
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
JAMES L. SHEA, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

January 15, 2021

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall, 100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 21-0007 – COVID-19 Restaurant, Consumer, and Gig Worker Relief
Act (Temporary Limit on Third-Party Delivery Services Fees)

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0007 for form and legal sufficiency. This bill establishes temporary regulations related to third-party food delivery platform. The bill prohibits third-party food delivery services from charging certain types of fees and provides for enforcement by citation as well as other means of enforcement. The bill remains effective through the 91st day following the expiration of the catastrophic health emergency declared by the Governor of Maryland.

Under, Art. II, Sec.27 and 47 of the Charter, the City Council may by ordinance restrict the fees that may be charged by food delivery services. The police power covers measures that extend to the protection of the health, morals, safety, and general welfare of the public, and all means which may be necessary in the opinion of the authorities to give such protection. Yet it is not without its limitations, and one of these is that it cannot be exercised arbitrarily. *Burley v. Annapolis*, 182 Md. 307, 315 (Md. 1943). The general welfare authority refers to measures that are necessary to maintain the peace, good government, health and welfare of Baltimore City. Art. II, Sec. 47.

This bill is clearly within the authority of the City Council under the City's police powers and general welfare powers. Regulation of fees charged by third party food delivery services is clearly necessary to protect the health, safety and welfare of the City and promotes peace and good government by helping food services businesses continue to operate safely but also remain in business. It is a daily balancing act for these businesses. Exorbitant fees charged to food service businesses by third party food delivery services endanger that balance.

Accordingly, the Law Department approves City Council Bill 21-0007 for form and legal sufficiency.

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Sincerely,

Elena R. DiPietro

Chief Solicitor

cc: James L. Shea, City Solicitor
Matthew Stegman, City Council President's Office
Nina Themelis, MOGR
Victor Tervalo, Chief Solicitor
Hilary Ruley, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Avery Aisenstark