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**BALTIMORE CITY COUNCIL
WAYS AND MEANS
COMMITTEE**

Mission Statement

The Committee on Ways and Means (WM) is responsible for ensuring taxpayer dollars are expended prudently and equitably. WM will exercise regular oversight of the City's budget, expenditures, loans, and other financial matters. The committee's areas of jurisdiction include: budget & appropriations, taxation, financial services, consumer protection, audits, and the Comptroller's Office.

**The Honorable Eric T. Costello
Chairman**

PUBLIC HEARING

**TUESDAY, JANUARY 19, 2021
10:00 AM**

VIRTUAL WEBEX MEETING

Council Bill #21-0007

**COVID-19 Restaurant, Consumer, and Gig Worker Relief Act
(Temporary Limit on Third-Party Delivery Services Fees)**

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BILL SYNOPSIS

Committee: Ways and Means

Bill 21-0007

COVID-19 Restaurant, Consumer, and Gig Worker Relief Act (Temporary Limit on Third-Party Delivery Services Fees)

Sponsor: Councilmember Costello, et al
Introduced: January 11, 2021

Purpose:

For the purpose of establishing certain temporary regulations on third-party food delivery platforms; defining certain terms; authorizing the Director of Finance to adopt rules and regulations to implement and enforce this subtitle; setting forth certain prohibited conduct for third-party food delivery platforms; providing for enforcement by citation; providing for certain criminal and administrative penalties; providing for this Ordinance’s severability; setting forth a certain termination date; providing for a special effective date; and generally relating to the regulation of third-party food delivery platforms and the economic well-being of Baltimore restaurants, consumers, and gig workers during the COVID-19 pandemic.

Effective: On the date it is enacted. However, it will remain effective through the 91st day following the expiration of the health emergency declared by the Governor on March 5, 2020, as amended or extended by the Governor; this Ordinance will be abrogated and of no further effect.

Agency Reports – SEE ATTACHED REPORTS

Law Department	Unavailable as of this writing
Health Department	No Position/Defers to Finance Dept.
Baltimore Development Corporation	Favorable/Comments
Downtown Partnerships of Baltimore	Comments
Department of Finance	Does No Oppose/Comments

Analysis

Current Law

City Charter – Article II, Section 17 of the City Charter gives the Mayor and City Council the authority to license, tax and regulation businesses in the City.

Background

Many restaurants, bars, breweries, and similar establishments have been impacted negatively by the COVID-19 crisis. And, many of these establishments are operating only by selling food and beverage through takeout and delivery as a primary source of income during this crisis because these are the only options available to keep their business in operation.

Several consumers use third-party applications and websites to place orders for delivery and takeout and these third-party platforms and/or food delivery service providers charge fees. Sometimes the fees are in excess of 30% of the purchase price per order. These excessive fees are causing hardship for many local small businesses during this COVID-19 crisis.

If enacted, Council Bill 21-0007 will add a new subsection under Article 15 – Licensing and Regulation of the Baltimore City Code entitled, Third-Party Food Delivery Platforms.

The subsection outlines the rules and regulations for third party food deliveries. The bill provides immediate relief to small businesses including a temporary limit on third party delivery services fees; and includes a sunset date that terminates this subsection sometime in the future.

Additional Information

Fiscal Note: See attached agency report from the Department of Finance.

Information Source(s): City Charter, Baltimore City Code, Council Bill 21-0007 and all agency reports received as of this writing.


Analysis by: Marguerite M. Currin
Analysis Date: January 15, 2021

Direct Inquiries to: (443) 984-3485

Council Bill 21-0007

AGENCY REPORTS

See Attached Copies

F R O M	Name & Title	Dr. Letitia Dzirasa, Commissioner	Health Department AGENCY REPORT	
	Agency Name & Address	Health Department 1001 E. Fayette Street Baltimore, Maryland 21201		
	Subject/ Position:	21-0007 – COVID-19 Restaurant, Consumer, and Gig Worker Relief Act (Temporary Limit on Third-Party Delivery Services Fees) NO POSITION		

To: President and Members
of the City Council
c/o 409 City Hall


January 19, 2021

The Baltimore City Health Department (BCHD) is pleased to have the opportunity to review Council Bill #21-0007, entitled, “COVID-19 Restaurant, Consumer, and Gig Worker Relief Act (Temporary Limit on Third-Party Delivery Services Fees).” The purpose of this bill is to establish a limit on the amount of fees a third-party delivery service company can charge a food service facility in Baltimore City, with a sunset of 91 days after the expiration of the Governor’s catastrophic health emergency declaration.

