



CITY OF HAYWARD

Hayward City Hall
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Cover Memo

File #: LB 20-043, **Version:** 1

DATE: September 22, 2020

TO: Mayor and City Council

FROM: Deputy City Manager

SUBJECT

Temporary Limit on Third-Party Food Delivery Fees: Adoption of Emergency Ordinance Establishing a Temporary Limit of 15 Percent Limit on Fees of Food Delivery Service Providers to Support Restaurants in Hayward During the COVID-19 Pandemic

RECOMMENDATION

That Council adopts an emergency ordinance that establishes a temporary 15 percent limit on fees charged by third-party food delivery service providers to Hayward restaurants during the COVID-19 pandemic.

SUMMARY

As a result of the State of Emergency declarations and the Alameda County Shelter-in-Place Order during the COVID-19 pandemic outbreak, Hayward businesses have experienced severe disruptions to normal operations and revenue streams. The Order's restrictions have particularly impacted the restaurant industry, which relies heavily on indoor dining services for income. During this time, online ordering and delivery of food has become a critical lifeline for restaurants.

Restaurants are relying on third-party app-based service companies to facilitate mobile ordering for pick-up or delivery to the consumer. These third-party delivery service providers include companies such as DoorDash, Grubhub, Postmates, and Uber Eats. Several Hayward restaurants have indicated that between 30 and 40 percent of their total sales are now derived from orders placed through these platforms. Staff estimates approximately half of Hayward restaurants and food establishments subscribe to one or more third-party delivery platforms.

While these companies are providing a critical service for Hayward restaurants that do not have existing delivery service and/or online ordering capacity, the fees charged are impacting the sector's ability to survive during the pandemic. According to the San Francisco Chronicle, third-party delivery service providers charge commission fees that ranges from 10 to 30 percent of the total value of an order. Interviews with restaurant owners and third-party delivery company representatives indicate fees can be as high as 35 percent. These fees eat away at restaurant profitability margins. During the pandemic, some Hayward restaurant owners are indicating they are losing money through these platforms. They are

not recouping enough net revenue to cover the daily operating expenses and may end up closing permanently.

To ease the economic burden on restaurant and food businesses during the pandemic, staff recommends the adoption of an emergency ordinance, which limits the fees charged by third-party delivery service providers to 15 percent per order. The provisions of the proposed ordinance are consistent with those adopted by other communities in the Bay Area region and, in some cases, go further to provide protections to the struggling restaurant sector.

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Emergency Ordinance