

File No. 200398

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Comm: Public Safety & Neighborhood Services

Date: October 22, 2020

Board of Supervisors Meeting:

Date: _____

Cmte Board

- Motion
- Resolution
- Ordinance - VERSION 2
- Legislative Digest - VERSION 2
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- SBC Response – July 31, 2020
- Referrals FYI – April 29, 2020
- _____
- _____
- _____

Prepared by: John Carroll

Date: October 15, 2020

Prepared by: _____

Date: _____

1 [Police Code - Third-Party Food Delivery Services]

2

3 **Ordinance amending the Police Code to regulate third-party food delivery services**
 4 **(“delivery services”) by 1) capping fees charged to restaurants at ~~10~~15% of an order**
 5 **total plus a 3% point-of-sale processing charge; 2) prohibiting delivery services from**
 6 **restricting restaurant pricing; 3) and prohibiting delivery services from charging**
 7 **restaurants for telephone calls to the delivery service not resulting in any food or**
 8 **beverage order; 4) prohibiting delivery services from providing services to any**
 9 **restaurant without the restaurant’s express written agreement to receive such services;**
 10 **5) requiring third-party food delivery services to terminate a service contract within 72**
 11 **hours of receiving a notice requesting termination from a restaurant; 6) requiring**
 12 **retention of and City access to records substantiating compliance with these**
 13 **restrictions; 7) authorizing the imposition of penalties for violations; and 8) authorizing**
 14 **the Office of Economic and Workforce Development to implement and enforce this**
 15 **ordinance.**

16

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

21

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

23

24 Section 1. The Police Code is hereby amended by adding Article 53, consisting of
 25 Sections 5300-~~5309~~5312, to read as follows:

1
2 **ARTICLE 53: REGULATION OF THIRD-PARTY FOOD DELIVERY SERVICES**

3
4 **SEC. 5300. FINDINGS.**

5 (a) Restaurants are vital to the character and community fabric of San Francisco (“City”).
6 They reflect and nurture the cultural diversity of the City, while offering access to food, an essential
7 foundation of human health and basis for social connection. Restaurants are also important engines of
8 the local economy, providing jobs and serving as commercial anchors in neighborhoods across the
9 City.

10 (b) The central place of restaurants in the City’s commercial districts is evident from City real
11 estate statistics. Restaurants occupy a substantial percentage of ground floor retail space along the
12 City’s commercial corridors, in some neighborhoods accounting for close to 25% of active ground
13 floor businesses.

14 (c) But in recent years, the City’s restaurant industry has been in decline. According to data
15 from the Department of Public Health, the number of restaurant closures has exceeded the number of
16 new restaurants in the City for at least the past five consecutive years.

17 (d) The decline of brick-and-mortar restaurants in the City over the past five years coincides
18 with the rapid rise of third-party food delivery services, businesses that process food delivery and
19 pickup orders through mobile apps and websites. According to one consumer market outlook
20 publication, revenue in the U.S. “platform-to-consumer delivery” market was \$8.7 billion in 2019, a
21 nearly 10% increase over the same segment’s valuation in 2018. Market research data from the first
22 quarter of 2020 shows approximately 15.9% of all U.S. residents utilized third-party food delivery
23 services at least once in the past year, many on a regular basis, and industry experts expect that
24 percentage to continue to increase. Percentage use is even higher in urban markets such as San
25 Francisco, and the COVID-19 crisis has driven the usage rates higher still. This booming market is

1 highly concentrated in just a handful of businesses. As of November 2019, just four third-party food
2 delivery services controlled approximately 98% of the entire market.

3 (e) The increasing market dominance of a small number of third-party food delivery services
4 companies has resulted in increasingly difficult economic conditions for City restaurants, which must
5 contract with these companies if they wish to access the growing share of customers who rely on
6 delivery platforms to obtain meals.

7 (f) The market dominance of a few third-party food delivery services companies gives these
8 companies disproportionate leverage in contract negotiations with restaurants. These companies use
9 this leverage to extract high fees from restaurants – typically totaling 30% of an order total – and
10 thereby diminish restaurants’ already-narrow profit margins. Food delivery services companies also
11 often impose contract terms that prohibit restaurants from charging a higher price for delivery orders
12 than dine-in orders, eliminating a means by which restaurants could recoup the fees charged by
13 delivery services. And the companies frequently include in restaurant contracts a “telephone order
14 charge” that restaurants are required to pay even in cases where a customer telephone call does not
15 result in an order.