BCHD does not anticipate any impacts to its operations, nor any direct impacts to public health, resulting from this bill’s adoption. For these reasons, BCHD takes **no position** on Council Bill #21-0007 and defers to the Department of Finance.



MEMORANDUM

DATE: January 19, 2021
TO: Ways and Means Committee
FROM: Colin Tarbert, President and CEO 
POSITION: Support
SUBJECT: City Council Bill No. 21-0007
COVID-19 Restaurant, Consumer, and Gig Worker Relief Act
(Temporary Limit on Third-Party Delivery Services Fees)

INTRODUCTION

The Baltimore Development Corporation (BDC) is reporting on City Council Bill No. 21-0007 – Temporary Limit on Third-Party Delivery Services App introduced by Councilmember Costello and President Mosby.

PURPOSE

For the purpose of establishing certain temporary regulations on third-party food delivery platforms; defining certain terms; authorizing the Director for Finance to adopt rules and regulations to implement and enforce this subtitle; setting forth certain prohibited conduct for third-party food delivery platforms; providing for enforcement by citation; providing for certain criminal and administrative penalties; providing for this Ordinance’s severability; setting forth a certain termination date; providing for a special effective date; and generally relating to the regulation of third-party food delivery platforms and the economic well-being of Baltimore restaurants, consumers, and gig workers during the COVID-19 pandemic.

BRIEF HISTORY

On March 19, 2020, Mayor Bernard “Jack” C. Young declared a local state of emergency for Baltimore City due to the spread of COVID-19, which is still in place. On December 9, 2020 current Mayor Brandon M. Scott issued an Executive Order prohibiting indoor and outdoor dining in order to continue to protect the public health. Consequently, this left food service establishments reliant on takeout and delivery to stay open. Many consumers use third-party applications and websites to place orders with food service establishments, and these third-party platforms charge fees in excess of 30% of the purchase price per order. Food service establishments with few locations have limited bargaining power to negotiate lower fees. These fees present a substantial hardship by diluting revenue during a time of substantial revenue loss for many local businesses.

City Council Bill No. 21-0007

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This legislation is consistent with other bills in Chicago, San Francisco, Seattle, and Massachusetts which have all passed 15% fee caps on third-party delivery companies. In December of 2020, neighboring Anne Arundel County Council introduced emergency legislation to also limit the fees to 15%.

BDC has heard from food businesses that fees to third-party platforms has severely impeded their ability to remain operational and cover operating costs. We are aware of and support local entrepreneurs working to address this issue by creating Baltimore-based applications that either charge no fees, because they are independently funded or charge significantly less than current competitors, but these efforts are still at the early stages of development.

FISCAL IMPACT

None

AGENCY POSITION

The BDC supports City Council Bill No. 21-0007.

If you have any questions, please do not hesitate to contact Kim Clark at 410-837-9305 or kclark@baltimoredevelopment.com.

cc: Nicholas Blendy

[SG]

To: Claudia Freeland Jolin; Costello, Eric (City Council)

Cc:

Subject: RE: Council Bill 21-0007 - COVID- 19 Restaurant, Consumer, and Gig Working Relief Act (Downtown Partnership Feedback)

From: Claudia Freeland Jolin <cjolin@dpo.org>

Sent: Friday, January 15, 2021 9:14 AM

To: Costello, Eric (City Council) <Eric.Costello@baltimorecity.gov>

Good Morning Councilman,

We want to say first and foremost that DPOB is supportive of this bill and we believe it will produce a positive impact. We did collect a few comments and thoughts from our C-suite and would like to present them to you here: We realize that legislation may take a lot of time to pass – perhaps way into the summer. Do you have a timeline on this? Is there any fast track for this, so that we can let our those who are impacted know? In addition, once we have a timeline, please let us know how DPOB can help support the dissemination of marketing and information on this.

- As mentioned by others, we are unclear on how enforcement of this legislation will take place. I have a more detailed outline on our question, but we would like to know more about how this legislation will lay out enforcement.

A small note, there is a type in food service second to last paragraph on page 2.

Thank you so much for everything you do!

Best,

Claudia



DOWNTOWN

PARTNERSHIP

Claudia Freeland Jolin

Vice President, Economic Development

Downtown Partnership of Baltimore, Inc.


