

ORDINANCE NO. 7,681–N.S.

ADDING A NEW CHAPTER 9.50 TO THE BERKELEY MUNICIPAL CODE
REQUIRING BUSINESSES TO ACCEPT CASH

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Chapter 9.50 of the Berkeley Municipal Code is added to read as follows:

**Chapter 9.50
LEGAL RIGHTS FOR LEGAL TENDER**

Sections:

9.50.010 Findings and Purpose

9.50.020 Definitions

9.50.030 Covered Businesses Required to Accept Cash

9.50.040 Exceptions

9.50.050 Enforcement

9.50.060 Severability

The Council finds and declares as follows:

- A. The City of Berkeley is committed to providing its community with transactional access to the goods and services provided by Berkeley’s businesses. For many City residents, such as those unable to obtain bank accounts, the ability to engage in consumer transactions, including goods and services vital to health and safety, depends on the ability to pay with legal cash tender established by the federal government of United States.
- B. Cashless business models present significant detrimental impacts to vulnerable groups, especially low-income people, as they require financial institution-sponsored payment in credit or debit cards, or other non-cash forms of payment.
- C. Cash payment, in the form of the United States Dollar, has been the official legal tender since 1792 and shall be recognized by businesses alongside other forms of legal tender.
- D. It is the intent of the Council to ensure Berkeley’s economy is inclusionary and accessible to everyone, including those who lack access to non-cash forms of payment.

9.50.020 Definitions.

- A. Covered Business shall mean any Drugstore, Food Products Store, or Retail Products Store operating at a fixed, permanent, physical premises. Covered businesses do not include any transactions occurring in an Itinerant Restaurant as defined in BMC 12.04.010.

- B. "Cash" means United States currency, in the form of both paper Federal Reserve Notes and metal coins.
- C. "Drugstore" shall have the same meaning as defined in BMC 23F.04.010.
- D. "Food Products Store" shall have the same meaning as defined in BMC 23F.04.010.
- E. "Retail Products Store" shall have the same meaning as defined in BMC 23F.04.010.

9.50.030 Covered Businesses Required to Accept Cash.

- A. Except as set forth in 9.50.040, every Covered Business within the City must accept payment in Cash, if offered, for any transaction involving the purchase of any tangible good and/or service.
- B. Except as set forward in 9.50.040, a Covered Business may not charge a fee or place any other condition on its acceptance of Cash as required by subsection A.

9.50.040 Exceptions.

The provisions set forward in this Act shall not apply in cases of:

- A. Suspected counterfeit currency. A Covered Business may refuse to accept Cash that the business reasonably suspects to be counterfeit.
- B. Large denominations. A Covered Business may refuse to accept Cash in any denomination larger than a twenty dollar note, but shall otherwise accept any combination of Federal Reserve Notes and metal coins in connection with any transaction.
- C. Single transactions above \$500. Where a single transaction involves the purchase of one or more goods and/or services, the total price of which (including tax) exceeds \$500, a Covered Business must accept Cash that is offered as payment for any amount up to and including \$500, but may refuse to accept Cash that is offered as payment for the remainder of the amount due.
- D. Reservations made without cash. Where a Covered Business requires the purchaser make an appointment or reservation using a noncash form of payment (such as a credit or debit card), the business may require that the transaction in question be paid for using the noncash payment already on file.

9.50.050 Enforcement.

- A. The obligation to ensure that a Covered Business complies with this Chapter 9.50 shall fall only on the business or, in the case that the owners of the business are responsible for a policy or practice causing a violation of this Chapter, on the owner or owners of the business. No employee or independent contractor working at a Covered Business shall be held liable for any violation of this Chapter.
- B. Each transaction or attempted transaction in which a Covered Business fails to accept Cash shall constitute a separate violation of this Chapter.
- C. Any aggrieved person who believes the provisions of this Chapter have been violated shall have the right to file an action for injunctive relief and/or damages. In

any action to enforce the provisions of the chapter, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

- D. The City may issue an Administrative Citation pursuant to Chapter 1.28 of the Berkeley Municipal Code for any violation of this Chapter. The amount of this fine shall be determined as specified below:
- a. For a first violation, an infraction punishable by a fine not exceeding \$100 and not less than \$50.
 - b. For a second violation within a twelve month period, an infraction punishable by a fine not exceeding \$200 and not less than \$100.
 - c. For a third violation within a twelve month period, an infraction punishable by a fine not exceeding \$1,000 and not less than \$500.

9.50.060 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King, Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on December 3, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: Harrison.

