

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
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MEMORANDUM

TO: Chief William Scott, Police Department

FROM: Victor Young, Clerk, Rules Committee, Board of Supervisors

DATE: July 1, 2022

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation (substituted):

File No. 211131 Police Code - Third-Party Delivery Services

Ordinance amending the Police Code to define core delivery service to mean a service that both lists a covered establishment on all of a third-party food delivery service's platforms, including websites and mobile applications, and facilitates and/or performs delivery of food and/or beverages from the establishment; to exempt from the 15% cap on per-order fees, starting January 31, 2023, third-party food delivery services that offer restaurants the option to obtain only core delivery service at a cost of no more than 15% of the purchase price of an online order without requiring the purchase of additional services, and that notify all covered establishments with which the third-party food delivery services have an existing contract of this option no later than December 1, 2022; and to require that contracts between a third-party food delivery service and a covered establishment clearly define the fees, commissions, or charges associated with contracted services.

You are being provided this informational referral since the legislation may affect your department.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Chair Gordon Mar, Public Safety and Neighborhood Services Committee
Alan Wong, Office of Supervisor Gordon Mar
Rowena Carr, Police Department
Lili Gamero, Police Department
Diana Oliva-Aroche, Police Department



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 211131 **File Type:** Ordinance **Status:** Pending Committee Action

Enacted: _____ **Effective:** _____

Version: 2 **In Control:** Rules Committee

File Name: Police Code - Third-Party Food Delivery Services **Date Introduced:** 06/28/2022

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Police Code to define core delivery service to mean a service that both lists a covered establishment on all of a third-party food delivery service's platforms, including websites and mobile applications, and facilitates and/or performs delivery of food and/or beverages from the establishment; to exempt from the 15% cap on per-order fees, starting January 31, 2023, third-party food delivery services that offer restaurants the option to obtain only core delivery service at a cost of no more than 15% of the purchase price of an online order without requiring the purchase of additional services, and that notify all covered establishments with which the third-party food delivery services have an existing contract of this option no later than December 1, 2022; and to require that contracts between a third-party food delivery service and a covered establishment clearly define the fees, commissions, or charges associated with contracted services.

Sponsor: Peskin

History of Legislative File 211131

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	10/26/2021	ASSIGNED UNDER 30 DAY RULE	Public Safety and Neighborhood Services Committee	11/25/2021	
1	Clerk of the Board	11/04/2021	REFERRED TO DEPARTMENT			<i>Referred to the Small Business Commission for response within 12 days from the date of referral.</i>
						<i>Referred to the Police Department for informational purposes.</i>
1	President	01/13/2022	TRANSFERRED	Rules Committee		
2	President	06/28/2022	SUBSTITUTED AND ASSIGNED	Rules Committee		

[Police Code - Third-Party Food Delivery Services]

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3 **Ordinance amending the Police Code to define core delivery service to mean a service**
4 **that both lists a covered establishment on all of a third-party food delivery service’s**
5 **platforms, including websites and mobile applications, and facilitates and/or performs**
6 **delivery of food and/or beverages from the establishment; to exempt from the 15% cap**
7 **on per-order fees, starting January 31, 2023, third-party food delivery services that**
8 **offer restaurants the option to obtain only core delivery service at a cost of no more**
9 **than 15% of the purchase price of an online order without requiring the purchase of**
10 **additional services, and that notify all covered establishments with which the third-**
11 **party food delivery services have an existing contract of this option no later than**
12 **December 1, 2022; and to require that contracts between a third-party food delivery**
13 **service and a covered establishment clearly define the fees, commissions, or charges**
14 **associated with contracted services.**

15 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
16 **Additions to Codes** are in *single-underline italics Times New Roman font*.
17 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
18 **Board amendment additions** are in double-underlined Arial font.
19 **Board amendment deletions** are in ~~strikethrough Arial font~~.
20 **Asterisks (* * * *)** indicate the omission of unchanged Code
21 subsections or parts of tables.

22 Be it ordained by the People of the City and County of San Francisco:

23 Section 1. The Police Code is hereby amended by revising Sections 5301 (adding a
24 defined term to be placed in alphabetical sequence with other defined terms) and 5302, to
25 read as follows:

1 **SEC. 5301. DEFINITIONS.**

2 * * * *

3 “Core delivery service” means a service that (1) lists a covered establishment, and makes the
4 covered establishment discoverable, on all modalities or platforms offered by a third-party food
5 delivery service, including but not limited to any website, mobile application, or other internet service
6 where a third-party food delivery service lists covered establishments, and (2) facilitates and/or
7 performs the delivery (through employees or independent contractors of the third-party food delivery
8 service and/or such establishments) of food and/or beverages from covered establishments to
9 customers. Core delivery service does not include any other service that may be provided by a third-
10 party food delivery service to a covered establishment, including but not limited to advertising services,
11 search engine optimization, business consulting, or credit card processing.

