

LEGISLATIVE DIGEST

[Police Code - Third-Party Food Delivery Services]

Ordinance amending the Police Code to regulate third-party food delivery services (“delivery services”) by capping fees to restaurants at 10% of an order total, prohibiting delivery services from restricting restaurant pricing, and prohibiting delivery services from charging restaurants for telephone calls to the delivery service not resulting in any food or beverage order; requiring retention of and City access to records substantiating compliance with these restrictions; authorizing the imposition of penalties for violations; and authorizing the Office of Economic and Workforce Development to implement and enforce this Ordinance.

Existing Law

On April 10, 2020, the Mayor issued the Ninth Supplement to the Proclamation declaring the existence of a local emergency related to COVID-19 (“Ninth Supplement”). The Ninth Supplement imposes a temporary 15% cap on per-order fees charged by third-party food delivery services to San Francisco restaurants until the ban on dine-in restaurant service is lifted, but exempts from that fee cap orders with restaurants that qualify as “formula retail” under the Planning Code. These aspects of the Mayor’s Ninth Supplement are currently in effect, but are subject to concurrence by the Board of Supervisors.

Amendments to Current Law

This ordinance would add Article 53 to the Police Code to regulate third-party food delivery services on a permanent basis. It would authorize OEWD to implement and enforce Article 53, and would prohibit third-party food delivery services from doing the following:

- charging restaurants a fee for online orders for delivery or pickup in San Francisco that exceeds 10% of the order total;
- restricting restaurants’ discretion to set prices; and
- charging restaurants a fee for “telephone orders” through the third-party food delivery service that do not result in a customer purchase.

The ordinance would require that third-party food delivery services maintain records sufficient to substantiate their compliance with these provisions for three years from the date of a customer transaction, and produce these records on request to OEWD. The OEWD director would be authorized to impose penalties for violations of Article 53.

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