

1 [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:

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

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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.

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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.

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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

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

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