20 South Charles Street, 6th Floor | Baltimore, MD 21201

P 410-244-1030 x467 | F 410-244-8670

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BaltAC

FROM	NAME & TITLE	Robert Cename, Budget Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432, City Hall (410) 396-4774		
	SUBJECT	City Council Bill 21-0007—COVID-19 Restaurant, Consumer, and Gig Worker Relief Act		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

January 15, 2021

Position: Does Not Oppose

The Department of Finance is herein reporting on City Council Bill 21-0007, COVID-19 Restaurant, Consumer, and Gig Worker Relief Act, the purpose of which is establish a cap on delivery and other fees third-party food delivery services can charge restaurants and food service facilities during the COVID-19 the health emergency declared by the Governor.

Background

Currently, restaurants and food service facilities that partner with or use third-party food delivery services apply commissions on sales made through the service, as well as other commissions such as marketing commissions. These commissions can be as high as 30% of the orders placed through the services to restaurants. This legislation would establish a 10% cap on delivery fees charged per order by third-party food delivery services, as well as a 15% cap on all fees, including delivery, charged to restaurants and food service facilities for the sales processed through the third-party delivery services. This legislation excludes food restaurants and food service facilities with more 10 or more locations within Baltimore City and have a common business name. In addition, this legislation prohibits third-party delivery services from charging customers more for orders than prices set by the food service facility and from reducing compensation to or garnishing tips from delivery drivers.

The legislation is intended to support small businesses during the COVID-19 pandemic, as various health restrictions implemented to prevent the spread of COVID-19 have impacted businesses, such as limitations on indoor and outdoor dining services. As a result of these limitations, restaurants and food service facilities are more dependent on customers ordering take out or delivery, which has resulted in greater dependence on third-party delivery services. Several jurisdictions have enacted similar legislation, including New York City, Seattle, Washington, D.C., San Francisco, Chicago, Los Angeles, and Baltimore County.

Fiscal Impact

The Department of Finance does not anticipate a fiscal impact for the City. The legislation requires enforcement, which the Department believes can be absorbed in current City operations since it will only be active during the Governor's declared health emergency. However, there may be fiscal impacts for other stakeholders.

If enacted, this legislation would reduce fees paid by restaurants and food service facilities that utilize these services. Restaurants, food service facilities, and other small businesses have experienced fiscal

impacts as a result of COVID-19 and the health restrictions put in place that limit services, such as prohibiting indoor and outdoor dining. Reducing fees could increase profits for restaurants, which would benefit the employees and local economy. In addition, this legislation would prevent third-party delivery services from reducing pay and garnishing tips from delivery drivers, actions that might otherwise be taken to maintain revenues and fill any gaps created by the cap.

However, there may be negative fiscal impacts for the third-party delivery services and customers ordering through these services. With health restrictions in place, demand for delivery has increased and third-party delivery services are hiring more drivers, which requires more background checks, and are processing more credit card payments. Capping the fees for these services during the declared health emergency could impact their revenues. In addition, additional costs may be transferred directly to customers that order food through these services. However, customers have the choice of whether to order directly from the restaurant or through one of these services based on their preferences.

Other Considerations

As written, this legislation requires the Department of Finance to establish the rules and regulations and enables enforcement in the form of an environment citation. However, the specific agency responsible for enforcement is unclear. The Department of Finance assumes that enforcement would be based on complaints filed by restaurants and food service facilities, customers, and delivery drivers, but the details of this process still need to be finalized.

While it is expected that there may be few complaints or enforcement issues since other jurisdictions are enacting similar legislation and there are a limited number of vendors in this market, there have been enforcement issues in other jurisdictions. When Jersey City implemented a fee cap, one vendor added a \$3 fee for customers and shrank the delivery radius. In addition, there have been reports in several jurisdictions of vendors not reducing their fees based on claims that the local regulations are unclear or that reopening measures void the caps.

Conclusion

This legislation will establish a cap in the fees third-party delivery services can charge restaurants and prevents these services from reducing wages for drivers or charging customers higher prices for orders than the restaurants' prices. Small businesses have struggled during the COVID-19 pandemic due to health restrictions that have reduced services. This legislation aims to reduce the costs restaurants and food service facilities have due to increased reliance on these third-party delivery services, especially while indoor and outdoor dining are prohibited.

