

ORDINANCE NO. 14-87

By: William N. Bell

To authorize the Mayor and Auditor to enter into a contract with BancOhio National Bank for credit card services to the Bexley Mayor's Court and to declare an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the Mayor and Auditor of the City of Bexley are hereby authorized to enter into a contract with BancOhio National Bank for Mastercard and Visa credit card services to the Bexley Mayor's Court.

Section 2. That this Ordinance is an emergency measure, necessary for the preservation of the public peace, health and safety, said emergency being that the City's credit card services agreement has expired and that the efficient operation of the Bexley Mayor's Court requires the availability of credit card services, and shall go into immediate force and effect on its passage and approval by the Mayor.

Passed: February 16, 1987

Attest: John I. Skibyn

W. F. Fackman  
President of Council

Approved: Feb 16, 1987

David H. Madison  
David H. Madison, Mayor

*Feb. 10, 1987- 1<sup>st</sup> reading*

*Feb. 16, 1987- 2<sup>nd</sup> reading  
Susp & Adopt.*

800786 (07/81)

**CARD MERCHANT AGREEMENT**

11120712

Bexley Mayors Court  
(Merchant's Name)  
 (hereinafter called "Merchant") 2242 E. Main Street  
(Address)  
Bexley, Ohio 43204  
(City, State, Zip) and **BANCOHIO NATIONAL BANK**

hereinafter called "Bank") hereby agree as follows:

1. **HONORING BANK CARDS.** Merchant will honor any properly issued MasterCard, Visa or other qualified card under Interbank Card Association/MasterCard International, Visa U.S.A. or other applicable rules and regulations, hereinafter "Cards," for sales of merchandise or services and will offer to Bank sales slips evidencing credit card sales for purchase by Bank, and Bank will permit Merchant to honor the Cards and will purchase the sales slips so offered in accordance with and subject to the terms and conditions of this Agreement.

2. **GENERAL PROCEDURES.** Merchant shall not, unless expressly authorized, complete a transaction involving the use of a Card if the account number is listed on any current "hot card list" or other warning notice periodically issued to merchants, or if the Card has expired, if the total amount of any sales transaction is in excess of the then current maximum amount for a Card sale without specific authorization ("floor limit"). Merchant shall telephone Bank's authorization center and obtain Bank's specific authorization code. Merchant will not use two or more sales slips to split individual departmental purchases or other purchases which would otherwise be in excess of floor limit. In a delayed delivery sale, when one sales slip represents a deposit and the second sales slip represents payment of the balance, the latter sales slip being conditioned upon delivery of merchandise or performance of services, authorization is required if the total amount of the two exceeds the floor limit. Merchant will adequately display the Card decals on either the front door, or in the front window or both, except that the following Merchants shall not be so required: physicians, dentists, attorneys at law and private clubs or other organizations which do not deal with the public at large. Merchant shall observe and comply with all applicable rules and regulations governing the Cards and with such procedures as the Bank may prescribe.

3. **NORMAL CREDIT CARD SALES.** In each card transaction, Merchant must use the Bank approved sales slips and imprinter, imprint the embossed legend from the Card and the merchant plate provided on the sales slip, and enter the date the transaction was consummated. The date which appears on the sales slip will be prima facie evidence of the transaction date and Merchant shall be required to present all sales slips on Card sales to the Bank for purchase no later than the third banking day after such date.

Every sales slip shall contain a description of the merchandise or the services involved in the transaction satisfactory to the Cardholder and to the Merchant. All such sales slips shall be signed or initialed by the sales person of the Merchant involved in the transaction. However, oil company sales shall contain the automobile license number, or if no vehicle is present, the words "no car," in addition to the sales person's signature or initials. Merchant shall obtain the signature of the Cardholder and compare with the signature appearing on the Card and shall call the Bank's authorization center if the signatures do not reasonably appear to be the same. From time to time, Merchant may be required by Bank's authorization center to obtain identification from the Cardholder at the time of sale, and may be required to record this information on the "Bank Copy" of the sales slip. The "Customer Copy" of each sales slip shall be delivered to the Cardholder at the time of the transaction. Merchant is responsible for complying with all applicable laws and regulations regarding its business and credit sales, and shall indemnify Bank for any liability it incurs as a result of Merchant's failure to so comply. Merchant warrants that all sales slips tendered to Bank for purchase represent obligations of a Cardholder only in the respective amount set forth therein for merchandise sold or services rendered and applicable taxes, if any, and shall not involve any element of credit for any other purpose. All sales slips will evidence the total price of the sale minus any cash down payment. Merchant shall retain the "Merchant Copy" of all sales slips for each transaction for a period of 180 days from the date of presentation to Bank.

4. **AUTHORIZATION CALLS.** Merchant shall call Bank's authorization center for all sales in excess of \$ 15.00 where a MasterCard Card is presented and for all sales in excess of \$ 50.00 where a Visa Card is presented, which amounts shall constitute Merchant's floor limits. Merchant will record the assigned authorization number in the appropriate space provided on the sales slip. Authorization call hours and procedures will be set by Bank. Merchant shall also call Bank's authorization center in any suspicious circumstance where a Card is presented.

5. **SALES WITHOUT CARD PRESENTATION.** If a purported Cardholder intends a transaction to be charged to a Card account without presentation of a Card, Merchant will print legibly the Cardholder's name, card number and information identifying him (e.g. driver's license number) on the sales slip. Two identification evidences are necessary and Merchant warrants the identity of the Cardholder in all such cases. For telephone orders (TO), mail order (MO), and written pre-authorized orders (PO), Merchant will sign his own name in the place for the signature and write thereafter the appropriate symbol. On Card transactions without presentation of a Card, Merchant shall call for authorization regardless of the transaction amount, except that with respect to mail or telephone orders, authorization calls shall be required only when the transaction amount exceeds the applicable floor limits.

