



CITY OF CHICAGO



DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION

NOTICE OF FEE CAPS ON THIRD-PARTY FOOD DELIVERY SERVICES

Please be advised that on November 23, 2020, the Chicago City Council passed Substitute Ordinance 2020-5705, which imposes a temporary cap on the fees that Third-Party Food Delivery Services can charge Food Dispensing Establishments (e.g., restaurants) for the use of their service. This ordinance is effective immediately and will remain in effect until such time as indoor dining is allowed at Food Dispensing Establishments at 40% or greater capacity for 60 consecutive days.

Under the new regulations, it is:

1. Unlawful for a Third-Party Food Delivery Service to charge a Food Dispensing Establishment a Delivery Fee of more than 10% of the purchase price of each online order.
2. 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. 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 Delivery Service in excess of 15% of the restaurant's monthly net sales through the Third-Party Delivery Service. **This includes any delivery fees.**
4. Unlawful for a Third-Party Food Delivery Service to charge a Food Dispensing Establishment any fee, commission, or cost other than a delivery fee, other than as permitted in 1 through 3 above.
5. 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. 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 shall stand.
6. Unlawful for a Third-Party Food Delivery Service to reduce the compensation rates paid to the Third-Party Food Delivery Service drivers, or to garnish gratuities, as a result of any fee limitations instituted by this Ordinance.

These regulations do not apply to any Chain Restaurant, defined as 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.

Complaints about violations of the Third-Party Food Delivery Service Fee Cap regulations can be submitted to the Department of Business Affairs and Consumer Protection (BACP) by calling 3-1-1, on the CHI 311 app or online at 311.chicago.gov. Violations of any of these provisions can lead to fines of \$1,000 to \$2,000 per offense. Each day that a violation continues shall constitute a separate and distinct offense.

Key definitions

- “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.
- “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.
- “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.

**Business Affairs and Consumer Protection
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