16 (g) Sample contracts used by leading third-party food delivery services companies reflect that
17 these companies commonly charge restaurants a 10% per-order fee for “delivery services,” the most
18 logistically demanding and resource-intensive service they provide to restaurants. These companies
19 often impose additional fees totaling as much as 20% of the order cost for what are described as
20 “marketing” or “logistics” services. Market research indicates that third-party food delivery services
21 companies that impose such a mix of services fees earn high profits. Market research also indicates
22 that companies’ profit margins from automated non-delivery services such as marketing and online
23 order processing are higher relative to profit margins from more resource-intensive delivery services.

24 (h) While money spent by consumers at local restaurants circulates within communities and
25 bolsters the vitality of commercial corridors, third-party food delivery services companies have

1 amassed concentrated wealth without providing similar community benefits. And increasingly, these
2 companies are using their market leverage to extract unfairly high payments from restaurants,
3 hastening the closure of City restaurants and the resulting decline of City commercial districts.

4 (i) The COVID-19 emergency has worsened the economic picture for City restaurants. Due to
5 a ban on dine-in restaurant service caused by a concern with the spread of COVID-19, third-party food
6 delivery services have enjoyed unprecedented revenue, while restaurants have become dependent on
7 delivery and takeout orders, and increasingly vulnerable to unfair contract terms demanded by delivery
8 services companies.

9 (j) Capping the fees third-party food delivery services companies can charge restaurants,
10 prohibiting these companies from restricting restaurant pricing, and prohibiting these companies from
11 imposing unfair “telephone order charges” unconnected with any customer purchase are all important
12 steps to ensure that restaurants can thrive in San Francisco and continue to nurture vibrant, distinctive
13 commercial districts. The fact that leading third-party food delivery services companies currently
14 charge a 10% per-order fee for the most resource-intensive aspect of their business – delivery services
15 – and that these companies report high profit margins from all aspects of their business operations,
16 indicate that a 15% fee cap on per-order fees charged to restaurants is a reasonable step to protect
17 restaurants from financial collapse without unduly constraining third-party food delivery services’
18 businesses.

19 (k) Prohibiting third-party food delivery services from providing delivery and other
20 services to a restaurant without the restaurant’s express consent, and further requiring that
21 third-party food delivery services terminate a contract promptly upon receiving oral or written
22 termination notice from a restaurant, are other important steps to ensure that restaurants can
23 exercise appropriate control over their businesses.

24
25 **SEC. 5301. DEFINITIONS.**

1 For purposes of this Article 53, the following definitions apply:

2 “City” means the City and County of San Francisco.

3 “Covered establishment” means a restaurant that offers, in a single commercial transaction
4 over the internet, whether directly or through a third-party food delivery service, the sale of food for
5 same-day pickup or delivery to customers from one or more retail locations within the City.

6 “Food preparation and service establishment” shall have the meaning set forth in Section 451
7 of the Health Code, as may be amended from time to time.

8 “OEWD” means the Office of Economic and Workforce Development or its successor agency.

9 “OEWD Director” means the Director of OEWD or the Director’s designee.

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

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

14 “Restaurant” shall have the meaning set forth in Section 451 of the Health Code, as may be
15 amended from time to time.

16 “Third-party food delivery service” means any website, mobile application, or other internet
17 service that offers or arranges for the sale of food and/or beverages prepared by, and the same-day
18 delivery or same-day pickup of food and beverages from, no fewer than 20 separately owned and
19 operated food preparation and service establishments.

20
21 **SEC. 5302. CAP ON PER-ORDER FEES.**

22 (a) No third-party food delivery service may charge a covered establishment a fee, commission,
23 or charge per online order that totals more than ~~40~~15% of the purchase price of the online order.

24 (b) No third-party food delivery service may charge a covered establishment a fee, commission,
25 or charge that exceeds ~~40~~15% of the purchase price of online orders to that covered establishment

1 processed through the third-party food delivery service during the time period covered by the fee,
2 commission, or charge.

