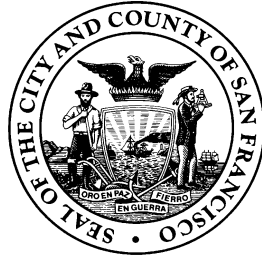


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: February 20, 2019

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 190164

Ordinance amending the Police Code to require, in general, that brick-and-mortar businesses accept payment in cash.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

1 [Police Code - Acceptance of Cash by Brick-and-Mortar Businesses]

2
3 **Ordinance amending the Police Code to require, in general, that brick-and-mortar**
4 **businesses accept payment in cash.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Police Code is hereby amended by adding Article 55, consisting of
14 Sections 5500–5504, to read as follows:

15 **ARTICLE 55: LEGAL RIGHTS FOR LEGAL TENDER**

16
17 **SEC. 5500. FINDINGS AND PURPOSE.**

18 *San Francisco strives to be a welcoming, inclusive place for all City residents. Consistent with*
19 *this ethos of inclusivity, the City strives to empower all of its residents to participate in San Francisco's*
20 *economic life. A key aspect of participation in economic life in the City, as anywhere, is the ability to*
21 *purchase goods and services.*

22 *For many City residents (for example, those who are denied access to credit, or who are unable*
23 *to obtain bank accounts), the ability to purchase goods and services depends on the ability to pay for*
24 *those goods and services in cash. This is especially true of the very poor.*

1 Millions of Americans do not hold bank accounts, or otherwise fall outside the non-cash
2 financial system. Some stand apart by choice, because they are concerned about privacy and do not
3 want their every financial transaction recorded by banks and credit card companies; physical cash
4 remains the most accessible anonymous medium of exchange in this country. Others may not be well
5 situated to participate in the formal banking system, or may be excluded from that system against their
6 will. In short, denying the ability to use cash as a payment method means excluding too many people.

7 According to the Federal Deposit Insurance Corporation (FDIC), in 2017, 17% of all African-
8 American households and 14% of all Latino households in the U.S. had no bank account. These
9 numbers may be much higher in San Francisco, where, according to a 2005 study commissioned by the
10 City, as many as 50% of African-American and Latino households were estimated to be unbanked. In
11 this reality, not accepting cash payment is tantamount to systematically excluding segments of the
12 population that are largely low-income people of color. Cashless business models may also have
13 significant detrimental impacts on young people who do not meet age requirements for credit cards, for
14 the elderly (many of whom have not transitioned to credit and digital payment modes at the same rate
15 as younger generations), and for other vulnerable groups (such as homeless and immigrant
16 populations).

17 The City must remain vigilant in ensuring its economy is inclusionary and accessible to
18 everyone. The purpose of this Article 55 is to ensure that all City residents—including those who lack
19 access to other forms of payment—are able to participate in the City's economic life by paying cash for
20 goods and services.

21
22 **SEC. 5501. DEFINITIONS.**

23 For purposes of this Article 55, the following definitions apply:

24 “Brick-and-Mortar Business” means any place of business operating at a fixed, permanent
25 physical premises. “Brick-and-Mortar Business” does not include any business not operating at a

1 physical premises (such as a business operating via the Internet), or any business operating from a
2 vehicle or other mobile space (such as a food truck), or any business operating from a temporary
3 physical premises (such as a pop-up).

4 “Cash” means United States currency, in the form of both paper Federal Reserve Notes and
5 metal coins. “Cash” does not include currency issued under the authority of any country other than
6 the United States; any paper instrument other than a Federal Reserve Note (including, but not limited
7 to, any check, bond, or promissory note); or any metal coin (including, but not limited to, any gold or
8 silver coin) that is not legal tender in the United States.

9 “City” means the City and County of San Francisco.

10
11 **SEC. 5502. BRICK-AND-MORTAR BUSINESSES REQUIRED TO ACCEPT CASH.**

12 Except as set forth in Section 5503, every Brick-and-Mortar Business within the City must
13 accept payment in Cash, if offered, for any transaction for which the business would accept one or
14 more other forms of payment (including, but not limited to, check, credit card, debit card, or any form
15 of electronic payment) if the customer seeking to engage in that transaction and a representative of the
16 business who is responsible for accepting or processing payment for that transaction are both
17 physically present at the point of sale.

