



# Office of the City Clerk

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## Legislation Text

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**File #:** O2020-3813, **Version:** 1

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Committee on Finance

### ORDINANCE

WHEREAS, Third-party food delivery services have, at times, listed restaurants on their applications as being available for delivery or pick-up despite the apps having no contract with the restaurant to provide such service; and

WHEREAS, The listing of these restaurants is without their knowledge and consent; and

WHEREAS, The listings by the services sometimes involve errors in price, food description, and availability; and

WHEREAS, Some listings are for restaurants that do not offer delivery or take out and include food that, without proper handling, can cause illness, such as raw oysters; and

WHEREAS, These listings often involve use of the restaurant's trademarks, service marks, and other intellectual property of the restaurant; and

WHEREAS, The listings create a perception in the mind of the customer that the restaurant is prepared for and responsible for the quality of the delivery, deceiving the customer into believing that the third-party food delivery service and the restaurant have entered into a partnership; and

WHEREAS, Some third-party food delivery services will claim restaurant search engine listings, directing customers to call their service for delivery or pick-up, causing the customer to think they are calling the restaurant directly; and

WHEREAS, The quality of the customer interactions and delivery reflects on the restaurant, despite their lack of consent to partnering with the third-party food delivery service; 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 4-8-400 as follows:

4-8-400 Third-Party Food Delivery Application Restaurant Listings

(a) Definitions

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The following definitions shall apply to this section:

"Food dispensing establishment"\* means any fixed location where food or drink is routinely prepared and served or provided for the public for consumption on or off the premises with or without charge. Such establishments include, but are not limited to, restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, taverns, bars, cocktail lounges, nightclubs, industrial feeding establishments, take-out establishments, private institutions or organizations routinely serving food, catering kitchens, commissaries or any other eating or drinking establishment or operation.

"Online or phone order" means any order placed by a customer through a platform provided by a third-party food delivery service, or placed by phone through a third-party food delivery service, for delivery or pickup within the City.

"Solicit\*\* in this section means offering to the public the opportunity to purchase prepared food for take out or delivery through a mobile application, via a website, or by telephone.

"Third-party food delivery service" means any website, mobile application, phone service, or other service 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, separately owned and operated food service establishments.

b) Consent of Food Dispensing Establishments Required for Solicitation  
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No third-party food|delivery service shall solicit orders for prepared food from a food dispensing establishment without first entering into a valid and fully executed agreement with the food dispensing establishment.

c) Use of Menus. Trademarks. Service Marks, or Trade Names

No third-party foodjdclivery service shall distribute, through any means, anything purporting to be or including any menu: or any trademark, service mark, or trade name, as defined by 815 ILCS 5 10. or subsequent statute, for a food dispensing establishment without first entering into a valid and fully executed agreement with the food dispensing establishment.

d) Violations

Any third-party food delivery service found to be in violation of this section or rules promulgated thereunder shall be subject to a fine of not less than \$10,000 and not more than \$30,000 for a first offense. Each day, and each improper listing, shall constitute a separate offense. After a fifth offense within any 12 month period, any third-party food delivery service shall be found to be a habitual offender and shall be subject to a fine of not less than \$50,000 and not more than \$100,000. Additionally, any third-party food delivery service found to be a habitual offender shall be subject to license revocation. The Commissioner of the Department of Business Affairs and Consumer Protection is authorized to promulgate rules to implement this section. :

Alderman Scott Waguespack 32nd Ward

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