

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Fair Meals Delivery Act of 2022 to restrict third-party meal delivery services from limiting a restaurant’s ranking within a given list of restaurants in an app based on the amount of a commission that a restaurant pays to the third-party meal delivery service and to provide greater clarity for specific terminology used but undefined.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Food Delivery Fees Transparency Emergency Declaration Resolution of 2023”.

Sec. 2. (a) On December 20, 2022, the Council passed the Fair Meals Delivery Act of 2022 (“Act”) (D.C. Act 24-776; 70 DCR 898). The Act became effective on March 10, 2023.

(b) The Act limits the total fees charged to restaurants by a third-party meal delivery platform to no more than 15% of the purchase price of the online order. This limitation does not apply if a third-party delivery platform offers all restaurants the option to obtain core delivery service for a total fee that is no more than 15% of the purchase price of the online order without requiring the purchase of additional services and notifies all restaurants that have an existing agreement with the third-party meal delivery platform of the option.

(c) Third-party delivery services have announced that they have notified all restaurants on their platforms of existing agreements surrounding the current service option, as required by the

35 Act. The companies have informed restaurants that they will begin to pay a higher commission
36 fee— around 30% for local delivery – to receive their current level of service, i.e., the ability to
37 appear in search results of restaurant listings and reach a larger delivery area on their platforms.

38 (d) Restaurants that remain at the lower 15% commission fee level will face a shrunken
39 customer base and smaller delivery area because they will not be as visible on the platform. The
40 resulting loss of revenue for many of these restaurants because of these fee hikes will be
41 devastating as they continue to recover from the pandemic and implement policies that respond to
42 the recently passed tipped minimum wage increase for their workers. Many District residents
43 have come to rely on third-party food delivery services since the pandemic, and the increased use
44 of those services has greatly benefitted local restaurants.

45 (g) Action must be taken to ensure that local restaurants and neighborhood businesses are
46 not burdened with excessive fees by third-party delivery services so they can continue to recover
47 to pre-pandemic market conditions and to ensure these third-party delivery services comply with
48 the original intent and spirit of the Act.

49 Sec. 3. The Council of the District of Columbia determines that the circumstances
50 enumerated in section 2 constitute emergency circumstances, necessitating that the Food
51 Delivery Fees Transparency Emergency Amendment Act be adopted after a single reading.

52 Sec. 4. This resolution shall take effect immediately.