



Legislation Text

File #: CB 120092, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the regulation of food delivery businesses and platforms; adding a new Chapter 7.30 to the Seattle Municipal Code.

WHEREAS, on February 29, 2020, the Washington Governor issued Proclamation 20-05, proclaiming a state of emergency for all counties throughout the state of Washington in response to new cases of the novel coronavirus (COVID-19); and

WHEREAS, on March 11, 2020, the World Health Organization announced that COVID-19 is officially a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a national state of emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 25, 2020, the Washington Governor issued Proclamation 20-25, prohibiting all people in Washington State from leaving their homes and all non-essential businesses in Washington State from conducting business (“Stay Home - Stay Healthy Proclamation”); and

WHEREAS, these actions are appropriate for public health reasons but result in severe economic impacts on businesses, families, and individuals in Seattle; and

WHEREAS, while restaurants are deemed an essential business, to reduce the spread of COVID-19 and protect public health, the Washington Governor has either restricted or prohibited indoor dining, causing Seattle restaurants to primarily rely on outdoor dining, pick-up orders, and delivery to serve consumers; and

WHEREAS, the 2016 Annual Survey of Entrepreneurs estimates that nearly 48 percent of the owners of firms

in the accommodation and food services industry in the Seattle metropolitan area identify as Black, Indigenous, and People of Color; and

WHEREAS, a survey conducted in November 2020 by the National Restaurant Association of 6,000 restaurant operators found that 79 percent reported lower sales in October 2020 as compared to October 2019, with an average 29 percent decrease in sales, and that 49 percent anticipate their staffing levels to decline during the next three months; and

WHEREAS, many consumers have been eager to support local restaurants during the pandemic, resulting in sharply increased usage of third-party, app-based delivery platforms (“platforms”) to place orders with those restaurants; and

WHEREAS, on April 27, 2020, the City Council (“Council”) adopted a modified civil emergency order issued by the Mayor on April 24, 2020, that made it unlawful for these platforms to charge restaurants a commission fee per online delivery or pick-up order that exceeds 15 percent of the purchase price of such online order; and

WHEREAS, a restaurant may be listed on these platforms without the restaurant’s explicit permission, which can result in issues that negatively impact the consumer’s experience and the restaurant’s reputation and income; and

WHEREAS, use of these platforms by consumers is predicted to continue growing at a steady rate after the pandemic ends; and

WHEREAS, it is in the public interest that these platforms be required to attain the permission of a restaurant before it can be listed; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 7.30 is added to the Seattle Municipal Code as follows:

CHAPTER 7.30 FOOD DELIVERY PLATFORMS

7.30.010 Scope and purpose

This Chapter 7.30 applies to all food delivery platforms operating within Seattle. The purpose of this Chapter 7.30 is to require that food delivery platforms establish an agreement with restaurants prior to offering pick-up or delivery from such restaurants on the food delivery platform and delivering orders from such restaurants to consumers, with the goal of protecting the interests of the City’s consumers and restaurants.

7.30.020 Definitions

“Agreement” means a written contract between a restaurant and a food delivery platform.

“Consumer” means any person or persons purchasing a food order from a restaurant using a food delivery platform.

“Director” means the Director of Finance and Administrative Services.

“Food delivery platform” means a person, other than a restaurant, that provides a means through which a consumer may submit a food and/or beverage order to a restaurant, and arranges for the order to be either picked up from the restaurant by the consumer or delivered from the restaurant to the consumer.

“Person” means any individual, firm, corporation, association, partnership, governmental entity, or their agents.

“Restaurant” means a business in which food and/or beverage preparation and service is provided for individual consumption either on- or off-premise, and in which any service of alcoholic beverages is accessory to the service of food.

7.30.030 Agreement required

A. A food delivery platform shall not offer pick-up or delivery services from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the food delivery platform to take orders and offer delivery or pick-up of the food and/or beverages prepared by the restaurant.

B. The agreement shall be terminated upon the restaurant’s written request to the food delivery platform. The food delivery platform shall remove the restaurant from its list of participating restaurants within 72 hours of receiving the request for termination.

7.30.040 Remedies

A. Violations of this Chapter 7.30 shall be a Class 1 civil infraction under chapter 7.80 RCW, for which the maximum penalty is \$250 plus statutory assessments. The civil infraction shall be processed under chapter 7.80 RCW and notices of infraction for such violations may be issued by the Director or the Director's designees. Each day of noncompliance shall be a separate violation of this Chapter 7.30.

B. Any person or class of persons that suffers injury as a result of a violation of this Chapter 7.30 may bring a civil action in a court of competent jurisdiction against the person violating this Chapter 7.30 and, upon prevailing, may be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation.

C. An account shall be established in the City's General Fund to receive revenue from penalties under this Section 7.30.040. Revenue from penalties under subsection 7.30.040.A shall be used to support restaurants with five or fewer employees operating in Seattle. The Director of the Office of Economic Development shall recommend to the Mayor and City Council how these funds should be allocated.

Section 2. This ordinance shall take effect and be in force on September 15, 2021.

Passed by the City Council the _____ day of _____, 2021, and signed by me in open session in authentication of its passage this _____ day of _____, 2021.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2021.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2021.

Monica Martinez Simmons, City Clerk

(Seal)