For the reasons stated above, the Department of Finance does not oppose City Council Bill 21-0007.

cc: Henry Raymond
Natasha Menu
Nina Themelis

**CITY OF BALTIMORE
COUNCIL BILL 21-0007
(First Reader)**

Introduced by: Councilmember Costello, President Mosby, Councilmembers Stokes, Dorsey,
Ramos, Burnett, McCray, Middleton, Bullock, Porter, Cohen, Torrence, Glover

Introduced and read first time: January 11, 2021

Assigned to: Ways and Means Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Health Department, Baltimore
Development Corporation, Downtown Partnership of Baltimore, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **COVID-19 Restaurant, Consumer, and Gig Worker Relief Act**
3 **(Temporary Limit on Third-Party Delivery Services Fees)**

4 FOR the purpose of establishing certain temporary regulations on third-party food delivery
5 platforms; defining certain terms; authorizing the Director of Finance to adopt rules and
6 regulations to implement and enforce this subtitle; setting forth certain prohibited conduct for
7 third-party food delivery platforms; providing for enforcement by citation; providing for
8 certain criminal and administrative penalties; providing for this Ordinance’s severability;
9 setting forth a certain termination date; providing for a special effective date; and generally
10 relating to the regulation of third-party food delivery platforms and the economic well-being
11 of Baltimore restaurants, consumers, and gig workers during the COVID-19 pandemic.

12 BY adding

13 Article 15 - Licensing and Regulation
14 Sections 21-1 through 21-15, to be under the new subtitle,
15 “Subtitle 21. Third-Party Food Delivery Platforms”
16 Baltimore City Code
17 (Edition 2000)

18 BY repealing and re-ordaining, with amendments

19 Article 1 - Mayor, City Council, and Municipal Agencies
20 Section(s) 40-14(e)(2)
21 Baltimore City Code
22 (Edition 2000)

23 **Recitals**

24 **Whereas**, a state of emergency and catastrophic health emergency was proclaimed within the
25 State of Maryland on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1,
26 July 31, August 10, September 8, October 6, October 29, and November 25, 2020 to control and
27 prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic
28 health emergency still exists;

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 **Whereas**, on March 19, 2020, Mayor Bernard “Jack” C. Young of Baltimore City declared a
2 local state of emergency for Baltimore City due to the spread of COVID-19, which is still in
3 place;

4 **Whereas**, on December 9, 2020, to reduce the spread of COVID-19 and to protect the public
5 health, Mayor Brandon M. Scott issued an Executive Order restricting gatherings and indoor and
6 outdoor dining, which among other things, prohibited on-premises consumption of food or drink,
7 leaving food service establishments reliant on takeout and delivery to stay open;

8 **Whereas**, restaurants, bars, breweries, and similar establishments are at the heart of
9 Baltimore’s economy, and among the hardest hit, and most impacted by the COVID-19 crisis;

10 **Whereas**, with orders to limit seating capacity, many food service establishments have
11 experienced an increase in takeout and delivery offerings, placing a sudden and severe financial
12 strain on the industry, particularly on restaurants that are small businesses, a category of
13 businesses which typically already operate on thin margins;

14 **Whereas**, many of these food service establishments continue to operate by selling food and
15 beverage through takeout and delivery, as a primary source of income during this crisis,
16 particularly those that are small businesses that already operate on thin margins, adding to
17 financial pressures in an industry that predate the COVID-19 crisis;

18 **Whereas**, based on public input received by City officials, and surveys conducted by City
19 staff, the Baltimore Development Corporation, and the Downtown Partnership, many food
20 service establishments within the City have been relying on delivery and takeout service to
21 generate revenue, and it is critical they operate in a safe manner where social distancing can be
22 maintained in accordance with guidance from State and City public health officials;

23 **Whereas**, it is in the public interest to ensure the delivery of essential food and services to
24 the residents of Baltimore City and to maximize food service establishment revenue from the
25 takeout and delivery orders that are currently the sole source of revenue for those small
26 businesses to enable restaurants, bars, breweries, and similar facilities to survive this crisis and
27 remain as sources of employment and community vitality in the City of Baltimore;

28 **Whereas**, many consumers, eager to support local food service establishments, use
29 third-party applications and websites to place orders with food service establishments for
30 delivery and takeout, and these third-party platforms and food delivery service providers charge
31 restaurants fees, with service agreements between some establishments and third-party platforms
32 providing that the platform charge the establishment fees in excess of 30% of the purchase price
33 per order;

