

4/15/2020

38-R-20

**A RESOLUTION
ESTABLISHING LIMITS ON THIRD-PARTY FOOD DELIVERY SERVICE
FEES**

WHEREAS, the City of Evanston, Cook County, Illinois ("City"), is a home rule unit of government and, pursuant to the provisions of Section 6(a) of Article VII of the Illinois Constitution, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency concerning the Novel Coronavirus Disease ("COVID-19") outbreak; and

WHEREAS, on March 9, 2020, the Governor of Illinois issued a disaster proclamation for the State of Illinois concerning the COVID-19 outbreak that is to last 30 days; and

WHEREAS, on March 15, 2020, the Mayor declared a state of emergency due to the COVID-19 outbreak pursuant to Section 9-9-3 of the City Code; and

WHEREAS, the Evanston City Council has extended the state of emergency due to the persistence of the COVID-19 outbreak; and

WHEREAS, in March 2020, the Governor of Illinois issued an Executive Order mandating individuals living in Illinois shelter at home and requiring all non-essential business activities and operations to cease; and

WHEREAS, in order to reduce the spread of the COVID-19 virus and protect public health, the shelter-at-home order prohibits restaurants in the City from offering dine-in services, limiting restaurants to delivery, drive-through, and take-out options only; and

WHEREAS, many consumers use third-party applications and websites to place orders with restaurants for delivery and takeout, and these third-party platforms charge restaurant fees; service agreements between some restaurants and third-party platforms provide that the platform charges the restaurant 10% of the purchase price per order, while some agreements provide for higher per-order fees; and

WHEREAS, restaurants and especially small business restaurants, have limited bargaining power to negotiate lower fees with third-party platforms, given the high market saturation of third-party platforms, and the financial pressures small business restaurants are facing during the state of emergency; and

WHEREAS, capping the per-order fees at 15% will accomplish the legitimate public purpose of easing the financial burden on struggling restaurants during this emergency while not unduly burdening third-party platforms, as this fee is reasonable and third-party platforms continue to earn significant profits.

NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: 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 services that totals more than 15% of the purchase price of such online order.

(a) For purposes of this Resolution, the following definitions apply:

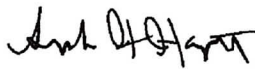
“Covered establishment” means a restaurant that offers, in a single commercial transaction over the internet, whether directly or through a third-party food delivery service, the sale and same-day delivery of food to customers from one or more retail locations within the City.

“Online order” means an order placed by a customer through a platform provided by a third-party food delivery service for delivery or pickup within the City.

“Purchase price” means the menu price of an online order. Such term excludes taxes, gratuities, and any other fees that may make up the total cost to the customer of an online order.

“Third-party food delivery service” means any 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, no fewer than 20 separately owned and operated food service establishments.

SECTION 2: This Resolution 38-R-20 will be in full force and effect from and after the date of its passage and approval in the manner provided by law.



Stephen H. Hagerty, Mayor

Attest:

Eduardo Gomez

~~Devon Reid, City Clerk~~

Eduardo Gomez, Deputy City Clerk

Adopted: April 27, 2020, 2020

Approved as to form:



Kelley A. Gandurski, Corporation Counsel