



Legislation Text

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Staff Report for a City of San Leandro City Council Resolution Approving Amendment No. 1 to the Declaration of the Director of Emergency Services of the City of San Leandro Establishing a Temporary Limit of 15% on Fees Charged by Third Party Food Delivery Companies to Support Restaurants in San Leandro During the COVID-19 Pandemic

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City of San Leandro City Council approve Amendment No. 1 to the Declaration of the Director of Emergency Services, amending the timeframe of the temporary limit of 15% on fees charged by third party food delivery companies, which will continue through the local state of emergency.

BACKGROUND AND ANALYSIS

Following the initiation of the Alameda County Shelter-in-Place Order on March 17, 2020, many San Leandro businesses, including restaurants, cafés, and other food and beverage businesses, were required to be closed, or limited to pick up service only, in order to protect employees and customers and limit the spread of the COVID-19 virus. The orders' restrictions devastated local businesses, particularly small service, food, and other direct customer serving businesses.

During this time, online ordering and delivery of food has become a critical lifeline to many restaurants and food businesses. In order to assist with the ordering and delivery process, many food businesses utilize third party food delivery companies, such as DoorDash, GrubHub, Postmates, and UberEats. These food delivery services are vital to our residents and businesses alike. However, many businesses find that the delivery company fees, which normally can be over 30%, are onerous and make it hard for them to cover their costs and make any profit.

On July 9, 2020, the Director of Emergency Services of the City of San Leandro issued a declaration establishing a temporary limit of 15% on fees charged by third-party food delivery companies ("Declaration"). Such Declaration was established to be effective until restaurants were permitted to resume dine-in service, or the termination of the local state of emergency, whichever occurred first.

On October 13, 2020, the State of California announced that Alameda County entered the Orange Tier of the state's Blueprint for a Safer Economy due to decreased COVID-19 case and positivity rates. On October 23, 2020, a revised Alameda County Shelter-in-Place Order became effective that allows for expanded business and recreational activities, including limited indoor dining, up to 25% capacity or less than 100 people.

While the Shelter-in-Place Order was revised to permit limited indoor dining on October 23, 2020, it is expected that restaurants and customers will continue to rely heavily on third-party delivery services for the foreseeable future. It is expected that many patrons will continue to prefer to utilize food delivery services rather than in-person dining due to individual comfort level and safety concerns, as well as changes in habit. It is unclear how quickly restaurant patrons will return to restaurant dining and restaurants may continue to see a significant loss of revenue for an ongoing period of time.

As restaurants return to modified, lower capacity service, they must take on the increased costs and logistics of creating new, physically distanced dining areas and implementing increased training and sanitation

measures. Additionally, the limited amount of indoor seating (and limited or no outdoor seating for most) continues to significantly limit restaurants' ability to cover their baseline operating and staff costs, which were designed for full capacity operations. Many restaurants were already operating with thin margins prior to the pandemic and are struggling to continue operations and cover current and past rent.

It is in the interest of public health and welfare that restaurants continue to operate and not close due to the inability to cover their fixed costs. Restaurants provide a vital source of food for those who cannot prepare their own, a source of employment for many, and contribute to the vitality of the City. It is expected that the need for limited fees from third-party delivery companies will continue until restaurants are able to resume full, normal operations, and the local state of emergency has ended, and customers feel comfortable resuming more 'normal' dining-out habits.

As such, the Declaration of the Director of Emergency Services has been amended to revise the date at which the limit on third-party delivery fees ends. Rather than ending at the sooner of indoor dining being permitted, or the end of the local state of emergency, the declaration has been amended to continue through the full local state of emergency. This timeframe is generally consistent with similar declarations in neighboring cities, including Hayward, Fremont and Dublin.

Per the declaration, the change to the ending of the temporary limit went into effect on October 23, 2020. The Director of Emergency Services recommends that the City Council confirm the Director of Emergency Services' declaration in conformance with emergency procedures.

ATTACHMENT(S)

Attachment to Resolution

- Declaration

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