34 **Whereas**, food service establishments, particularly food service establishments that are small
35 businesses with few locations, have limited bargaining power to negotiate lower commission fees
36 with third-party platforms given the high-market saturation of providers and the dire financial
37 circumstances food service establishments face during the COVID-19 pandemic because takeout
38 and delivery are the sole options available to keep the business in operation;

39 **Whereas**, these excessive fees present a substantial hardship during a time of great economic
40 uncertainty for many local small businesses at a time when certain third-party delivery platforms
41 are reaching market valuations of tens of billions of dollars;

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1 **Whereas,** capping the fees for use of third-party, app-based food delivery platforms to a
2 maximum of 15% of the purchase price on delivery or pick-up orders while food service
3 establishments are unable to provide unrestricted dine-in service will accomplish the
4 fundamental government purpose of easing the financial burden on struggling establishments
5 during this public health emergency while not unduly burdening third-party, app-based delivery
6 platforms as this fee is recognized as reasonable, and third-party platforms continue to earn
7 significant revenue; the 15% cap on fees charged to food service establishments is based on the
8 findings and experience of other cities and counties across the country that have already adopted
9 such fee ceilings as reasonable emergency regulations on food delivery services;

10 **Whereas,** during this time of local economic shutdown and uncertainty caused by the
11 COVID-19 pandemic, many vulnerable workers have found work opportunities as delivery
12 drivers for these third-party delivery platforms to financially support themselves and their
13 families;

14 **Whereas,** third-party, app-based delivery platforms will further undermine already
15 vulnerable workers if the companies reduce compensation rates to these delivery drivers as a
16 result of this Ordinance capping delivery commission fees and it is critically important that we
17 protect these workers' wages during this economic downturn;

18 **Whereas,** Article II, Section 17 of the City Charter gives the Mayor and City Council the
19 authority to license, tax, and regulate businesses, trades, vocations, or professions, and Article II,
20 Section 47 of the City Charter authorizes the Mayor and City Council to pass any ordinance as it
21 may deem proper in maintaining the peace, good government, health and welfare of Baltimore
22 City;

23 **Whereas,** the City Council finds and declares that the passage of this Ordinance is necessary
24 for the protection of the public health and welfare.

25 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
26 Laws of Baltimore City read as follows:

27 **Baltimore City Code**

28 **Article 15. Licensing and Regulation**

29 **SUBTITLE 21. THIRD-PARTY FOOD DELIVERY PLATFORMS**

30 **§ 21-1. DEFINITIONS.**

31 (A) *IN GENERAL.*

32 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

33 (B) *DELIVERY FEE.*

34 (1) *IN GENERAL.*

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1 “DELIVERY FEE” MEANS A FEE CHARGED BY A THIRD-PARTY FOOD DELIVERY SERVICE
2 FOR PROVIDING A FOOD SERVICE FACILITY WITH A SERVICE THAT DELIVERS FOOD AND
3 BEVERAGES FROM THE FOOD SERVICE FACILITY TO CUSTOMERS.

4 (2) *EXCLUSIONS.*

5 “DELIVERY FEE” DOES NOT INCLUDE ANY OTHER FEE OR COST THAT MAY BE CHARGED
6 BY A THIRD-PARTY FOOD DELIVERY SERVICE TO A FOOD SERVICE FACILITY, SUCH AS
7 FEES FOR LISTING OR ADVERTISING THE FOOD SERVICE FACILITY ON THE THIRD-PARTY
8 FOOD DELIVERY SERVICE PLATFORM OR FEES RELATED TO PROCESSING THE ONLINE
9 ORDER.

10 (C) *DIRECTOR.*

11 “DIRECTOR” MEANS THE DIRECTOR OF THE DEPARTMENT OF FINANCE OR THE DIRECTOR’S
12 DESIGNEE.

13 (D) *FOOD SERVICE FACILITY.*

14 (1) *IN GENERAL.*

15 “FOOD SERVICE FACILITY” HAS THE MEANING STATED IN CITY CODE HEALTH
16 ARTICLE, § 6-101(D) {“DEFINITIONS: FOOD SERVICE FACILITY”}.

17 (2) *EXCLUSION.*

18 “FOOD SERVICE FACILITY” DOES NOT INCLUDE ANY FOOD SERVICE FACILITY THAT
19 OPERATES WITHIN A GROUP OF BUSINESSES THAT:

20 (1) HAS 10 OR MORE LOCATIONS WITHIN BALTIMORE CITY; AND

21 (2) OPERATE UNDER A COMMON BUSINESS NAME.

