

CITY OF SEATTLE

RESOLUTION _____

..title

A RESOLUTION ~~ratifying and confirming~~ modifying the April 24, 2020, emergency order relating to capping restaurant delivery and pick-up commission fees.

..body

WHEREAS, the World Health Organization (WHO) has declared that COVID-19 disease is a global pandemic, which is particularly severe in high-risk populations such as people

with underlying medical conditions and the elderly, and the WHO has raised the health emergency to the highest level, requiring dramatic interventions to disrupt the spread of this disease; and

WHEREAS, on February 29, 2020, Governor Jay Inslee declared a statewide state of emergency in response to outbreaks of COVID-19 in Washington; and

WHEREAS, on March 3, 2020, the Mayor proclaimed a civil emergency related to the spread of COVID-19, authorizing the Mayor to exercise the emergency powers necessary for the protection of the public peace, safety, and welfare; and

WHEREAS, on March 5, 2020, the Council adopted Resolution 31937 affirming the civil emergency, modifying orders transmitted by the Mayor related to the emergency, and establishing Council’s expectations related to future orders and reporting by the Mayor during the civil emergency; and

WHEREAS, as of April 23, 2020, Public Health—Seattle & King County announced a total of 5,427 cases of COVID-19 in King County residents, including 379 deaths; and

WHEREAS, on March 23, 2020, Governor Inslee issued Proclamation 20-25, Stay Home – Stay Healthy, prohibiting all people in Washington State from leaving their homes or participating in social, spiritual, or recreational gatherings of any kind regardless of the

1 number of participants, except to conduct or participate in essential activities and/or for
2 employment in essential business services; and

3 WHEREAS, while restaurants are deemed an essential business, to reduce the spread of the virus
4 and protect the public health, the Stay Home – Stay Healthy Order prohibits restaurants
5 in Seattle from offering dine-in service, limiting restaurants to delivery and takeout only;
6 and

7 WHEREAS, the COVID-19 crisis has had a significant impact on the local economy, impacting
8 the retail, restaurant, construction, gig economy, and other industries, and resulting in
9 loss of income for small businesses; and

10 WHEREAS, a survey conducted in late March by the National Restaurant Association of 5,000
11 restaurant owners and operators found that: sales were down 47 percent from March 1 to
12 March 22; 54 percent of restaurant owners have switched to take-out or delivery service
13 only; seven in ten operators have had to lay off employees and reduce the number of
14 hours worked, and roughly half anticipate more layoffs and reductions in hours over the
15 next 30 days; three percent of restaurant operators have permanently closed their
16 restaurant; and 11 percent of operators anticipate permanently closing within 30 days;
17 and

18 WHEREAS, the Washington State Employment Security Department reported, based on a
19 survey by the Bureau of Labor Statistics, that the number of jobs in food services and
20 drinking places decreased by 11,300 from February 2020 to March 2020; and

21 WHEREAS, Seattle has over 4,000 active business licenses for restaurants, caterers, and other
22 businesses in the food industry; and

1 WHEREAS, the 2016 Annual Survey of Entrepreneurs estimates that nearly 48 percent of the
2 firms in the accommodation and food services industry in the Seattle metropolitan area
3 are owned by black, indigenous, and people of color; and

4 WHEREAS, the economic disruptions to restaurants caused by COVID-19 have placed a sudden
5 and severe financial strain on many restaurants and will increase the likelihood of
6 restaurants struggling to meet existing financial commitments and remain open during
7 and after the COVID-19 crisis; and

8 WHEREAS, many consumers are eager to support local restaurants and use third-party, app-
9 based delivery services to place orders with those restaurants, and these third-party
10 platforms charge delivery service fees to restaurants based on the purchase price; and

11 WHEREAS, while service agreements between restaurants and third-party delivery service
12 companies vary, all of these agreements include delivery service fees and most
13 agreements include commission fees, sometimes in excess of 30 percent of the purchase
14 price; and

15 WHEREAS, restaurants, particularly small, family-owned restaurants with few locations, have
16 limited bargaining power to negotiate lower fees with third-party, app-based delivery
17 service companies, due to only a few companies existing in the marketplace to provide
18 such delivery services, and because take-out and delivery are the only options to keep the
19 business in operation during the COVID-19 pandemic; and

20 WHEREAS, the U.S. Small Business Administration's Paycheck Protection Program (PPP) is an
21 important step to provide relief to the restaurant industry, but as currently designed it
22 does not address the unique and evolving challenges of the restaurant industry and their
23 path to recovery, resulting in a growing number of restaurant owners concluding that the

1 PPP is not going to prevent them from permanently closing operations, underscoring the
2 need for other actions, such as capping restaurant delivery and pick-up commission fees,
3 to provide some financial relief to the industry; and

4 WHEREAS, capping delivery and pick-up commission fees to a maximum of 15 percent of the
5 purchase price on delivery or pick-up orders while restaurants are unable to provide
6 unrestricted dine-in service will make it feasible for more restaurants to transition to take-
7 out and delivery service, allowing some restaurants that have been closed during the
8 COVID-19 crisis to reopen; and

9 WHEREAS, it is the intent of the City Council to support actions that provide a quick response
10 to the rapidly shifting needs of local, small, and minority- and woman-owned businesses
11 during this unprecedented crisis; and

12 WHEREAS, it is in the public interest to take action by emergency order to ensure that
13 restaurants in Seattle are able to maximize revenue from takeout and delivery orders that
14 are currently the sole source of revenue for these small businesses and to help restaurants,
15 that were already operating on thin margins, survive this COVID-19 crisis, remain as
16 sources of employment, allowing them to continue to serve and contribute to the identity
17 of their communities; and

18 WHEREAS, Seattle Municipal Code subsection 10.02.020.B provides that the Seattle City
19 Council can either ratify and confirm, modify, or reject such an emergency order;

20 NOW, THEREFORE,

21 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:**

1 Section 1. The Civil Emergency Order relating to restaurant delivery and pick-up
2 commission fees issued by Mayor Jenny A. Durkan, dated April 24, 2020, attached to this
3 resolution as Exhibit A, is ~~hereby ratified and confirmed~~ modified, as shown in Exhibit B.

4 Adopted by the City Council the _____ day of _____, 2020,
5 and signed by me in open session in authentication of its adoption this _____ day of
6 _____, 2020.

7 _____
8 President _____ of the City Council

9 Filed by me this _____ day of _____, 2020.

10 _____
11 Monica Martinez Simmons, City Clerk

12 (Seal)

13 Attachments:
14 Exhibit A – Emergency Order Issued April 24, 2020
15 Exhibit B – Modified Emergency Order