



City of Chicago



O2020-5705

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 11/16/2020

Sponsor(s): Waguespack (32)
O'Shea (19)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 4-8 by adding new Section 4-8-300 to regulate third-party food delivery service fees

Committee(s) Assignment: Joint Committee: Finance; License and Consumer Protection

ORDINANCE

WHEREAS, Chicago has a diverse and exciting restaurant community that extends into every neighborhood and contributes to making this a vibrant world-class city; and

WHEREAS, Chicagoans, even before the COVID-19 pandemic, were using third-party online food delivery applications often to access our City's amazing restaurants; and

WHEREAS, COVID-19 presents an extraordinarily severe and unprecedented threat to Chicagoans. It is necessary and appropriate for the City of Chicago ("City") and State of Illinois to take immediate measures to protect the health, safety, and welfare of their residents; and

WHEREAS, In March 2020, the Mayor and Governor issued various orders in an effort to protect residents, and among those efforts were orders restricting or prohibiting in-door dining at restaurants; and

WHEREAS, Since March 2020, restaurants have been highly reliant on Third-Party Food Delivery Services due to the various public health emergency orders; and

WHEREAS, According to news sources and testimony received by the City Council in May, Third-Party Food Delivery Services often charge commission fees that can exceed 30 percent, cutting into the already thin profit margins of restaurants; and

WHEREAS, Those fees threaten the financial viability of many Chicago restaurants, along with the jobs those restaurants support, during this public health emergency; and

WHEREAS, It is the intent of the City to protect its vibrant restaurant community during this public health emergency; now, therefore

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

Section 1 - The above recitals are expressly incorporated in this ordinance.

Section 2 - Chapter 4-8 of the Municipal Code of Chicago is amended inserting the new Section 4-8-300 as follows:

4-8-300 Third-Party Food Delivery Service Fees

(a) Definitions

The following definitions shall apply to this section:

“Covered establishment” means any food dispensing establishment, as defined by Sec. 4-8-010, that offers, in a single transaction over the internet, whether directly or through a Third-Party Food Delivery Service, the sale and same-day delivery of food to customers. For purposes of this Section only, “Covered Establishment” shall not include any food dispensing establishment with more than 10 locations in the City operating under a common business name.

“Delivery” means the physical transport of food from a Covered Establishment to a customer.

“Delivery fee” means any fee charged by a Third-Party Food Delivery Service to a Covered Establishment for providing delivery to customers from a Covered Establishment.

“Online order” means any order placed by a customer through a platform provided by a Third-Party Food Delivery Service, including telephone orders, for delivery or pickup within the City.

“Purchase price” means the menu price of an online order, excluding taxes, gratuity, and any other fees that make up the total cost to the customer, and minus any discounts or coupons provided by the Covered Establishment to the customer placing the order.

“Third-Party Food Delivery Service” means any website, mobile application, or other communication method that offers or arranges for the sale of food or beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, no fewer than 20 Covered Establishments located in the City that are separately owned and operated.

(b) Limits on Charges to Covered Establishments

It shall be unlawful for a Third-Party Food Delivery Service to charge a Covered Establishment a fee per online order for the use of its service that totals more than 10 percent of the purchase price of such online order.

(c) Limits on Delivery Fee Application

It shall be unlawful for a Third-Party Food Delivery Service to charge any delivery fee for an order placed through their service that does not involve delivery.

(d) Other Fees Charged to Covered Establishments

It shall be unlawful for a Third-Party Food Delivery Service to charge a Covered Establishment any combination of fees, commissions, or costs for the use of the Third-Party Food Delivery Service that is greater than 15 percent of the orders placed through through the Third-Party Delivery Service.

(e) Menu Prices

It shall be unlawful for any Third-Party Food Delivery Service to charge customers a purchase price for food or beverages that is higher than the price set by the Covered Establishment, or, if no price is set, the Covered Establishment's menu price.

(f) Direct Gratuities to Covered Establishments

At the discretion of the Covered Establishment, Third-Party Food Delivery Services shall provide on their platform a mechanism for customers to provide gratuities to Covered Establishments. Those payments shall be provided to the Covered Establishment in full and at the same time as the third party food delivery service provides other payments to the Covered Establishment.

(g) Payments to Drivers

It shall be unlawful for a Third-Party Food Delivery Service to reduce the compensation rates of service drivers, or to garnish their gratuities, as a result of this ordinance.

(h) Violations

Any person who violates this ordinance shall be subject to a fine of not less than \$1,000 and not more than \$3,000 each offence. Each day that a violation constitutes shall constitute a separate and distinct offense.

(i) Enforcement and Rules

The Commissioner of the Department of Business Affairs and Consumer Protection is authorized to administer and enforce this ordinance, and to promulgate rules to implement this ordinance.

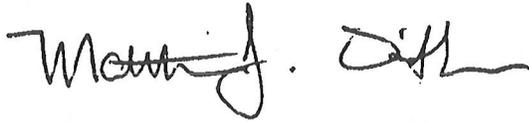
Section 3 - In light of the urgent need for this regulation, this ordinance shall take effect immediately upon passage and approval, provided such passage is by a vote of at least two-thirds

of the members of the City Council. If passage is by a majority vote of less than two-thirds of the members of the City Council, it shall take effect upon passage and publication.

Section 4 - This ordinance, and the Sec. 4-8-300 of the Municipal Code contained within, shall be repealed on its own accord 90 days after City and State restrictions related to Covid-19 on indoor Covered Establishment capacity are lifted to at least 40 percent capacity.



Alderman Scott Waguespack - 32nd Ward



Alderman Matthew O'Shea - 19th Ward