12 * * * *

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14 **SEC. 5302. CAP ON PER-ORDER FEES; CLEAR DEFINITION OF FEES**

15 **REQUIRED.**

16 (a) No third-party food delivery service may charge a covered establishment a fee,
17 commission, or charge per online order that totals more than 15% of the purchase price of the
18 online order.

19 (b) No third-party food delivery service may charge a covered establishment a fee,
20 commission, or charge that exceeds 15% of the purchase price of online orders to that
21 covered establishment processed through the third-party food delivery service during the time
22 period covered by the fee, commission, or charge.

23 (c) Beginning on January 31, 2023, the fee limits in subsections (a) and (b) of this Section
24 5302 shall not apply to a third-party food delivery service that does both of the following:

1 (1) offers all covered establishments the option to obtain core delivery service for a total
2 fee, commission, or charge not to exceed 15% of the purchase price of the online order, without
3 requiring the purchase of additional services; and

4 (2) no later than December 1, 2022, notifies all covered establishments that have an
5 existing contract with the third-party delivery service of the option described in subsection (c)(1).

6 (d) Contracts between a third-party food delivery service and a covered establishment shall
7 clearly define the fees, commissions, or charges associated with contracted services. For example, if a
8 covered establishment enters into a contract with a third-party food delivery service for core delivery
9 service only, that contract shall clearly state a fee, commission, or charge of 15% of the purchase price
10 for core delivery service.

11
12 Section 2. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

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1 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

9

10 By: /S/ Sarah Crowley
11 SARAH CROWLEY
12 Deputy City Attorney

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LEGISLATIVE DIGEST
(Substituted, 06/28/2022)

[Police Code - Third-Party Food Delivery Services]

Ordinance amending the Police Code to define core delivery service to mean a service that both lists a covered establishment on all of a third-party food delivery service's platforms, including websites and mobile applications, and facilitates and/or performs delivery of food and/or beverages from the establishment; to exempt from the 15% cap on per-order fees, starting January 31, 2023, third-party food delivery services that offer restaurants the option to obtain only core delivery service at a cost of no more than 15% of the purchase price of an online order without requiring the purchase of additional services, and that notify all covered establishments with which the third-party food delivery services have an existing contract of this option no later than December 1, 2022; and to require that contracts between a third-party food delivery service and a covered establishment clearly define the fees, commissions, or charges associated with contracted services.

Existing Law

Existing law prohibits a third-party food delivery service from charging a restaurant a fee that exceeds 15% of an online order total.

Amendments to Current Law

Beginning on January 31, 2023, this ordinance would exempt from the current 15% fee cap a third-party food delivery service that does both of the following: (1) offers restaurants the option to obtain "core delivery service" for a fee that does not exceed 15% of the online order total, without requiring the purchase of additional services; and (2) notifies restaurants that have an existing contract with the third-party food delivery service of this option no later than December 1, 2022. This ordinance would define "core delivery service" to mean a service that lists a restaurant on all of a third-party food delivery service's platforms, including websites and mobile applications, and facilitates and/or performs delivery of food and/or beverages from the restaurant to customers, but does not include other services that may be offered by the third-party food delivery service, such as advertising services, search engine optimization, business consulting, or credit card processing.

Background Information

This ordinance is introduced as a substitute for the ordinance in Board File No. 211131, which was originally introduced on October 26, 2021.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [211131]
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Peskin

Subject:

[Police Code - Third-Party Food Delivery Services]

The text is listed:

Ordinance amending the Police Code to define core delivery service to mean a service that both lists a covered establishment on all of a third-party food delivery service's platforms, including websites and mobile applications, and facilitates and/or performs delivery of food and/or beverages from the establishment; to exempt from the 15% cap on per-order fees, starting January 31, 2023, third-party food delivery services that offer restaurants the option to obtain only core delivery service at a cost of no more than 15% of the purchase price of an online order without requiring the purchase of additional services, and that notify all covered establishments with which the third-party food delivery services have an existing contract of this option no later than December 1, 2022; and to require that contracts between a third-party food delivery service and a covered establishment clearly define the fees, commissions, or charges associated with contracted services.

