

CITY OF ALBUQUERQUE

NINETEENTH COUNCIL

COUNCIL BILL NO. O-10-17 ENACTMENT NO. _____

SPONSORED BY: Ken Sanchez

1 **ORDINANCE**

2 **REQUIRING THE DISCLOSURE OF A SURCHARGE IMPOSED FOR THE USE OF A**
3 **CREDIT CARD.**

4 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
5 **ALBUQUERQUE:**

6 **SECTION 1. The “Disclosure of Credit Card Surcharge Ordinance” is**
7 **hereby adopted to read as follows:**

8 **Section 1. Purpose and Findings. Certain businesses within the City of**
9 **Albuquerque are charging a higher price for goods and services purchased with**
10 **credit cards than the price charged for the same goods and services if paid for by**
11 **other means, normally cash.**

12 **The Council finds that such a practice is entirely proper, due to the**
13 **additional cost to vendors of goods and services who provide for payments with**
14 **credit cards. The Council further finds that it is improper to impose an additional**
15 **cost on the use of a credit card, a surcharge, unless there has been disclosure of**
16 **that charge prior to the use of the credit charge.**

17 **Section 2. Definitions. The following definitions shall apply to this ordinance**
18 **unless a different definition is clearly intended:**

19 **“Adequate Notice” means a printed notice clearly and conspicuously located so**
20 **that a person upon whom a surcharge is to be imposed will have noticed it and**
21 **understood its meaning. It also means oral notice provided directly to the person**
22 **against whom a surcharge is to be imposed in a manner such that the person will**
23 **have understood its meaning.**

24 **“Credit Card” means any card, plate, coupon book or other credit device existing**
25 **for the purpose of obtaining goods or services on credit.**

26 **“Person” means a natural person or an organization.**

1 **“Merchant”** a person engaged in the sale of goods and/or services.

2 **“Surcharge”** means any means of increasing the regular price of goods or
3 services to a person paying for goods or services with a credit card which is not
4 imposed upon customers paying by cash, check, or similar means.

5 **Section 3. Required Disclosure by a Merchant of a Surcharge for Use of a Credit**
6 **Card.** A merchant may impose a surcharge for use of a credit card, unless
7 otherwise prohibited by the card issuer or by law. This surcharge is a finance
8 charge and must be disclosed in advance. The merchant must provide adequate
9 notice of this surcharge orally or in writing before the person using the credit
10 card becomes obligated to pay for the goods or services.

11 **Section 4. Penalty.** A violation of this Ordinance shall subject the violator to the
12 general penalty provisions of Section 1-1-99 ROA 1994. This penalty shall be in
13 addition to any other remedies that may be available.

14 **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,
15 clause, word or phrase of this ordinance is for any reason held to be invalid or
16 unenforceable by any court of competent jurisdiction, such decision shall not
17 affect the validity of the remaining provisions of this ordinance. The Council
18 hereby declares that it would have passed this ordinance and each section,
19 paragraph, sentence, clause, word or phrase thereof irrespective of any provision
20 being declared unconstitutional or otherwise invalid.

21 **SECTION 3. COMPILATION.** This ordinance shall be incorporated in and
22 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

23 **SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect five days
24 after publication by title and general summary.