

GREENWOOD COMMON COUNCIL

ORDINANCE NO. 19-25

AN ORDINANCE AMENDING GREENWOOD MUNICIPAL CODE (1993), CHAPTER 2, ARTICLE 10, TO ESTABLISH A GENERAL NON-SUFFICIENT FUNDS FEE

WHEREAS, Ind. Code § 26-1-3.1-502.5 permits the imposition of a non-sufficient fund fee of Twenty and No/100 Dollars (\$20.00) plus an amount equal to the actual charge by the depository institution for negotiable instruments returned for insufficient funds;

WHEREAS, the City of Greenwood ("City") is charged by financial institutions and incurs administrative costs each time a person submits a negotiable instrument supported by insufficient funds;

WHEREAS, the City has established a non-sufficient funds fee for the sanitary sewer utility and stormwater management utility, and the Controller recommends imposition of a general non-sufficient fund fee for all other payments received by the City to improve collection and standardize the City's fiscal policy regarding collection fee provisions;

WHEREAS, the Controller recommends a non-sufficient fund fee of at least Twenty and No/100 Dollars (\$20.00) in order to adequately cover the City's costs associated with negotiable instruments supported by insufficient funds;

WHEREAS, Ind. Code § 34-24-3-1 provides victims of check deception the ability to file a civil action for recovery for the amount due, the costs of the action, reasonable attorneys' fees and treble damages;

WHEREAS, Ind. Code § 36-1-8-13 requires political units that are unable to obtain payment for a dishonored check to refer the matter to the prosecuting attorney not later than ninety (90) days after the check was initially received;

WHEREAS, it is necessary to add a provision to the Municipal Code to establish a general non-sufficient funds fee;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GREENWOOD, INDIANA, THAT:

Section 1. Greenwood Municipal Code (1993), Chapter 2, Article 10, is hereby amended to add a new section, Section 2-126, "NSF Fees and Collection", to read as follows:

"Section 2-126 NSF Fees and Collection.

(a) NSF Fees. Payments made to the City of Greenwood ("City") by check or other negotiable instrument that are returned for non-sufficient funds may be subject to a non-sufficient funds (NSF) fee of \$20.00 plus an amount equal to the actual charge by the depository institution for negotiable instruments returned for insufficient funds. When an NSF fee is imposed under this section, the City shall notify the maker or drawer, or the person for whose benefit the instrument was given, to inform him/her that the instrument was dishonored or returned unpaid and that the person has ten (10) days after the date the notice is mailed to pay the total amount due, including the NSF fee, in cash, certified check, or other guaranteed payment.

(b) Collection. If the person fails to make payment within the ten (10) day period, the City may file a civil action for the amount due, including the NSF fee, court costs, reasonable attorneys' fees, and treble damages. If payment is not received with respect to dishonored checks within ninety (90) days after the check is initially received, the matter will be referred to the Johnson County Prosecutor in accordance with Ind. Code § 36-1-8-13.

Section 2. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and publication according to law.

Section 3. The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a Court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 4. All prior ordinances or parts thereof inconsistent with any provision of this ordinance are hereby repealed. This Ordinance shall have no effect upon any other sections of the Greenwood Municipal Code (1993) or ordinances not specifically changed by this Ordinance, except as herein provided, and all other sections of the Greenwood Municipal Code (1993) not inconsistent herewith shall remain the same.

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Passed by the Common Council of the City of Greenwood, Indiana, this 4th day of Sept., 2019.

Michael Campbell
Michael Campbell, President
Greenwood Common Council

FOR:

AGAINST:

Linda S. Gibson

Linda S. Gibson _____

Ezra J. Hill

Ezra J. Hill _____

Bruce Armstrong

Bruce Armstrong _____

Ronald Bates

Ronald Bates _____

J. David Hopper

J. David Hopper _____

David Lekse

David Lekse _____

Michael Campbell

Michael Campbell _____

Robert Dine

Robert Dine _____

Andrew K. Foster

Andrew K. Foster _____

ATTEST:

Jeannine Myers
Jeannine Myers, Clerk

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 4th day of Sept., 2019, is presented by me this 5th day of Sept., 2019, at 8:00 O'Clock A.M., to the Mayor of the City of Greenwood, Indiana.

Jeannine Myers
Jeannine Myers, Clerk

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 4th day of September, 2019, is signed and approved by me this 5th day of September, 2019, at 2:00 O'Clock P.M.

Mark W. Myers
MARK W. MYERS, Mayor of
the City of Greenwood, Indiana