



**NINETEENTH SUPPLEMENT TO MAYORAL PROCLAMATION DECLARING
THE EXISTENCE OF A LOCAL EMERGENCY DATED FEBRUARY 25, 2020**

WHEREAS, California Government Code Sections 8550 et seq., San Francisco Charter Section 3.100(14) and Chapter 7 of the San Francisco Administrative Code empower the Mayor to proclaim the existence of a local emergency, subject to concurrence by the Board of Supervisors as provided in the Charter, in the case of an emergency threatening the lives, property or welfare of the City and County or its citizens; and

WHEREAS, On February 25, 2020, the Mayor issued a Proclamation (the “Proclamation”) declaring a local emergency to exist in connection with the imminent spread within the City of a novel (new) coronavirus (“COVID-19”); and

WHEREAS, On March 3, 2020, the Board of Supervisors concurred in the Proclamation and in the actions taken by the Mayor to meet the emergency; and

WHEREAS, On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency to exist within the State due to the threat posed by COVID-19; and

WHEREAS, On March 6, 2020, the Health Officer declared a local health emergency under Section 101080 of the California Health and Safety Code, and the Board of Supervisors concurred in that declaration on March 10, 2020; and

WHEREAS, On March 16, 2020, the City’s Health Officer issued a stay safe at home order, Health Officer Order No. C19-07 (the “Stay Safe At Home Order”), requiring most people to remain in their homes subject to certain exceptions including obtaining essential goods such as food and necessary supplies, and requiring the closure of non-essential businesses; the Health Officer has amended the Stay Safe At Home Order to modify the ongoing restrictions; and

WHEREAS, There have been 2,877 confirmed cases of COVID-19 within the City and 44 COVID-19-related deaths in the City; there have been more than 147,000 confirmed cases in California and more than 4,900 COVID-19-related deaths in California; and

WHEREAS, This order and the previous orders issued during this emergency have all been issued because of the propensity of the virus to spread person to person and also



because the virus physically is causing property loss or damage due to its proclivity to attach to surfaces for prolonged periods of time; and

WHEREAS, To reduce the spread of the virus and protect the public health, the Stay Safe At Home Order prohibits restaurants in the City from offering dine-in service, limiting restaurants to delivery and takeout, and as of June 12, 2020, the Stay Safe At Home Order allows restaurants to offer outdoor dining subject to physical distancing and other safety requirements. Many restaurants in the City are unable to offer outdoor dining due to locational and physical space limitations; and

WHEREAS, In the Ninth Supplement to the Proclamation of Local Emergency, dated April 10, 2020, the Mayor issued an order capping the fees that third-party applications and websites can charge restaurants per order. The Board of Supervisors concurred in that order on April 21, 2020. That order terminates when the Stay Safe At Home Order is amended or modified to allow dine-in service. For the avoidance of doubt, the Mayor now issues the order below to clarify that the order terminates when the Stay Safe At Home Order is amended or modified to allow indoor dining; and

WHEREAS, For all the reasons stated in the Ninth Supplement, it is in the public interest for the order capping fees that third party applications and websites can charge restaurants per order to remain in place until all restaurants are allowed to offer dine-in service; and

NOW, THEREFORE,

I, London N. Breed, Mayor of the City and County of San Francisco, proclaim that there continues to exist an emergency within the City and County threatening the lives, property or welfare of the City and County and its citizens;

In addition to the measures outlined in the Proclamation and in the Supplements to the Proclamation dated March 11, March 13, March 17, March 18, March 23, March 27, March 31, April 1, April 10, April 14, April 23, April 30, May 11, May 13, May 18, May 29, June 2, and June 9, 2020, it is further ordered that:

Section 1 of the Ninth Supplement to the Emergency Proclamation, dated April 10, 2020, is revised and replaced as follows, solely to modify subsection (c) for clarity:



It shall be unlawful for a third-party food delivery service to charge a covered establishment a fee per online order for the use of its services that totals more than 15% of the purchase price of such online order.

(a) For purposes of this Order, the following definitions apply:

“Covered establishment” means a restaurant that offers, in a single commercial transaction over the internet, whether directly or through a third-party food delivery service, the sale and same-day delivery of food to customers from one or more retail locations within the City. Covered establishment shall not include any restaurant that meets the definition of a formula retail use under Section 303.1 of the Planning Code.

“Online order” means an order placed by a customer through a platform provided by a third-party food delivery service for delivery or pickup within the City.

“Purchase price” means the menu price of an online order. Such term therefore excludes taxes, gratuities and any other fees that may make up the total cost to the customer of an online order.

“Restaurant” shall have the meaning provided in Section 451 of the Health Code.

“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 same-day delivery or same-day pickup of food and beverages from, no fewer than 20 separately owned and operated food service establishments.

(b) The Director of the Office of Economic and Workforce Development, or the Director’s designee, is authorized to implement this Order and issue any necessary guidance or rules consistent with this Order.

(c) This Order shall take effect on April 13, 2020, and shall terminate at such time as the Health Officer amends or terminates the order prohibiting restaurants from offering indoor dining service or that prohibition otherwise expires, so that indoor dining service is then allowed.

(d) A third-party food delivery service shall not be found in violation of this Order if between April 13, 2020 and April 20, 2020, it imposes a fee per online order for the use



of its services that totals more than 15% of the purchase price of such online order, provided it refunds the portion of the fee that exceeds 15% of the purchase price to the covered establishment prior to April 27, 2020.

(e) If a third-party food delivery service charges a covered establishment fees that violate this Order, the covered establishment shall provide written notice to the third-party food delivery service requesting a refund within seven days. If the third-party food delivery service does not provide the refund requested after seven days or the third-party food delivery service continues to charge fees in violation of this Order after the initial notice and seven-day cure period, a covered establishment may enforce this Order by means of a civil action seeking damages and injunctive relief. The prevailing party in any such action shall be entitled to an award of reasonable attorney fees.

DATED: June 13, 2020

A handwritten signature in blue ink, reading "London Breed".

London N. Breed
Mayor of San Francisco