

This ordinance is organized into ten Articles, as follows:

- Article I. Immediate Financial Relief
- Article II. Temporary Food Delivery Fee Relief
- Article III. Expedited Restaurant Licensing
- Article IV. Hospitality Industry Support
- Article V. Fair Marketplace Innovation and Compliance
- Article VI. Public Vehicle Industry Support
- Article VII. Expedite Signs and Permits
- Article VIII. Allow Sidewalk Signs
- Article IX. Improve Neighborhood Safety and Quality of Life
- Article X. Effective Dates

ARTICLE II. TEMPORARY FOOD DELIVERY FEE RELIEF

SECTION 1.

RECITALS

Beginning in late 2019, a new and highly communicable type of Coronavirus, now commonly known as COVID-19, emerged and began to spread rapidly. Despite efforts to contain COVID-19, it continues to spread throughout Chicago and the State of Illinois.

While great progress has been made in the fight against COVID-19, the virus continues to present an unprecedented threat to Chicagoans. It is necessary and appropriate for the City of Chicago to continue to take immediate measures to protect the health, safety, and welfare of its residents.

On March 18, 2020, acting pursuant to Section 2-4-110 of the Municipal Code, the Mayor declared that a state of emergency exists in Chicago and issued Emergency Executive Order No. 2020-1.

Since March 2020, restaurants have been closed, have been limited to serving customers outdoors, or have been subjected to limits on indoor customer capacity, due to social distancing requirements.

As many restaurants further reopen, there are establishments that continue to struggle, and many that have already closed and will never come back. During these precarious times, restaurants remain vulnerable and highly reliant on third-party food delivery services.

Due to the high fees imposed by third-party food delivery services, many restaurants have been forced to increase food prices to stay in business, and Chicago residents who rely on food delivery may be unable to absorb increased food prices.

Many local restaurants being charged high fees struggle to remain financially viable. If these restaurants are forced to close, their workers will lose employment, which affects their ability to feed and shelter their families.

It is vital that the City continues to act effectively to help and support our residents and employees during the period of COVID-19 recovery, including supporting and providing relief for the suffering business community within the City.

The City Council finds and declares that the immediate passage of this Article is urgent for the protection of the public health, safety and welfare.

The above recitals are incorporated into and made a part of this Article.

SECTION 2.

(a) *Definitions.* For purposes of this Article, the following definitions apply:

“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.* It shall be unlawful for a Third-Party Delivery Service to:

(1) 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) 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) 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) charge a Food Dispensing Establishment any fee, commission, or cost other than as permitted in Subsections 1 through 3, above.

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

(d) *Violation – Penalty.* Any person who violates 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.

SECTION 3. This Article shall not apply to any Chain Restaurant. For purposes of this Article 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 4. This Article shall be repealed of its own accord, without further action of the City Council, when there are no longer any governmentally imposed COVID-19-related indoor dining restrictions, (whether imposed by the City of Chicago or the State of Illinois) on food dispensing establishments for 180 consecutive days. COVID-19-related indoor dining restrictions shall include restrictions on capacity percentages, distance between tables, party size, and hours of operation.