



Ms. Elizabeth Garcia
Economic Development Project Manager
City of Culver City
March 16, 2023

Dear Ms. Garcia,

Thank you for the opportunity to provide written comments regarding temporary limits on third-party food delivery service fees in Culver City.

In 2020, as a response to the COVID-19 pandemic, the City of Culver City put in place an [ordinance](#) limiting the total amount of fees, commissions, and costs that Third-Party Food Delivery Services may charge to retail food establishments. These types of regulations were enacted throughout the State of California, and were either tied directly to the Governor's COVID-19 State of Emergency or to local public health orders, including one passed by the County of Los Angeles.

As these temporary emergency health orders come to an end across the state, it is appropriate for policymakers and regulators to determine what a long-term regulatory scheme should consist of. We appreciate that the City Council has created a regulatory model that allows for flexibility and protects the ability of different restaurants to enter into contracts that help meet their different business goals. As it relates to commission fees, the current ordinance reflects an understanding that the marketplace is fluid, and allows for restaurants to pursue the business arrangement with third-party delivery services that works for them.

However, the customer-facing disclosure requirements in Culver City's temporary ordinance have been rendered unnecessary by California AB 286, which was enacted in 2021 and went into effect on January 1, 2022. This state law already requires that food delivery platforms disclose to both the food facility and the customer *"A notice, if applicable, that the food delivery platform charges a fee, commission, or cost to the food facility, unless the food facility directs that the food delivery platform disclose to customers the delivery fee charged to the food facility and each fee, commission, or cost charged to the food facility."* This law represents an appropriate balance between merchant and consumer interests, securing a consumer's right to understand that merchants are charged a fee, while recognizing that a merchant may not wish to give its customers full disclosure into its business and pricing decisions. Culver City's regulations should not require a third party delivery company to disclose confidential terms of private business to business contracts, beyond notice that the contract itself exists, as already required by state law.

All of the fees a food facility pays to a food delivery platform are voluntary and confidential. Additionally, this information is highly competitive between food delivery platform companies and between food facilities, specifically restaurants. Some restaurants choose to offer delivery using their own staff, while others choose to partner with delivery platforms or a similar service. Those that do choose to partner with a delivery platform have a wide variety of platforms to choose from, and each platform offers products that are tailor-made to meet the needs of restaurants and

other food facilities, from the largest chains to the local mom-and-pops. The details of these private business-to-business contracts should remain private between the parties who voluntarily negotiate and agree to these contracts. Disclosure of granular information on merchant fees, which may differ across platforms, would create significant business disruption and harm competition throughout the industry.

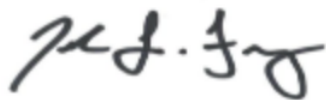
As a whole, it is important to consider the tremendous value third-party food delivery services, such as those offered by Uber Eats and Postmates, offer to any local community. As members of the City Council are aware, food delivery now plays a significant role in the economy of Culver City. Uber Eats and Postmates represent millions of dollars of revenue each year for local restaurants, and provide earning opportunities for thousands of local delivery people each month. But more than simply being a modern fixture of how people enjoy access to restaurants, the use of food delivery services yields several significant benefits for the restaurants and merchants themselves.

The use of food delivery apps enables restaurants to access customers that would otherwise be unreachable, and in particular, allows for smaller merchants without the ability to operate their own delivery service to expand their business without a customer needing to come to them. Most importantly, engaging in business with a third-party food delivery service also enables an individual merchant to choose to receive additional services beyond delivery, including marketing and promotions that would otherwise be unavailable to them. The use of these services improves local business' ability to compete with larger restaurants and national chains, and gives a local restaurant the opportunity to gain new loyal customers from people already familiar with delivery apps.

Encouraging the use of food delivery services adds to the economic vitality of Culver City's restaurants, and it is important to create a marketplace where these services are able to continue maximizing opportunities for local business.

We greatly appreciate the opportunity to provide feedback and thank you and the City Council for your attention to this important matter. Please let us know if you have any questions or need any additional information moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Finley".

John L. Finley
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