



Contra
Costa
County

To: Board of Supervisors
From: Supervisor Diane Burgis & Supervisor Karen Mitchoff
Date: February 2, 2021

Subject: ORDINANCE NO. 2021-05 - URGENCY ORDINANCE ESTABLISHING A TEMPORARY CAP ON FEES CHARGED BY THIRD PARTY MEAL DELIVERY SERVICES

RECOMMENDATION(S):

CONSIDER adopting Ordinance No. 2021-05, an urgency ordinance establishing a temporary cap on fees charged by third-party delivery services for food orders and deliveries from restaurants in Contra Costa County.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The COVID-19 pandemic has had a detrimental impact on restaurants in Contra Costa County and throughout the state. According to the National Restaurant Association, restaurant employment in California as of November 2020 is at least 20% lower than restaurant employment in February 2020. Restaurants nationally also continued to see job losses between October and November 2020. Restaurant sales fell four percent nationally between October 2020 and November 2020, and sales remain more than 20% below February 2020 levels. Overall total restaurant and food service sales nationally were down \$240 billion from expected levels in 2020.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **02/02/2021** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 2, 2021

Contact: Mark Goodwin,
(925) 252-4500

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc:

BACKGROUND: (CONT'D)

As of December 31, 2020, dozens of restaurants in the Bay Area have permanently closed because of the economic impacts connected with COVID-19. Restaurants in Contra Costa County also have experienced revenue losses as a result of the pandemic. Restaurants in some areas of Contra Costa County also have had to significantly reduce staffing due to pandemic-related public health restrictions.

The continued vitality of restaurants in Contra Costa County is critical to ensuring the availability of essential food services to the public, sustaining employment among restaurant workers, and preserving the vitality of the local economy and the vitality of neighborhoods and communities. Some residents in Contra Costa County are unable to prepare food themselves and rely on deliveries of prepared food, including food from restaurants, for their meals.

Many restaurant customers rely on third-party food delivery companies that operate applications or web-based platforms to place orders with restaurants for delivery and takeout. These companies rely on employees or third-party independent contractors to pick up and deliver food from restaurants. These companies charge restaurants a range of fees for orders, deliveries, and marketing services. These fees are charged at rates that threaten the profitability and ongoing vitality of restaurants in the County, particularly small and family-owned restaurants that are vital contributors to the employment of County residents, commerce in the County, and the identity of neighborhoods and communities in the County. Restaurants in Contra Costa County have a limited ability to negotiate these fees because only a small number of these third-party food delivery companies operate within Contra Costa County.

There is an urgent need for the County to place limits on the fees that third-party firms operating food delivery platforms may charge restaurants. These limits are necessary to preserve the health, safety, and public welfare of residents in Contra Costa County by ensuring the availability of prepared food in Contra Costa County.

Under the attached ordinance, if a customer places an online order for delivery or pickup at a restaurant through a platform operated by a third-party delivery firm, the delivery firm cannot charge the restaurant more than 15 percent of the order. Similarly, if a third-party delivery firm provides a service such as processing online orders for a restaurant, the delivery firm cannot charge the restaurant more than 10 percent of the order for providing that service.

The ordinance authorizes restaurants to request invoices from third-party delivery firms that specify the amount of fees charged to the restaurant. If a restaurant believes that a third-party delivery firm has violated the ordinance, the restaurant can provide written notice of the alleged violation to the firm. The firm has 10 days to respond in writing. The firm's response must indicate the remedial action the firm will take. If the firm will reimburse fees to the restaurant, the firm has 30 days to provide the refund. If a restaurant

is dissatisfied with the response or the firm does not respond, the restaurant can enforce the ordinance in Superior Court.

CLERK'S ADDENDUM

Speakers: **Writtten commentary received from Al Miller and Paul Fadelli, Mayor of El Cerrito.**

ATTACHMENTS

Ordinance No. 2021-05