

Frequently Asked Questions on Delivery Fee Restrictions

Updated 10/1/20

On April 10, 2020, Mayor Breed issued an order making it unlawful for a third-party food delivery service to charge a restaurant a fee per online order for the use of its services that totals more than 15% of the purchase price of such online order. The Mayor issued additional orders on delivery fees on June 13, 2020, and on September 30, 2020.

This document provides more information about the mayoral order. The September 30 order on delivery fee restrictions can be downloaded here:

https://sfmayor.org/sites/default/files/29th_Supplement_09302020.pdf

All of the Mayoral Declarations regarding COVID-19 may be found here:

<https://sfmayor.org/mayoral-declarations-regarding-covid-19>

What restaurants does this order cover?

To be covered through this order, a restaurant must:

- (1) Meet the definition of “restaurant” provided in [Section 451 of the Health Code](#);
- (2) Offer, in a single commercial transaction over the Internet, whether directly or through a third-party food delivery service, the sale and same-day delivery of food to customers from one or more retail locations within the City; and
- (3) Not meet the definition of a Formula Retail use in [Section 303.1 of the Planning Code](#).

What third-party food delivery services does this order cover?

This order applies to any website, mobile application or other Internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, no fewer than 20 separately owned and operated food service establishments.

Do taxes or gratuities count toward the “purchase price” for purposes of calculating the 15% limit on delivery fees?

"Purchase price" means the menu price of an online order. This term therefore excludes taxes, gratuities and any other fees that may make up the total cost to the customer of an online order, but that are not included in the menu price.

"Online order" means an order placed by a customer through a platform provided by a third-party food delivery service for delivery or pickup within the City.

When does this order take effect? When does it expire?

This order took effect on April 13, 2020. The order will terminate at such time as the Health Officer amends or terminates the Stay Safer At Home Order or any subsequent

order regulating restaurants so that restaurants may allow the number of patrons present in the indoor space of the dining establishment to be at least 50% of the establishment's maximum occupancy.

A third-party food delivery service will not be found in violation of this order if between April 13, 2020 and April 20, 2020, it imposed a fee per online order for the use of its services that totals more than 15% of the purchase price of such online order, provided it refunds the portion of the fee that exceeds 15% of the purchase price to the restaurant prior to April 27, 2020.

My restaurant is being charged a fee that is higher than allowed under this order. How do I request a refund?

If a third-party food delivery service charges a restaurant a fee that violates this order, the restaurant must provide written notice to the delivery service requesting a refund. The third-party food delivery service must provide the refund within seven days of receiving notice from the restaurant of the over-charge.

If the third-party food delivery service does not provide the appropriate refund within seven days of receiving notice, or if the delivery service continues to charge fees in violation of this order after the initial notice and seven-day cure period, a restaurant may enforce this order by initiating a civil action seeking damages and injunctive relief. The prevailing party in any such action shall be entitled to an award of reasonable attorney fees.