



# City of Chicago



O2021-1644

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 4/21/2021

**Sponsor(s):** Waguespack (32)

**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:** Committee on 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**, according to news sources, food delivery application companies often charged commission fees that exceeded 30 percent before the City limited those fees during the pandemic; and

**WHEREAS**, it is the intent of the City of Chicago to protect its vibrant restaurant community from excessive price gouging beyond the pandemic, and at all times; 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:

“City” means the City of Chicago.

“Delivery fee” means a fee charged by a Third-Party Food Delivery Service for providing a Food Dispensing Establishment with a service that delivers food and beverages from such establishment to customers. The term does not include any other fee or cost that may be charged by a Third-Party Food Delivery Service to a Food Dispensing Establishment, such as fees for listing or advertising the Food Dispensing Establishment on the Third-Party Food Delivery Service platform or fees related to processing the Online Order.

“Food Dispensing Establishment” has the same meaning as ascribed to this term in Section 4-8-010 of the Municipal Code of Chicago.

“Online Order” means an order placed by a customer through or with the assistance of a platform provided by a Third-Party Food Delivery Service, including a telephone order, for delivery or pick-up within the City.

“Purchase Price” means the price, as listed on the menu of the Food Dispensing Establishment, for the items contained in an Online Order, minus any applicable coupon or promotional discount provided to the customer by the Food Dispensing Establishment through the Third-Party Food Delivery Service. This definition does not include taxes, gratuities, and any other fees or costs that may make up the total amount charged 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 delivery or pick-up of food and beverages from, no fewer than 20 Food Dispensing Establishments located in the City that are each owned and operated by different persons.

(b) Prohibitions

(1) It shall be unlawful for a Third-Party Food Delivery Service to charge a Food Dispensing Establishment a Delivery Fee that totals more than 10 percent of the Purchase Price of each Online Order on an individual or cumulative basis.

(2) It shall be unlawful for a Third-Party Food Delivery Service to charge a Food Dispensing Establishment any amount designated as a Delivery Fee for an Online Order that does not involve the delivery of food or beverages.

(3) It shall be unlawful for a Third-Party Food Delivery Service to charge a Food Dispensing Establishment any combination of fees, commissions, or costs for the Food Dispensing Establishment’s use of the Third-Party Food Delivery Service that is greater than 15 percent of the Food Dispensing Establishment’s monthly net sales processed through the Third-Party Delivery Service. For purposes of this subsection (b)(3), the term “fees, commissions, or costs” includes Delivery Fees.

(4) It shall be unlawful for a Third-Party Food Delivery Service to charge a Food Dispensing Establishment any fee, commission, or cost other than as permitted in Subsections 1 through 3, above.

(5) It shall be unlawful for a Third-Party Food Delivery Service to charge a customer any Purchase Price for a food or beverage item that is higher than the price set by the Food Dispensing Establishment on the Third-Party Food Delivery Service or, if no price is set by the Food Dispensing Establishment on the Third-Party Food Delivery Service, the price listed on the Food Dispensing Establishment's own menu.

(6) It shall be unlawful for a Third-Party Food Delivery service to reduce the compensation rates paid to the Third-Party Delivery Service drivers, or to garnish gratuities, as a result of any fee limitations instituted by this section.

(c) Enforcement and Rules.

(1) The Commissioner of Business Affairs and Consumer Protection is authorized to (i) administer and enforce this ordinance, and (ii) promulgate rules necessary or useful to assist in the implementation and administration of this ordinance.

(d) Violation – Penalty.

Any person who violates any provision of this section shall be fined not less than \$1,000.00 nor more than \$2,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(e) Non-applicability to Chain Restaurants

This section shall not apply to any Chain Restaurant. For purposes of this ordinance only, the term "Chain Restaurant" means any group of businesses licensed as a Food Dispensing Establishment in the City with ten or more locations and operating under a common business name.

**Section 3** - This ordinance shall take effect upon passage and publication.

*Scott Waguespack*

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Alderman Scott Waguespack - 32nd Ward