

**Council of the District of Columbia**

**MEMORANDUM**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**TO:** Chairman Phil Mendelson  
**FROM:** Councilmember Charles Allen *CA*  
**RE:** Request to Agendize Measures for the April 4, 2023 Legislative Meeting  
**DATE:** March 28, 2023

I request that the following measures be placed on the agenda for the April 4, 2023 Legislative Meeting:

Emergency Legislation

- “Food Delivery Fees Transparency Emergency Declaration Resolution of 2023”
- “Food Delivery Fees Transparency Emergency Amendment Act of 2023”
- “Food Delivery Fees Transparency Temporary Amendment Act of 2023”

On December 20, 2022, the Council passed the Fair Meals Delivery Act of 2022, effective March 10, 2023 (D.C. Act 24-776; 70 DCR 898) (“Act”). The Act limits the total fees charged to restaurants by a third-party meal delivery platform to no more than 15% of the purchase of an online order. However, this limitation does not apply and a third-party delivery platform can charge a higher commission fee if it has offered all restaurants the basic 15% package and notifies all restaurants that have an existing agreement with the third-party meal delivery platform of this option. The basic 15% package does not include the ability to appear easily in search results and reduces the delivery area for potential customers.

Several third-party delivery services recently notified District restaurants on their platforms that they will begin to pay a higher commission fee – around 30% for local delivery – to receive their current level of service. This current level of service includes the ability to appear more prominently in search results of restaurant listings and reach a larger delivery area. Restaurants can choose to remain at the lower 15% commission fee level but will see a shrunken customer base and smaller delivery area as a result.

This emergency legislation is necessary to ensure that meal delivery services do not transform the lower 15% commission fee level into a sham offering, forcing restaurants to choose between withdrawing from the platforms or opting into a higher commission fee level. It does this by clarifying what constitutes a “core delivery service” under the Act and prohibiting third-party delivery services from listing a restaurant at the very end of the list of restaurants within a category merely because the restaurant opted to receive core delivery services at the 15% commission fee level. The impending commission fee level changes would significantly harm restaurants as they continue to recover post-pandemic and consumers as these dramatic increases in fees will certainly be passed onto them.

Drafts of these measures are attached. Please contact Anthony Thomas-Davis, Policy Advisor, at [athomasdavis@dccouncil.gov](mailto:athomasdavis@dccouncil.gov), with any questions.

cc: Members, Council of the District of Columbia  
Office of the Budget Director  
Office of the General Counsel  
Office of the Secretary  
Mayor's Office of Policy and Legislative Affairs