

Item No. 25

Temporary Cap on Commission
Fees Charged by Third Party
Delivery Service Providers





Background

- Third-party delivery services charge restaurants commission fees that can reach up to 30 percent or more order, including delivery, subscription and processing fees.
- Core components of third-party delivery fees can include:
 - > Fees/Commissions paid by a restaurant to the service:
 - Menu Fees, Commission Fees, Pick-Up/Takeout Commission, Marketing Fee
 - > Fees paid by the consumer to the service:
 - Service Fee, Delivery Fee, Gratuity, Taxes



Comparison of Emergency Food Delivery Caps

Municipality	Commission Cap	Details
Cities in California		
Berkeley	15 % Cap on Delivery Fees charged to restaurant; 5% Cap on All Other commission, fees, charges to restaurant	<ul style="list-style-type: none"> - Will remain in place until 90 days after the emergency order ends
Glendale	15% Cap on all Fees charged to restaurant	<ul style="list-style-type: none"> - Unlawful to charge restaurant fees totaling more than 15%, including service fees, delivery fees and other processing fees - Requires itemized receipts to consumers - Option to direct gratuities to restaurants (and paid to restaurants when other payments are transferred) - Terminates when local state of emergency ends
Los Angeles (City)	15 % Cap on Delivery Fees charged to restaurant; 5% Cap on All Other commission, fees, charges to restaurant	<ul style="list-style-type: none"> - Unlawful to charge a customer a higher price than the price set by the restaurant - Unlawful for third party delivery service to retain any portion of a tip or gratuity - Requires third party delivery service to provide an itemized receipt of menu items (as listed on restaurant menu); delivery fee charged to retail food establishment; each fee, commission or cost other than delivery fee, charged to the customer; any tip or gratuity paid to the driver. - Terminates 90 days after emergency order prohibiting on-premises dining is lifted



Comparison of Emergency Food Delivery Caps

San Francisco	15% Fee Cap	<ul style="list-style-type: none">- Cap applies to both delivery and customer pick-up orders that are captured by the service provider
Santa Cruz	15% Fee Cap	<ul style="list-style-type: none">- Cap applies to both delivery and customer pick-up orders that are captured by the service provider- Terminates when Health Order restricting dine-in service expires
Santa Monica	15% Cap on Delivery Fees charged to restaurant, 5% all other commissions, fees or charges to restaurant	<ul style="list-style-type: none">- Caps apply to both delivery and customer pick-up orders that are captured by the service provider- Terminates when Safer at Home Order is lifted
County Example		
Los Angeles (County)	15% Cap on the delivery fee, 20% Cap on Any Combination of Fees, Commissions, or Costs (including delivery fee) of the purchase price of an online order (Proposed- July 21)	<ul style="list-style-type: none">- Unlawful to reduce compensation, including any tip or gratuity, paid to any worker- Expires 90 days after the expiration of the Safer At Home Order restricting in-person dining



Comparison of Food Delivery Caps- LA Example

Proposed Los Angeles County Ordinance (Food Delivery Platforms):

Fee Limits. It shall be unlawful for a third-party delivery service to charge a covered establishment:

- a. Any combination of fees, commissions or costs that total more than 20 percent of the Purchase Price of each Online Order. Fees, commissions or costs includes a Delivery Fee.
- b. A delivery fee that totals more than 15 percent of the purchase price of an online order;
- c. Any fee, commission, or cost other than as permitted in subdivisions (a) and (b), above.

Reporting of Fees. The third-party delivery service shall disclose to the customer an accurate, clearly identified, and itemized cost breakdown of each transaction, including, but not limited to, the following:

- a. The purchase price of the food and beverages at the cost listed on the covered establishment's menu;
- b. Each and every fee, commission, or cost charged to the covered establishment, including any Delivery Fee.
- c. Each and every fee, commission, or cost charged to the customer by the third-party delivery service; and
- d. Any tip or gratuity that will be paid to the person delivering the food or beverages.
- e. None of the fees, commissions, or costs in subdivisions (a) through (d) above, may be combined together.

Protection of Gratuities. It shall be unlawful for a third-party delivery service to reduce the compensation, including any tip or gratuity, paid to any workers as a result of the prohibitions in this Sixth Supplement. Any tip or gratuity shall be paid by the third-party delivery service, in its entirety, to the person delivering the food or beverages.