22 (E) *ONLINE ORDER.*

23 “ONLINE ORDER” MEANS AN ORDER PLACED BY A CUSTOMER THROUGH OR WITH THE
24 ASSISTANCE OF A PLATFORM PROVIDED BY A THIRD-PARTY FOOD DELIVERY SERVICE,
25 INCLUDING A TELEPHONE ORDER, FOR DELIVERY OR PICK-UP WITHIN THE CITY.

26 (F) *PURCHASE PRICE.*

27 (1) *IN GENERAL.*

28 “PURCHASE PRICE” MEANS THE PRICE, AS LISTED ON THE MENU OF THE FOOD SERVICE
29 FACILITY, FOR THE ITEMS CONTAINED IN AN ONLINE ORDER, MINUS ANY APPLICABLE
30 COUPON OR PROMOTIONAL DISCOUNT PROVIDED TO THE CUSTOMER BY THE FOOD
31 SERVICE FACILITY THROUGH THE THIRD-PARTY FOOD DELIVERY SERVICE.

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1 (2) *EXCLUSIONS.*

2 "PURCHASE PRICE" DOES NOT INCLUDE TAXES, GRATUITIES, AND ANY OTHER FEES OR
3 COSTS THAT MAY MAKE UP THE TOTAL AMOUNT CHARGED TO THE CUSTOMER OF AN
4 ONLINE ORDER.

5 (G) *THIRD-PARTY DELIVERY SERVICE.*

6 "THIRD-PARTY FOOD DELIVERY SERVICE" MEANS ANY WEBSITE, MOBILE APPLICATION, OR
7 OTHER INTERNET SERVICE THAT OFFERS OR ARRANGES FOR THE SALE OF FOOD AND
8 BEVERAGES PREPARED BY, AND THE DELIVERY OR PICK-UP OF FOOD AND BEVERAGES
9 FROM, NO FEWER THAN 5 FOOD SERVICE FACILITIES LOCATED IN THE CITY THAT ARE EACH
10 OWNED AND OPERATED BY DIFFERENT PERSONS.

11 **§ 21-2. MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.**

12 (A) *MANDATORY TERMS.*

13 "MUST" AND "SHALL" ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
14 OR TO IMPOSE A DUTY.

15 (B) *PROHIBITORY TERMS.*

16 "MUST NOT" AND "MAY NOT" ARE EACH MANDATORY NEGATIVE TERMS USED TO
17 ESTABLISH A PROHIBITION.

18 (C) *PERMISSIVE TERMS.*

19 "MAY" IS PERMISSIVE.

20 **§ 21-3. RULES AND REGULATIONS.**

21 SUBJECT TO TITLE 4 {"ADMINISTRATIVE PROCEDURE ACT - REGULATIONS"} OF THE CITY
22 GENERAL PROVISIONS ARTICLE, THE DIRECTOR MAY ADOPT RULES AND REGULATIONS TO
23 CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

24 **§§ 21-4 TO 21-5. {RESERVED}**

25 **§ 21-6. PROHIBITED CONDUCT.**

26 A THIRD-PARTY DELIVERY SERVICE MAY NOT:

27 (1) CHARGE A FOOD SERVICE FACILITY A DELIVERY FEE THAT TOTALS MORE THAN 10
28 PERCENT OF THE PURCHASE PRICE OF EACH ONLINE ORDER ON AN INDIVIDUAL OR
29 CUMULATIVE BASIS;

30 (2) CHARGE A FOOD SERVICE FACILITY ANY AMOUNT DESIGNATED AS A DELIVERY FEE FOR
31 AN ONLINE ORDER THAT DOES NOT INVOLVE THE DELIVERY OF FOOD OR BEVERAGES;

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1 (3) CHARGE A FOOD SERVICE FACILITY ANY COMBINATION OF FEES, COMMISSIONS, OR
2 COSTS, INCLUDING DELIVERY FEES, FOR THE FOOD SERVICE FACILITY’S USE OF THE
3 THIRD-PARTY FOOD DELIVERY SERVICE THAT IS GREATER THAN 15 PERCENT OF THE
4 FOOD SERVICE FACILITY’S MONTHLY NET SALES PROCESSED THROUGH THE
5 THIRD-PARTY DELIVERY SERVICE;