3 (c) Notwithstanding the limitation on fees, commissions, and charges set forth in
4 subsections (a) and (b), above, a third-party food delivery service may charge a point-of-sale
5 processing fee to a covered establishment of up to 3% of the purchase price. Such fee shall
6 be itemized separately in any agreement, invoice, or other written statement of charges to a
7 covered establishment, and shall not be considered in determining whether a third-party food
8 delivery service has reached or exceeded the 15% fee cap referenced in subsections (a) and
9 (b).

10
11 **SEC. 5303. PROHIBITION ON RESTRICTING RESTAURANT PRICING.**

12 No third-party food delivery service may impose on a covered establishment, by contract or
13 other means, any restrictions on the prices that a covered establishment may charge for food or
14 beverages, whether sold through a website, app, or other service operated by the third-party food
15 delivery service, or sold directly from the restaurant, or through any other means.

16
17 **SEC. 5304. PROHIBITION ON TELEPHONE ORDER CHARGES.**

18 No third-party food delivery service may charge a covered establishment a fee, commission, or
19 charge for a telephone call by a customer to the third-party food delivery service that does not result in
20 a purchase by a customer during the telephone call.

21
22 **SEC. 5305. PROHIBITION ON SERVICES WITHOUT WRITTEN CONSENT BY A**
23 **COVERED ESTABLISHMENT.**

24 No third-party food delivery service may provide any services related to the processing
25 or delivery of an order for delivery of food or beverages from a covered establishment unless

1 that covered establishment expressly agrees in writing to allow the third-party food delivery
2 service to provide such services.

3
4 **SEC. 5306. TERMINATION OF SERVICES WITHIN 72 HOURS OF NOTICE BY**
5 **COVERED ESTABLISHMENT.**

6 A third-party food delivery service shall terminate any service contract with a covered
7 establishment within 72 hours after the covered establishment provides oral or written notice
8 of its decision to terminate the contract to an individual contact person designated for
9 communications regarding the termination or amendment of a contract in either the parties’
10 contract or in the version of the third-party delivery service’s software application used by the
11 covered establishment, or if no such individual is so specified, to either the individual
12 designated on the website of the California Secretary of State as agent for service of process
13 for the third-party delivery service, or to any officer or local or regional manager of the third-
14 party delivery service. For purposes of this Section 5306, “written notice” shall include any
15 writing delivered by email, text message or similar message transmitted through phone or
16 software application, facsimile, personal delivery, or mail service.

17
18 **SEC. ~~5305~~5307. DOCUMENTATION OF COMMISSIONS, FEES, AND TERMS**
19 **IMPOSED ON RESTAURANTS.**

20 (a) Third-party food delivery services shall maintain records sufficient to document their
21 compliance with Sections 5302, 5303, ~~and 5304~~, 5305, and 5306, including but not limited to all
22 relevant agreements, invoices, and transaction records, for three years from the date of any related
23 customer transaction.

24 (b) At any time, OEWD may direct any third-party food delivery service to disclose any
25 documents and records required to be retained under subsection (a) with respect to any covered

1 establishment. Any third-party food delivery service so directed must disclose specified documents and
2 records to OEWD within 72 hours, not counting weekends or holidays. A third-party food delivery
3 service’s failure to provide required records to OEWD within the required 72 hours shall be a violation
4 of this Article 53.

5
6 **SEC. 53065308. ADMINISTRATION AND ENFORCEMENT.**

7 This Article 53 shall be administered and enforced by OEWD. The OEWD Director may adopt
8 regulations, guidelines, and forms to carry out the provisions and purposes of this Article. Any
9 regulations adopted by OEWD under this authority must be submitted to the Board of Supervisors, and
10 shall become effective 30 days from that submission unless a member of the Board of Supervisors
11 introduces an ordinance to modify or reject them. If a member of the Board of Supervisors introduces
12 such an ordinance, the regulations shall become effective 70 days from introduction of the ordinance,
13 unless the ordinance has been enacted.