6. **REPRESENTATIONS AND WARRANTIES.** Merchant will indemnify and hold Bank harmless from any and all claims resulting from the sales or the honoring of a Card.

Merchant warrants and represents that as of the date any sales slip is tendered to Bank, Merchant has no knowledge or notice that would impair the validity of the sales slip or its collectibility. Merchant will not extract any special agreement, condition or security from a Cardholder in connection with any sales slip effected, except for sales for non-returnable goods, which must be recorded on the sales slip by Merchant. Merchant will establish a fair policy for the exchange and return of merchandise, and will give a proper credit or refund for all such returns by issuing an applicable Merchant credit slip. Merchant shall further investigate and use its best efforts to resolve any Cardholder claim, dispute, or defense which may be asserted under any law, including the federal Fair Credit Billing Act.

7. **IMPRINTER RENTAL.** Bank will provide sales slip imprinters at a rental of \$ 11.00 per 11.00. Merchant shall return the imprinters to Bank upon termination of this Agreement. In the event any imprinter/s is lost, damaged or destroyed, Merchant shall be responsible to Bank for the value of such imprinter/s.

8. **PRESENTATION OF SALES AND CREDIT SLIPS.** Bank shall pay to Merchant, upon proper delivery thereof, the total face amount of each sales slip minus credits and refunds and minus the merchant discount rate set out below. The net purchase amount shall either be credited to a deposit account maintained by Merchant with Bank or, subject to prior agreement, Bank will mail a check to Merchant for such amount. All sales slips, credit slips and deposit slips are subject to review and acceptance by Bank. Delivery by the Merchant and purchase by the Bank of a sales slip in accordance with this Agreement shall constitute the assignment to Bank, with recourse on the conditions herein contained, of all of the Merchant's right, title and interest therein and the claim of the Merchant against the Cardholder in connection therewith. Merchant shall take all actions deemed necessary by the Bank to perfect such assignment. Merchant warrants that such assignment does not contravene the rights of any other party and that such assignment shall be free and clear of any adverse liens, claims or security interests.

9. **COLLECTIONS.** Bank has sole right to receive payments on sales slips purchased by Bank and Merchant shall not accept any such payments unless charged back to Merchant as herein provided. Merchant hereby waives notice of default for non-payment, protest or notice of protest, and any other demand or notice in connection with any sales slip or this Agreement and consents to all extensions or compromises given any Cardholder and agrees that such shall not affect any liability of Merchant hereunder or right of Bank to charge back any sales slip.

10. **RECOURSE.** The Bank shall have the right, at anytime (except as limited herein) and without notice, to charge-back to Merchant and Merchant agrees to repurchase any Card sales slip purchased by Bank, and shall indemnify and save harmless the Bank against all liabilities, losses, claims, and demands arising out of transactions involving a Card sale, whenever: (a) a Cardholder claim, defense or dispute is asserted against Bank pursuant to and within the time limits under applicable law, including the federal Fair Credit Billing Act or Federal Reserve Board Regulation Z, as amended, regardless of whether such claims, dispute or defense has merit and without any requirement to conduct an investigation into the merits; or (b) within one year from the date a sales slip has been purchased it comes to the Bank's attention that (i) there is a breach of any warranty or representation of the Merchant herein; (ii) there is a failure by the Merchant to comply with any term or condition of this Agreement; or (iii) a sale has been consummated with a Card listed in any hot card list delivered to the Merchant prior to such sale date. The Bank may either debit Merchant's account or bill Merchant for any amount to be charged back to or repurchased by Merchant.

11. **MERCHANT INSOLVENCY.** If (a) any petition under provisions of the Bankruptcy Code is filed by or against Merchant; (b) Merchant makes an assignment for the benefit of creditors; (c) a receiver, custodian or trustee is appointed for it or any of its property; or (d) Merchant initiates a bulk sale or otherwise dissolves or ceases to do business, then upon demand by the Bank the Merchant shall repurchase all unpaid and outstanding sales slips or transactions previously purchased by Bank at a price equal to the aggregate amount of all unpaid balances thereon.

12. **TERMINATION.** This Agreement may be terminated by either party upon receipt of written notice and without cause. Termination of this Agreement shall not affect any obligations hereunder which are outstanding as of the time of termination.

13. **AMENDMENTS.** Bank reserves the right to amend any provision of this Agreement by mailing a written notice of an amendment, and may request the Merchant to acknowledge such amendment. Bank may also at any time advise Merchant in writing of amendments to this Agreement or changes in procedures which Bank proposes to put into effect and the effective date thereof, and if Merchant honors Cards and delivers sales and/or credit slips generated thereby to Bank after such effective date thereof, (which date shall not be less than 15 days from the date of such notice) Merchant shall be deemed to have agreed to such amendments or procedures and shall be bound thereby.

14. **MISCELLANEOUS.** This Agreement shall not be assigned by the Merchant without the express prior written consent of the Bank and in the event of any such assignment all terms and conditions of this Agreement shall be binding on an assignee. No waiver of any right, term or condition herein shall be effective unless in writing. This Agreement shall be governed by the laws of the State of Ohio. This Agreement is effective when signed by Merchant and Bank and binds their respective heirs, administrators, successors and assigns. The Bank is authorized to verify at any time Merchant's credit history which such information shall at all times remain property of the Bank.

Discount Rate: Grid  
 Date: 12-18-86

ACCEPTED:  
BancOhio National Bank  
Bank  
 By: \_\_\_\_\_  
Authorized Signature  
 Title \_\_\_\_\_

By: X D.M. Madison  
Merchant  
X \_\_\_\_\_  
Authorized Signature  
X John L. Howard  
Authorized Signature