

## EMERGENCY EXECUTIVE ORDER 2021-3

I, Melvin Carter III, Mayor of the City of Saint Paul, on January 7, 2021, pursuant to Saint Paul Legislative Code Section 13.06, do hereby issue the following Executive Order:

On March 13, 2020, Minnesota Governor Tim Walz issued Executive Order 20-10 Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19" pursuant to Minn. Stat. § 12.31, Subd. 2. This Declaration has been extended and remains in effect.

On March 15, 2020, Saint Paul Mayor Melvin Carter issued an Emergency Declaration in response to the COVID-19 pandemic" pursuant to Minn. Stat. § 12.29; which the City Council consented to on March 17, 2020. This Declaration has been extended and remains in effect.

Saint Paul Leg. Code Chapter 13.06(b) provides that, "whenever necessary to meet an emergency ... the mayor may by executive order promulgate regulations ... for which adequate regulations have not been adopted ... respecting ...all other matters which are required to protect public safety, health and welfare in emergencies.

The COVID-19 pandemic and resultant local and state emergency regulations and executive orders continue to restrict the operational options and capacities of Food Establishments within the city, thereby increasing the need for take-out meal services. The necessary public health operating restrictions within the city have had severe and ongoing financial impacts on all food service establishments within the city. While some restaurants may receive take-out orders directly, there are many Third-party Food Delivery Platforms and other services that operate through websites and/or mobile phone applications used by consumers to quickly and easily order pick-up and delivery meals from local restaurants. In many instances the Third-party Food Delivery Platforms and services, without the local restaurant's knowledge or consent, will purport to sell meals from the local restaurant to consumers, and sometimes charge exorbitant fees to the already struggling local restaurants during the time of the declared emergency and the operational restrictions attendant thereto. The fees charged by a Third-party Food Delivery Platform should be capped for the period that the local public health emergency results in necessary restrictions on the operations of Food Establishments to avoid further harm to such valuable and important establishments in the city.

NOW, THEREFORE, I, Melvin Carter, Mayor of the City of Saint Paul, do hereby issue the following Emergency Executive Order:

1. A Third-party Food Delivery Platform shall not perform any service for or disclose any information about a Food Establishment without the consent of the Food Establishment.
2. A Third-party Food Delivery Platform shall not charge any additional fee to a Food Establishment that the Food Establishment has not voluntarily agreed to pay.
3. No person shall cause a Third-party Food Delivery Platform to charge a Food Establishment a commission fee for the use of the platform's services for delivery or pick-up that exceeds fifteen percent (15%) of the purchase price per Online or

Telephone order. The provisions of this emergency executive order shall not limit the ability of any Food Establishment to choose to pay a higher commission or supplemental fee to access additional advertising or other products and services offered by any Third-party Food Delivery Platform.

4. No person shall cause a Third-party Food Delivery Platform to reduce the compensation rate paid to a delivery service driver or garnish gratuities in order to comply with the terms of this emergency executive order.
5. At the time a final price is disclosed to a customer for the intended purchase and delivery of food from a Food Establishment through a Third-party Food Delivery Platform and before that transaction is completed by the customer, the Third-party Food Delivery Platform shall disclose to the customer, in plain language and in a conspicuous manner, any commission, fee, or any other monetary payment charged to the customer by the Third-party Food Delivery Platform.
6. After a transaction occurs for the purchase and delivery of food from a Food Establishment through a Third-party Food Delivery Platform, the Third-party Food Delivery Platform shall provide an electronic or printed receipt to the customer. The receipt shall disclose, in plain and simple language and in a conspicuous manner: (i) the menu price of the food; (ii) any sales or other tax applied to the transaction; (iii) any delivery charge or service fee, imposed on and collected from the customer by the Third-party Food Delivery Platform and by the Food Establishment, in addition to the menu price of the food; (iv) any tip/gratuity that will be paid to the person delivering the food, and not to the Third-party Food Delivery Platform, that was added into the transaction when it occurred, and (v) any commission associated with the transaction as referenced in paragraph 3 of this emergency executive order, not including any agreed-upon higher commission or fee for access to additional advertising or other products or services.
7. No Third-party Food Delivery Platform may charge any fee from a Food Establishment for a Telephone order or other service if a telephone call between such Food Establishment and a customer does not result in an actual transaction during such telephone call.
8. Subject to any rules, regulations, or guidance that may be issued by the Department of Safety and Inspections, any Food Establishment may submit a complaint of a violation of this section to the Department of Safety and Inspections. Any such complaint shall be made in writing to the Department of Safety and Inspections, shall provide authorization for the Third-party Food Delivery Platform to divulge a record or other information about a subscriber or customer to the city and shall include all information relied upon by the Food Establishment.
9. The Department of Safety and Inspections shall investigate written complaints, shall notify any Third-party Food Delivery Platform alleged to have violated this emergency regulation of any complaint, Third-party Food Delivery Platforms must maintain books and records sufficient for the Department of Safety and Inspections to conduct an investigation and issue an assessment. Such books and records must be made available to the Department of Safety and Inspections upon demand.
10. For purposes of this emergency executive order, the continuation of a violation shall be a separate violation for each day the Department of Safety and Inspections determines a Third-party Food Delivery Platform has violated this emergency

executive order. The Department of Safety and Inspections shall be authorized to enforce the terms of this emergency executive order through the issuance of written notices and warnings and/or any other legal or equitable relief authorized by law. (?)

Definitions:

1. "Food Establishment" means a retail operation that prepares, serves, or otherwise provides food or food and beverages, for human consumption, including but not limited to restaurants.
2. "Department of Safety and Inspections" means the Department of Safety and Inspections.
3. "Online order" means an order placed by a customer through a platform provided by the Third-party Food Delivery Platform for delivery or pickup within the city.
4. "Person" means and includes any person, firm, corporation, partnership, company, organization, agency, club or any group or association thereof. It shall also include any executor, administrator, trustee, receiver or other representative appointed by law.
5. "Purchase price" means the menu price of an Online order, excluding taxes, gratuities, or any other fees that may make up the total cost to the customer of an Online order.
6. "Telephone order" means an order placed by a customer to a Food Establishment through a telephone call forwarded by a call system provided by a Third-party Food Delivery Platform for delivery or pickup within the city.
7. "Third-party Food Delivery Platform" means any person, website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, Food Establishments.

Pursuant to Chapter 13 of the Saint Paul Legislative Code, this Executive Order is in immediate effect upon my signature and, if not sooner rescinded or later extended, shall expire at the end of forty (40) days after its effective date or at the end of the declared local emergency to which it relates, whichever occurs first.

Signed: January 7, 2021

  
\_\_\_\_\_  
Mayor Melvin Carter III