14
15 **SEC. 53075309. PENALTIES AND ENFORCEMENT.**

16 (a) Enforcement Procedure. The OEWD Director shall issue an administrative citation for the
17 violation of any section of this Article 53. Administrative Code Chapter 100, “Procedures Governing
18 the Imposition of Administrative Fines,” is hereby incorporated in its entirety, except as it relates to the
19 definition of a violation and the calculation of penalty amounts, addressed in subsections (b) and (c).
20 Administrative Code Chapter 100 shall govern the procedure for imposition, enforcement, collection,
21 and administrative review of administrative citations issued under this Section ~~53075309.~~

22 (b) Violations Subject to Penalties. Any third-party food delivery service that violates any
23 provision of this Article 53 shall be subject to an administrative penalty imposed by order of the OEWD
24 Director. For purposes of assessing penalties for violation of Sections 5302, 5303, ~~and 5304,~~ 5305,
25 and 5306, a separate violation shall accrue each time a customer transaction is processed subject to

1 any contract, term, fee, commission, charge, or price that violates one or more of these sections. As
2 used in the prior sentence, “customer transaction” includes a telephone call by a customer to the third-
3 party food delivery service that does not result in a purchase by a customer during the telephone call,
4 for purposes of identifying a violation of Section 5304. For purposes of assessing penalties for
5 violation of Section ~~5305~~5307, each day a third-party food delivery service fails to disclose documents
6 or records in violation of that section shall be a separate violation.

7 (c) Penalty Amounts. In setting the amount of the administrative penalty, which shall not
8 exceed \$1,000 per violation, the OEWD Director shall consider any one or more mitigating or
9 aggravating circumstances presented, including but not limited to the following: the amount of any fee,
10 commission, or charge collected in violation of this Article 53, the persistence of the misconduct, the
11 willfulness of the misconduct, the length of time over which the misconduct occurred, and the assets,
12 liabilities, and net worth of the third-party delivery service.

13
14 **SEC. 53085310. UNDERTAKING FOR THE GENERAL WELFARE.**

15 In enacting and implementing this Article 53, the City is assuming an undertaking only to
16 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
17 obligation for breach of which it is liable in money damages to any person who claims that such breach
18 proximately caused injury.

19
20 **SEC. 53095311. SEVERABILITY.**

21 If any section, subsection, sentence, clause, phrase, or word of this Article 53, or any
22 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
23 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
24 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
25 passed this Article and each and every section, subsection, sentence, clause, phrase, and word not

1 declared invalid or unconstitutional without regard to whether any other portion of this ordinance or
2 application thereof would be subsequently declared invalid or unconstitutional.

3
4 **SEC. 5312. SUNSET DATE.**

5 This Article 53 shall expire by operation of law two years from its effective date. Upon
6 expiration, the City Attorney shall cause this Article to be removed from the Police Code.

7
8 Section 2. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: /s/ Sarah A. Crowley
16 SARAH A. CROWLEY
Deputy City Attorney

17 n:\legana\as2020\2000108\01484420.docx

REVISED LEGISLATIVE DIGEST
(Amended in Committee – October 8, 2020)

[Police Code - Third-Party Food Delivery Services]

Ordinance amending the Police Code to regulate third-party food delivery services (“delivery services”) by 1) capping fees charged to restaurants at 15% of an order total plus a 3% point-of-sale processing charge; 2) prohibiting delivery services from restricting restaurant pricing; 3) prohibiting delivery services from charging restaurants for telephone calls to the delivery service not resulting in any food or beverage order; 4) prohibiting delivery services from providing services to any restaurant without the restaurant’s express written agreement to receive such services; 5) requiring third-party food delivery services to terminate a service contract within 72 hours of receiving a notice requesting termination from a restaurant; 6) requiring retention of and City access to records substantiating compliance with these restrictions; 7) authorizing the imposition of penalties for violations; and 8) 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 imposed 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 exempted from that fee cap orders with restaurants that qualify as “formula retail” under the Planning Code. The Mayor subsequently clarified the termination provision of that order in the Nineteenth Supplement to the Proclamation of Local Emergency (“Nineteenth Supplement”) issued on June 13, 2020. On September 30, 2020, the Mayor issued the Twenty-Ninth Supplement to the Proclamation of Local Emergency (“Twenty-Ninth Supplement”) to extend the 15% fee cap until such time as restaurants are permitted to allow indoor dine-in service by patrons occupying at least 50% of the restaurant’s maximum occupancy.

All above provisions are currently in effect, but the extension of the fee-cap in the Twenty-Ninth Supplement remains 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 for a period of two years from enactment. It would authorize OEWD to implement

and enforce Article 53, and would prohibit third-party food delivery services from doing the following:

- charging any restaurant a fee for online orders for delivery or pickup in San Francisco that exceeds 15% of the order total plus a 3% point-of-sale processing charge;
- restricting any restaurant's discretion to set its prices;
- charging any restaurant a fee for "telephone orders" through the third-party food delivery service that do not result in a customer purchase;
- providing services to any restaurant without the restaurant's express written agreement to receive such services; and
- failing to terminate a service contract with a restaurant within 72 hours of receiving oral or written notice of a restaurant's decision to terminate the contract.

