as applicable. Applicable personnel include, but is not limited to, staff that process, handle, transmit, or have access to Payment Cards or payment card information, and related information. Technology implementation shall follow industry guidance, procedures, and rule compliance established by PCI DSS for credit card payments and the National Automated Clearing House Association (NACHA) for electronic payments. Protecting cardholder data is essential and every effort shall be made to protect such information.

**Associated Costs.** Departments are responsible for all costs associated with the acceptance of Payment Cards & eChecks including costs associated with installation, supplies, and equipment, as well as processing fees. Departments are also responsible for any credit/debit card or eCheck transactions that are disputed and charged back to the City.

**Accounting Controls.** Cash receipts batches must be closed and reconciled daily. A detailed reconciliation process shall be performed by the Finance Department's Municipal Services Division. Batches shall be posted into the financial system daily. All batch copies shall be retained for audit purposes.

**Contracts.** The Finance Department shall establish and administer contracts with vendors for the acceptance and processing of Payment Cards and electronic transfers, including, but not limited to internet payment gateway services and third-party electronic payment processors.