6 (4) CHARGE A FOOD SERVICE FACILITY ANY FEE, COMMISSION, OR COST AS PROHIBITED IN
7 ITEMS (1) THROUGH (3) OF THIS SECTION;

8 (5) CHARGE A CUSTOMER ANY PURCHASE PRICE FOR A FOOD OR BEVERAGE ITEM THAT IS:

9 (I) HIGHER THAN THE PRICE SET BY THE FOOD SERVICE FACILITY ON THE
10 THIRD-PARTY FOOD DELIVERY SERVICE; OR

11 (II) IF NO PRICE IS SET BY THE FOOD SERVICE FACILITY ON THE THIRD-PARTY FOOD
12 DELIVERY SERVICE, THE PRICE LISTED ON THE FOOD SERVICE FACILITY’S OWN
13 MENU; OR

14 (6) REDUCE THE COMPENSATION RATES PAID TO THE THIRD-PARTY DELIVERY SERVICE
15 DRIVERS OR TO GARNISH GRATUITIES, AS A RESULT OF ANY FEE LIMITATIONS
16 INSTITUTED BY THIS SECTION.

17 **§§ 21-7 TO 21-8. {RESERVED}**

18 **§ 21-9. ENFORCEMENT BY CITATION.**

19 (A) *IN GENERAL.*

20 IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE,
21 THIS SUBTITLE MAY BE ENFORCED BY ISSUANCE OF AN ENVIRONMENTAL CITATION UNDER
22 CITY CODE ARTICLE 1, SUBTITLE 40 {“ENVIRONMENTAL CONTROL BOARD”}.

23 (B) *PROCESS NOT EXCLUSIVE.*

24 THE ISSUANCE OF A CITATION TO ENFORCE THIS SUBTITLE DOES NOT PRECLUDE PURSUING
25 ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

26 (C) *EACH INSTANCE A SEPARATE OFFENSE.*

27 EACH INSTANCE IN VIOLATION OF § 21-6 {“PROHIBITED CONDUCT”} OF THIS SUBTITLE IS A
28 SEPARATE OFFENSE.

29 **§ 21-10. CRIMINAL PENALTIES.**

30 (A) “PERSON” DEFINED.

31 IN THIS SECTION, “PERSON” MEANS:

32 (1) AN INDIVIDUAL;

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1 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
2 KIND; OR

3 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
4 REPRESENTATIVE OF ANY KIND.

5 (B) *IN GENERAL.*

6 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY PROVISION OF A
7 RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR
8 AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 FOR EACH
9 OFFENSE.

10 (C) *EACH INSTANCE A SEPARATE OFFENSE.*

11 EACH INSTANCE IN VIOLATION OF § 21-6 {"PROHIBITED CONDUCT"} OF THIS SUBTITLE IS A
12 SEPARATE OFFENSE.

13 **§§ 21-11 TO 21-12. {RESERVED}**

14 **§ 21-13. PRIVATE ACTIONS NOT PRECLUDED.**

15 NOTHING IN THIS SUBTITLE MAY BE IN ANY WAY CONSTRUED TO LIMIT OR ABRIDGE ANY
16 RIGHTS POSSESSED BY ANY FOOD SERVICE FACILITY AT COMMON LAW, BY STATUTE, OR BY
17 ORDINANCE TO BRING A CIVIL ACTION TO REDRESS CLAIMS AGAINST A THIRD-PARTY FOOD
18 DELIVERY SERVICE.

19 **§ 21-14. SEVERABILITY.**

20 ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD,
21 PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS
22 INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR
23 CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE
24 PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

25 **§ 21-15. TERMINATION OF SUBTITLE.**

26 THIS SUBTITLE SHALL AUTOMATICALLY EXPIRE ON THE 91ST DAY FOLLOWING THE EXPIRATION
27 OF THE CATASTROPHIC HEALTH EMERGENCY DECLARED BY THE GOVERNOR OF MARYLAND
28 ON MARCH 5, 2020, AS AMENDED OR EXTENDED BY THE GOVERNOR.

29 **Article 1. Mayor, City Council, and Municipal Agencies**

30 **Subtitle 40. Environmental Control Board**

31 **§ 40-14. Violations to which subtitle applies.**

32 (e) *Provisions and penalties enumerated.*

33 (2) **Article 15. Licensing and Regulation**