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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CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

July 31, 2020

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 200398 – Police Code - Third-Party Food Delivery Services

Small Business Commission Recommendation to the Board of Supervisors: **Support**

Dear Ms. Calvillo,

On July 02, 2020 the Small Business Commission (SBC or Commission) heard BOS File No. 200398 – Police Code - Third-Party Food Delivery Services. Lee Hepner, Legislative Aide to Supervisor Peskin provided the SBC with an overview of the legislation. After a substantive discussion, the Commission voted (5-0, with two absent) to recommend that the Board of Supervisors support the legislation.

The Commission earnestly contemplated the tenants of the legislation with Mr. Hepner and were provided with ample opportunity to ask important questions relative to the proposed administration of the ordinance. They highlighted the urgent need to regulate third-party food delivery services and expressed a desire to see this expanded to services that deliver groceries as well.

The Commission voted unanimously, with two absent, to support the legislation and were appreciative for the opportunity to discuss it with the sponsor's office in the public forum.

Thank you for considering the Commission's recommendation. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Regina Dick-Endrizzi".

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Aaron Peskin, Member, Board of Supervisors

Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Joaquin Torres, Director, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development
John Carroll, Clerk, Public Safety and Neighborhood Services Committee

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Chief William Scott, Police Department
Joaquin Torres, Director, Office of Economic and Workforce Development

FROM: John Carroll, Assistant Clerk,
Public Safety and Neighborhood Services Committee,
Board of Supervisors

DATE: April 29, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on April 21, 2020:

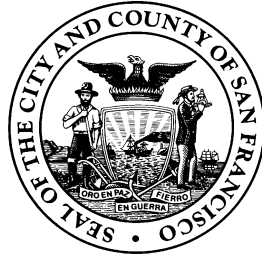
File No. 200398

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.

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.

c: Rowena Carr, Police Department
Asja Steeves, Police Department
J'Wel Vaughan, Office of Economic and Workforce Development
Anne Taupier, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: April 29, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Public Safety and Neighborhood Services Committee

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 200398

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.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

From: [Carroll, John \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Subject: FW: Support the Fairness in Food Delivery legislation
Date: Wednesday, October 14, 2020 10:36:56 AM

From: Koji Kanematsu <koji@onigilly.com>
Sent: Thursday, October 8, 2020 9:23 AM
To: BOS-Supervisors <bos-supervisors@sfgov.org>
Subject: Support the Fairness in Food Delivery legislation

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello,

My name is Koji Kanematsu, founder of Onigilly.
We had 6 restaurant locations, however because of the pandemic, we had to close 4 locations permanently. We open 2 locations, but we are still not making a profit.

The fairness food delivery legislation helped us a lot to survive. The order from the delivery companies has been increasing significantly and we believe it is helping to prevent COVID-19 spread. We couldn't survive without the commission cap and this is very important for us to make the business sustainable.

Thank you very much,
Koji Kanematsu

--

Koji Kanematsu

ONIGILLY LLC,
343 Kearny St, San Francisco CA 94108

Tel and Fax 415-671-4706
koji@onigilly.com www.onigilly.com

Mission: Provide delicious, healthy and convenient food to our customers!

From: [BOS Legislation, \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Cc: [Board of Supervisors, \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: RE: Fairness in Food Delivery Request
Date: Thursday, October 8, 2020 8:15:32 AM
Attachments: [image001.png](#)

Hey John,

Does the below go under File No. 200398 [Police Code - Third-Party Food Delivery Services]?

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Sent: Wednesday, October 7, 2020 9:16 AM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: FW: Fairness in Food Delivery Request

Hello Leg,

Just checking that there is not a file open for this?

Eileen

From: Benson Wang <bensonwang@gmail.com>
Sent: Tuesday, October 6, 2020 9:43 PM
To: BOS-Supervisors <bos-supervisors@sfgov.org>
Subject: Fairness in Food Delivery Request

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Board of Supervisors,

I'm writing to ask that you please consider extending the 15% commission cap on delivery apps for the foreseeable future or at the very least, until restrictions are pulled on dining capacity.

