

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

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3 **Ordinance amending the Police Code to allow third-party food delivery services to**
4 **charge restaurants a delivery fee of up to 15% of an online order total and a non-**
5 **delivery fee of up to 5% of an online order total, provided the third-party food delivery**
6 **services do not make their agreement to provide delivery services contingent on**
7 **restaurants' agreement to pay for non-delivery services, and provided the delivery and**
8 **non-delivery fees are agreed to in separate contracts.**

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NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
12 **Board amendment additions** are in Arial font.
13 **Board amendment deletions** are in ~~Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

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16 Section 1. Article 53 of the Police Code is hereby amended by revising Sections 5301
17 (with the defined terms that are added to that section sequenced alphabetically within the
18 section) and 5302, to read as follows:

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20 **SEC. 5301. DEFINITIONS.**

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* * * *

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“Delivery fee” means a fee, commission, or charge per online order assessed by a third-party
23 *food delivery service for the purpose of providing a covered establishment with a service that facilitates*
24 *and/or performs the delivery of food and/or beverages from such establishments to customers,*
25 *including listing a covered establishment on a third-party food delivery service platform. A delivery fee*

1 does not include any other fee or costs that may be charged by a third-party food delivery service to a
2 covered establishment, such as fees for advertising or credit card processing.

3 * * * *

4 “Non-delivery fee” means a fee, commission, or charge per online order assessed by a third-
5 party food delivery service to a covered establishment for a service to the covered establishment other
6 than facilitating or performing the delivery of food and/or beverages from such covered establishment
7 to customers and listing a covered establishment on a third-party food delivery service platform. Non-
8 delivery fees include but are not limited to fees for advertising the covered establishment on the third-
9 party food delivery service platform beyond a simple listing, business consulting service fees, and
10 credit card transaction fees.

11 * * * *

12 **SEC. 5302. CAP ON PER-ORDER FEES.**

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

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

20 (c) Notwithstanding the limitations on a delivery fee set forth in subsections (a) and (b), above,
21 a third-party food delivery service may charge a covered establishment a non-delivery fee of not more
22 than 5% of the purchase price of an online order, provided the third party food delivery service does
23 not make its agreement to provide delivery services to a covered establishment contingent on that
24 establishment’s agreement to pay a non-delivery fee and/or accept services covered by a non-delivery
25

1 fee, and provided the covered establishment agrees to the non-delivery fee in a contract separate from
2 the contract in which the covered establishment agrees to the delivery fee.

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

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

16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: /S/ Sarah Crowley
19 SARAH CROWLEY
20 Deputy City Attorney

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