



DATE: December 1, 2020

CATEGORY: Consent

DEPT.: Community Development

TITLE: **Support for a Potential Santa Clara County Emergency Ordinance to Temporarily Cap Food Delivery Fees**

RECOMMENDATION

Support the Silicon Valley Chamber Coalition, including the Mountain View Chamber of Commerce, proposal to the Santa Clara County Board of Supervisors to adopt a Countywide emergency ordinance to temporarily cap food delivery fees.

BACKGROUND

As a result of the state of emergency declarations at the State and County level during the COVID-19 pandemic outbreak, Mountain View businesses have experienced severe disruptions to normal operations and revenue streams. The Public Health Order restrictions have significantly impacted the restaurant industry, which relies heavily on indoor dining services for income. During these last several months, online ordering and delivery of food has become a critical revenue stream for restaurants to stay in business.

Restaurants are often relying on third-party app-based device companies to facilitate mobile ordering for food pick-up or deliveries to the consumer. These third-party delivery service providers include companies such as DoorDash, GrubHub, Postmates, and Uber Eats. While these companies are providing a critical service for restaurants that do not have existing delivery service and/or online ordering capacity, the fees the companies charge are impacting the restaurant sector's ability to survive during the pandemic. The third-party delivery service providers charge commission fees an average of 30 percent of an order amount but sometimes go as high as 50 percent.

ANALYSIS

To ease the economic burden on restaurants and food businesses during the pandemic, other local jurisdictions have enacted emergency ordinances temporarily capping the food service delivery fees, including the cities of Milpitas and Santa Clara. In addition,

San Mateo County and San Francisco City/County have adopted countywide ordinances toward this effort.

The Silicon Valley Chamber Coalition, a diverse group of local Chambers throughout Silicon Valley, is asking partners within Santa Clara County to support efforts to enact a Countywide emergency ordinance to temporarily cap food delivery fees to 15 percent of the cost of an order and 10 percent for nondelivery services for the remainder of the local emergency order. As a member of the Coalition, the Mountain View Chamber of Commerce has requested support from the City of Mountain View.

Staff recommends that Council support the Coalition's proposal that the Santa Clara County Board of Supervisors consider adopting a Countywide emergency ordinance to temporarily cap food delivery fees for the following reasons:

- Surviving restaurants are barely hanging on, and these commissions often decrease any profit or sometimes result in fulfilling orders at a loss.
- Many restaurants throughout the County and in Mountain View are minority-owned and employ immigrants. Both are constituencies which need support to survive the economic impacts of the pandemic and associated opening rules.
- As winter weather arrives, more customers will opt to stay home and order through delivery apps, and the urgency for approval and implementation of reduced food delivery fees is critical.
- Fees have a real impact on seniors and homebound residents with health issues who use delivery apps as a source of safe food delivery, especially as the Public Health Order advises people to not leave their homes other than for essential needs.
- The temporary cap on fees charged by food delivery services aligns with the goal of supporting small businesses during the pandemic in the City's Small Business Action Plan.
- A Countywide ordinance is preferable to a city-by-city approach in order to provide uniform regulations and avoid potential conflicts among jurisdictions as to the scope of the regulations. It also provides clarity and certainty to food delivery service companies, restaurants, and the community.

FISCAL IMPACT

The Council action supporting the Coalition’s proposal to the Board of Supervisors will not have a direct fiscal impact. If the County adopts an emergency ordinance capping food delivery fees for the duration of the pandemic, it will help support restaurants to stay in business, which will generally have a positive impact on the City’s fiscal situation, although it is hard to estimate an exact amount at this time.

ALTERNATIVES

1. Do not support the proposal to the County Board of Supervisors to enact a Countywide emergency ordinance to temporarily cap food delivery fees.
2. Provide other direction to staff.

PUBLIC NOTICING – Agenda posting.

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