Signature of Sponsoring Supervisor: []



From: [Angulo, Sunny \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Somera, Alisa \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Yan, Calvin \(BOS\)](#); [CROWLEY, SARAH \(CAT\)](#)
Subject: PESKIN - Ordinance - Third-Party Food Delivery Services
Date: Tuesday, June 28, 2022 3:51:37 PM
Attachments: [Ordinance - delivery app fee cap - 6.28.22.DOCX](#)
[Leg. Digest - delivery app fee cap - 6.28.22.DOCX](#)
[PESKIN - Intro Form - Third Party Deliver Substitute.pdf](#)

Good afternoon –

Please find Supervisor Peskin’s substitute Ordinance, Legislative Digest and Introduction Form for File No. 211131 attached for introduction today. Please note DCA Crowley’s confirmation below that this substitute ordinance has been approved as to form.

Supervisor Peskin’s intent is to schedule this legislation at the Rules Committee on July 11th for a hearing.

Thank you,
Sunny

From: Crowley, Sarah (CAT) <Sarah.Crowley@sfcityatty.org>
Sent: Tuesday, June 28, 2022 2:49 PM
To: Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; GOLDMAN, JEREMY (CAT) <Jeremy.Goldman@sfcityatty.org>; ZAREFSKY, PAUL (CAT) <Paul.Zarefsky@sfcityatty.org>; BUTA, ODAYA (CAT) <Odaya.Buta@sfcityatty.org>; CHEESEBOROUGH, PAMELA (CAT) <Pamela.Cheeseborough@sfcityatty.org>
Subject: Police Code - Third-Party Food Delivery Services - Ordinance and Leg. Digest for Introduction

Privileged and Confidential Communication – Do Not Disclose

Supervisor Peskin and Sunny,

I’m attaching the following ordinance and related legislative digest for introduction:

Ordinance amending the Police Code to define core delivery service to mean a service that both lists a covered establishment on all of a third-party food delivery service’s platforms, including websites and mobile applications, and facilitates and/or performs delivery of food and/or beverages from the establishment; to exempt from the 15% cap on per-order fees, starting January 31, 2023, third-party food delivery services that offer restaurants the option to obtain only core delivery service at a cost of no more than 15% of the purchase price of an online order without requiring the purchase of additional services, and that notify all covered establishments with which the third-party food delivery services have an existing contract of this option no later than December 1, 2022; and to require that contracts between a third-party food delivery service and a covered

establishment clearly define the fees, commissions, or charges associated with contracted services.

For the clerk of the board, I am confirming that my electronic signature in the attached ordinance signifies that I approve this ordinance as to form.

Please let me know if you have any questions.

Thanks,
Sarah

Sarah Crowley (she/her)
Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4677 Direct (Email preferred)
www.sfcityattorney.org

[Police Code - Third-Party Food Delivery Services]

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3 **Ordinance amending the Police Code to define core delivery service to mean a service**
4 **that both lists a covered establishment on all of a third-party food delivery service’s**
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24 defined term to be placed in alphabetical sequence with other defined terms) and 5302, to
25 read as follows:

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4 covered establishment discoverable, on all modalities or platforms offered by a third-party food
5 delivery service, including but not limited to any website, mobile application, or other internet service
6 where a third-party food delivery service lists covered establishments, and (2) facilitates and/or
7 performs the delivery (through employees or independent contractors of the third-party food delivery
8 service and/or such establishments) of food and/or beverages from covered establishments to
9 customers. Core delivery service does not include any other service that may be provided by a third-
10 party food delivery service to a covered establishment, including but not limited to advertising services,
11 search engine optimization, business consulting, or credit card processing.

12 * * * *

13
14 **SEC. 5302. CAP ON PER-ORDER FEES; CLEAR DEFINITION OF FEES**

15 **REQUIRED.**

16 (a) No third-party food delivery service may charge a covered establishment a fee,
17 commission, or charge per online order that totals more than 15% of the purchase price of the
18 online order.

19 (b) No third-party food delivery service may charge a covered establishment a fee,
20 commission, or charge that exceeds 15% of the purchase price of online orders to that
21 covered establishment processed through the third-party food delivery service during the time
22 period covered by the fee, commission, or charge.

23 (c) Beginning on January 31, 2023, the fee limits in subsections (a) and (b) of this Section
24 5302 shall not apply to a third-party food delivery service that does both of the following:

1 (1) offers all covered establishments the option to obtain core delivery service for a total
2 fee, commission, or charge not to exceed 15% of the purchase price of the online order, without
3 requiring the purchase of additional services; and

4 (2) no later than December 1, 2022, notifies all covered establishments that have an
5 existing contract with the third-party delivery service of the option described in subsection (c)(1).

6 (d) Contracts between a third-party food delivery service and a covered establishment shall
7 clearly define the fees, commissions, or charges associated with contracted services. For example, if a
8 covered establishment enters into a contract with a third-party food delivery service for core delivery
9 service only, that contract shall clearly state a fee, commission, or charge of 15% of the purchase price
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3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: **/S/ Sarah Crowley**
11 SARAH CROWLEY
12 Deputy City Attorney

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