Comparison of Emergency Food Delivery Caps

Cities/States Across the United States		
Cambridge, MA	10% Fee Cap	
Chicago, IL	No Cap	- Mayor has instead opted for a transparency requirement on receipts to ensure fair business practices while maintaining innovation within the industry
Cincinnati, OH	15% Fee Cap	
District of Columbia	15% Fee Cap	
State of New Jersey	20% Fee Cap	
New York City, NY	15% Fee Cap	
Portland, OR	10% Fee Cap	
Philadelphia, PA	15% Fee Cap	
Seattle, WA	15% Fee Cap	- 100% of tips/gratuities go to delivery drivers - Provisions of the emergency ordinance make it unlawful for third party delivery services to reduce driver compensation rates as a result of this action



Pasadena Restaurants Survey

- Survey Emailed to All Retail Food Establishments in Pasadena
 - > 66 Respondents
 - > 89% use third-party delivery services
 - > Average commission ranged between 16 -31%
 - 25-30% for delivery orders
 - 10-17% for customer pick-up orders
 - > 92% of respondents support a temporary cap on commissions paid to third-party delivery services



Options & Alternatives for Third-Party Caps

- Level of Cap Percentage
- Determination of Applicable Fees Subject to a Cap
- Length of Order



Staff Recommendation

- Direct City Manager to pursue a local emergency supplement to place a temporary cap on commission fees charged by third-party delivery services to retail food establishments in Pasadena
 - > To remain consistent with neighboring cities and to make it easier for third party delivery services to implement said cap in the Los Angeles region, it is recommended that Council direct the city manager to place a cap of all fees, commissions or costs that total no more than 20 percent of the Purchase Price of each online order. Fees, Commissions, or Costs includes a delivery fee.
 - > As part of that 20 percent cap, a delivery fee should total no more than 15 percent of the purchase price of an online order.
 - > Recommend transparency requirements, considerations of gratuities and a sunset clause of 90 days following a Health Officer Order is issued to allow dine-in service, without limitation.

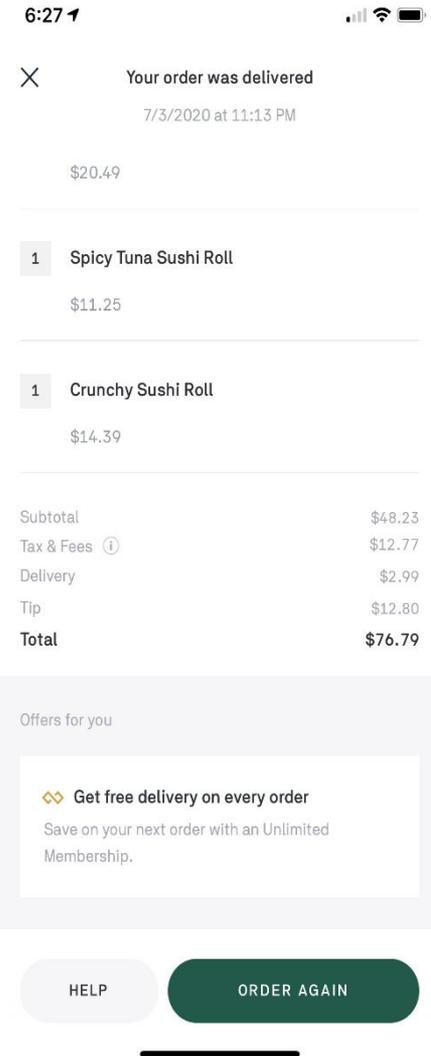


Driver Compensation Example

	Previous Calculation	New Calculation
Mileage amount (pick-up)	—	\$0.22 per mile* x 2 miles = \$0.44
Mileage amount (drop-off)	\$0.50 per mile x 1.5 miles = \$0.75	\$0.22 per mile* x 3 miles = \$0.66
Total mileage amount	\$0.75	\$1.10
Time amount (driving + waiting)	—	\$0.13 per minute* x 30 mins = \$3.90
Base order amount	\$4.00*	—
Tip	\$4.15	\$4.15
Total earned	\$0.75 + \$4.00 + \$4.15 = \$8.90	\$1.10 + \$3.90 + \$4.15 = \$9.15



Sample Order Tickets



Sample Breakdown of a Transaction Ticket Paid By Customer:

Chicken Teriyaki Plate	\$20.49
Spicy Tuna Roll	\$11.25
Crunchy Sushi Roll	\$14.39
Subtotal	\$48.23
Tax & Fees*	\$12.77
Delivery Fee	\$2.99
Tip	\$12.80
TOTAL	\$76.79

* Tax & Fees Breakdown

Tax	\$4.58
Service Fee	\$8.19
Total	\$12.77