



Legislation Text

File #: Ord 21-2, **Version:** 1

Emergency ordinance regulating third-party food delivery platforms during the COVID-19 Emergency.

WHEREAS, the COVID-19 pandemic and resultant local and state emergency regulations and ordinances and orders continue to restrict the operational options and capacities of Food Establishments within the city, thereby increasing the need for take-out meal services; and

WHEREAS, the necessary public health operating restrictions within the city have had severe and ongoing financial impacts on all food service establishments within the city; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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,

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

DECLARATION OF EMERGENCY

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. For these reasons, there exists within the City of Saint Paul a sudden or unforeseen situation affecting life, health, property, or the public peace or welfare that requires immediate council action.

SECTION 2

DEFINITIONS

- 2.1 "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.
- 2.2 "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.
- 2.3 "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.
- 2.4 "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.
- 2.5 "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.
- 2.6 "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.

SECTION 3

PROHIBITIONS

- 3.1 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.
- 3.2 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.
- 3.3 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 ordinance 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.
- 3.4 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 ordinance.
- 3.5 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.

SECTION 4

DISCLOSURE REQUIREMENT

- 4.1 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.
- 4.2 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 ordinance, not including any agreed-upon higher commission or fee for access to additional advertising or other products or services.

SECTION 5

ENFORCEMENT

- 5.1 Subject to any rules, regulations, or guidance that may be issued by the Department of Safety and Inspections, any Food Establishment or customer 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 or customer in making the complaint.
- 5.2 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.
- 5.3 For purposes of this emergency ordinance, 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 ordinance. The Department of Safety and Inspections shall be authorized to enforce the terms of this emergency ordinance through the issuance of written notices and warnings, issuance of a misdemeanor citation, and/or any other legal or equitable relief authorized by law.

SECTION 6

This Emergency Ordinance shall be effective upon passage, approval, and publication and shall continue, unless earlier rescinded, until the final expiration of the Declared Emergency and any extensions of that Emergency. (Publication and effective date: January 18, 2021.)