18
19 **SEC. 5503. EXCEPTIONS.**

20 **(a) Suspected Counterfeit Currency.** A Brick-and-Mortar Business may refuse to accept
21 Cash or putative Cash that the business reasonably suspects to be counterfeit.

22 **(b) Large Denominations.** A Brick-and-Mortar Business may refuse to accept Cash in any
23 denomination larger than a twenty-dollar bill, but shall otherwise accept any combination of paper
24 Federal Reserve Notes and metal coins in connection with any transaction covered by Section 5502.

1 **SEC. 5504. ENFORCEMENT.**

2 **(a) Division of Weights and Measures.** *The Sealer of the Weights and Measures Division,*
3 *and the Sealer's employees, agents, or other designees, shall have the authority to enforce this Article*
4 *55 as set forth in this Section 5504.*

5 **(b) No Worker Liability.** *The obligation to ensure that a Brick-and-Mortar Business*
6 *complies with this Article 55 shall fall only on the business, or (in any case in which the owner or*
7 *owners of the business are responsible for a policy or practice causing a violation of this Article) on*
8 *the owner or owners of the business. No employee or independent contractor working at a Brick-and-*
9 *Mortar Business shall be held liable for any violation of this Article.*

10 **(c) Violations Defined.** *Each transaction or attempted transaction in which a Brick-and-*
11 *Mortar Business fails to accept Cash as required by Section 5502 shall constitute a separate violation*
12 *of this Article 55.*

13 **(d) Penalties.** *Any violation of this Article shall be an infraction or misdemeanor*
14 *punishable as hereinafter specified:*

15 **(1)** *For a first violation of this Article, an infraction punishable by a fine not*
16 *exceeding \$100 and not less than \$50;*

17 **(2)** *For a second violation of this Article within a 12-month period, an infraction*
18 *punishable by a fine not exceeding \$200 and not less than \$100; and*

19 **(3)** *For a third violation of this Article within a 12-month period, and any additional*
20 *violation within a 12-month period, a misdemeanor punishable by a fine not exceeding \$1,000 and not*
21 *less than \$500.*

22 **(e) Enforcement Costs.** *In addition to the penalties set forth in subsection (c), the court*
23 *may order that a violator of this Article 55 reimburse the City for all its costs incurred in investigating*
24 *and prosecuting the enforcement action against that violator.*

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.
5

6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: Matthew Lee
9 MATTHEW LEE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - Acceptance of Cash by Brick-and-Mortar Businesses]

Ordinance amending the Police Code to require, in general, that brick-and-mortar businesses accept payment in cash.

Existing Law

Nothing in existing state or local law requires businesses to accept payment in cash.

Amendments to Current Law

This ordinance would generally require so-called “brick-and-mortar” businesses in the City to accept payment in cash. In particular, such businesses would be required to accept cash for any transaction for which the business would accept any other form of payment, if both the customer and a representative of the business are physically present at the point of sale. The ordinance would not apply unless both parties were physically present.

The ordinance defines “brick-and-mortar” businesses to mean businesses operating at fixed, permanent physical premises. Businesses that do not fit this definition (for example, online-only businesses, businesses operating from mobile spaces like vehicles, or temporary businesses like pop-ups) would not be covered by the ordinance.

The ordinance defines “cash” to mean only valid U.S. currency—i.e., paper Federal Reserve Notes and metal coins that are legal tender in the United States. The ordinance would not require businesses to accept other currency.

The ordinance contains two other exceptions to its general requirement that brick-and-mortar businesses accept cash. First, the ordinance would allow a brick-and-mortar business to reject cash that the business reasonably suspects to be counterfeit. Second, the ordinance would allow a brick-and-mortar business to refuse to accept cash in any denomination larger than a twenty-dollar bill, but would require acceptance of any combination of paper currency and coins in smaller denominations.

The ordinance would be enforced by the Sealer of the Weights and Measures Division. Violation of the ordinance would be either an infraction or (for three or more offenses within twelve months) a misdemeanor, punishable by escalating fines. Only businesses or business owners could be held liable for violations of the ordinance; no liability would fall on employees.

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

2019 FEB 12 PM 1:57
 Time stamp or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Brown, Fewer, Walton, Peskin, Safai, Mandelman, and Ronen

Subject:

[Police Code - Acceptance of Cash by Brick-and-Mortar Businesses]

The text is listed:

Ordinance amending the Police Code to require, in general, that brick-and-mortar businesses accept payment in cash.

Signature of Sponsoring Supervisor:

For Clerk's Use Only