



City of Chicago



O2017-7145

Office of the City Clerk

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Meeting Date: 10/11/2017

Sponsor(s): Burke (14)
Burnett (27)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 4-4 by adding new Section 4-4-340 to prohibit licensees from refusing cash as payment for goods or services

Committee(s) Assignment: Committee on License and Consumer Protection

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, it is the duty of this City Council to ensure fair and equal access to the businesses and services that it licenses and regulates; and

WHEREAS, an emerging trend of “no cash” policies among vendors in the vital commerce sectors that are retail and restaurants threatens to marginalize significant numbers of Chicagoans; and

WHEREAS, in Chicago, retail food establishments including Argo Tea, SweetGreen, Epic Burger, and Goddess and the Baker have reportedly adopted such practices; and

WHEREAS, the nature of these businesses means that Chicagoans are unable to use cash to purchase a cup of coffee, a burger, or a salad; and

WHEREAS, advocates for this business practice tout saved time, money, and added safety resulting from not having to handle cash, which can allow them to lessen staff training, security measures, and bookkeeping processes; and

WHEREAS, notably, however, credit card companies levy a fee of between one and three percent on each credit card transaction, a business cost typically passed on to consumers via increased pricing; and

WHEREAS, in addition to higher prices, increased spending is another effect of credit card use, with studies confirming that individuals tend to spend more when using credit than cash and a specific study finding that the increase is between 12% and 18%; and

WHEREAS, when an estimated 60% of consumers are unable to pay off their credit card balances each month, the corresponding interest—at a typical annual rate of 16%—on the purchase can significantly compound its cost; and

WHEREAS, evidence suggests that this movement is more than an innovative approach intended to maximize the features of new technology to benefit business and consumers; and

WHEREAS, in a July 2017 press release, credit card giant Visa announced that it is “launching a major effort to encourage businesses to go cashless;” and

WHEREAS, part of that effort is the “Visa Cashless Challenge,” in which the company offered half a million dollars for 50 businesses to commit to its “cashless quest;” and

WHEREAS, this credit card company-led initiative underscores that the intended beneficiary of a cashless practice is not necessarily the customer; and

WHEREAS, a “no cash” sign is a “not welcome” sign for many without ready access to credit including those who are low or fixed income, homeless, undocumented, young, or victims of identity theft; and

WHEREAS, given that an individual must be at least 18 years of age to apply for a credit card, credit card only policies could be deemed *de facto* age discrimination; and

WHEREAS, nearly 38% of the United States population is considered “unbanked” or “underbanked,” meaning a still significant population segment without access to adequate banking or credit services; and

WHEREAS, regardless of income status, cash spending—particularly for relatively minor purchases—is a popular and long-advocated way to remain budget-conscious and financially responsible; and

WHEREAS, although the federal government has no provisions requiring particular forms of payment, the state of Massachusetts has a law dating to 1978 stating that “[n]o retail establishment offering goods and services for sale shall discriminate against a cash buyer by requiring the use of credit by a buyer in order to purchase such goods and services...retail establishments must accept legal tender when offered as payment by the buyer;” and

WHEREAS, the Massachusetts law echoes the phrase on each currency bill issued by the United States Treasury, “THIS NOTE IS LEGAL TENDER FOR ALL DEBTS, PUBLIC AND PRIVATE;” and

WHEREAS, requiring credit means asking customers to forego their privacy, as credit use makes their spending habits trackable and allows companies to gather, use, and sell that information for marketing purposes; and

WHEREAS, in addition to refusing cash, some establishments express a preference towards paying with a phone or smart device “application,” or, “app;” and

WHEREAS, with data hacks and personal information theft a near constant subject of news headlines, requiring use of applications that do not meet uniform or known security standards makes for an undue risk in exchange for a convenient meal; and

WHEREAS, although the businesses that have gone “cashless” tout a low percentage of cash users, *Crain’s Chicago Business* noted that across the country, “cash remains king,” with it representing 32% of all transactions in 2015; and

WHEREAS, a credit or “app” only policy is especially egregious in the context of retail or restaurant sales, as the concept of having to incur debt or potential privacy intrusions for the sake of purchasing a cup of coffee offends common notions of sense and fairness;

WHEREAS, this City Council is committed to keeping the doors of the City’s retail and restaurant establishments open and welcoming to all Chicagoans; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 4-4 of the Municipal Code of Chicago is hereby amended by adding Section 4-4-340 as follows:

4-4-340. Cashless policies prohibited.

a) *Prohibition.* It shall be unlawful for any licensee under Title 4 of this Code, who engages in the primary business activity of retail sales, or a retail food establishment or mobile food vendor as these are defined in Section 4-8-010, to refuse cash as payment for goods or services purchased on the licensed premises or, in the case of a mobile food vendor, at its location.

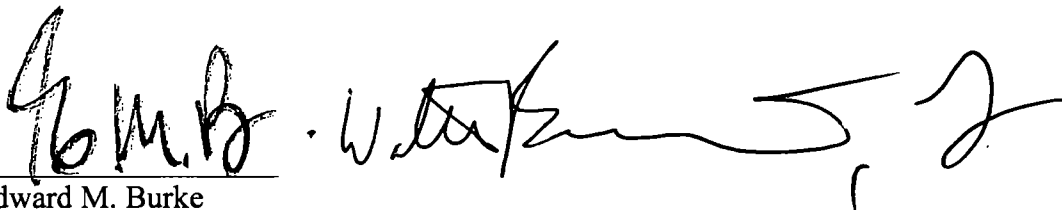
b) *Penalty.* In addition to any other penalty provided for by law, a single violation of this Section shall result in a fine of not less than \$1,000 and not more than \$2,500 with each day that a violation continues constituting a separate and distinct offense. Moreover, a single violation may result in license suspension or revocation in accordance with Section 4-4-280 of this Code.

SECTION 2. Severability.

The provisions of this Ordinance are declared to be separate and severable. The invalidity of any provision of this Ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

SECTION 3. Effective Date.

This ordinance shall be in full force and effect thirty (30) days after its passage and approval.


Edward M. Burke
Alderman, 14th Ward