With indoor dining restrictions, our business is more heavily predicated on delivery sales than ever intended and cannot survive on the margins created by this segment alone. Not to mention, the winter months will also be driven largely by delivery. Our business went from 1% delivery to 100% overnight. The old adage that the strong will survive is not applicable in this situation - we are all limited at the moment by uncontrollable circumstance. I believe that only restaurant concepts built for delivery will make it - these are chain restaurants, large restaurant groups, and quick service restaurants - often serving low quality and commoditized food and owned by large Corp.

Although I believe free markets can influence innovation, the exorbitant amount of private capital invested in the delivery tech industry has played a heavy hand in creating the habit of ordering delivery vs dine in and takeout. As these companies race to the bottom to acquire market share, merchants are often stifled with the bill. This model, in my humble opinion, is unsustainable for merchants and as Mayor Breed pointed to, has heavily contributed to restaurant net closures since they began 5+ years ago. Without consolidation, many of these businesses will crumble and leave with nothing to show for it other than apocalyptic commercial corridors.

As a restaurant owner, Treasurer of the GGRA and a restaurant advisory committee member of Doordash, I am working tirelessly to help our industry survive through this pandemic and can confidently say that this cap singlehandedly kept my businesses alive, allowing me to keep people employed and serving the community.

I am happy to connect to provide further insight on this matter and appreciate your time. Thank you for the continued support

Best,
Benson

--

Benson Wang
2030 Union St., Ste 208

San Francisco, CA 94123
[SL Hospitality](#) | [The Flamingo](#)
c: 707.888.3343
bensonwang@gmail.com

From: [Hepner, Lee \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Cc: [Peskin, Aaron \(BOS\)](#)
Subject: Fwd: Support the Fairness in Food Delivery legislation
Date: Thursday, October 8, 2020 11:35:36 AM

Mr. Carroll - when you get a chance, please include the below correspondence in the public file for Board File No. 200398.

Thanks,
Lee

Begin forwarded message:

From: "Peskin, Aaron (BOS)" <aaron.peskin@sfgov.org>
Date: October 8, 2020 at 10:21:19 AM PDT
To: "Hepner, Lee (BOS)" <lee.hepner@sfgov.org>
Subject: Fwd: Support the Fairness in Food Delivery legislation

From: Koji Kanematsu <koji@onigilly.com>
Sent: Thursday, October 8, 2020 9:22:48 AM
To: BOS-Supervisors <bos-supervisors@sfgov.org>
Subject: Support the Fairness in Food Delivery legislation

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello,

My name is Koji Kanematsu, founder of Onigilly.
We had 6 restaurant locations, however because of the pandemic, we had to close 4 locations permanently. We open 2 locations, but we are still not making a profit.

The fairness food delivery legislation helped us a lot to survive. The order from the delivery companies has been increasing significantly and we believe it is helping to prevent COVID-19 spread. We couldn't survive without the commission cap and this is very important for us to make the business sustainable.

Thank you very much,
Koji Kanematsu

--

Koji Kanematsu

ONIGILLY LLC,
343 Kearny St, San Francisco CA 94108

Tel and Fax 415-671-4706
koji@onigilly.com www.onigilly.com

Mission: Provide delicious, healthy and convenient food to our customers!

From: [Mchugh, Eileen \(BOS\)](#)
To: [Carroll, John \(BOS\)](#)
Subject: FW: SUPPORTING Public Safety and Neighborhood Services Committee Agenda Item #3 Police Code - Third-Party Food Delivery Services File #200398
Date: Monday, October 5, 2020 10:18:05 AM

Hello John,

For the file!

Thank you,

Eileen

From: aeboken <aeboken@gmail.com>
Sent: Saturday, October 3, 2020 6:22 PM
To: BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>
Subject: SUPPORTING Public Safety and Neighborhood Services Committee Agenda Item #3 Police Code - Third-Party Food Delivery Services File #200398

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

TO: Board of Supervisors members

I am in support of amending the Polce Code to regulate third-party food delivery services.

Restaurants are already facing enough challenges.

Eileen Boken
Coalition for San Francisco Neighborhoods*

* For identification purposes only.

Sent from my Verizon, Samsung Galaxy smartphone

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.
- 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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only