

COUNTY COUNSEL

JOHN C. BEIERS

CHIEF DEPUTIES

CLAIRE A. CUNNINGHAM
JOHN D. NIBBELIN
PAUL A. OKADA
DAVID A. SILBERMAN

LEAD DEPUTIES

REBECCA M. ARCHER
JUDITH A. HOLIBER
BRIAN E. KULICH
DANIEL J. VALIM
BRIAN J. WONG



COUNTY COUNSEL

COUNTY OF SAN MATEO

HALL OF JUSTICE AND RECORDS • 6TH FLOOR
400 COUNTY CENTER • REDWOOD CITY, CA 94063-1662
TELEPHONE: (650) 363-4250 • FACSIMILE: (650) 363-4034

DEPUTIES

MELISSA D. ANDRIKOPOULOS
CRAIG N. BAUMGARTNER
GINA J. BELTRAMO
KATHERINE F. BRODERICK
*LAUREN F. CARROLL
JOSEPH F. CHARLES
LISA Y. CHO
PETER H. CRUZ
JAN E. ELLARD
ADAM W. ELY
TIMOTHY J. FOX
TARA E. HEUMANN
BRIAN C. KINNEY
JENNIFER S. KRASKE
ILANA P. MANDELBAUM
KIMBERLY A. MARLOW
DANIEL T. McCLOSKEY
ROSENDO PADILLA, JR.
KRISTINA M. PASZEK
KAREN ROSENTHAL
PAUL S. SHENG
MONALI S. SHETH
SARAH H. TRELA

*PARTICIPANT IN CA STATE BAR'S
PROVISIONAL LICENSURE PROGRAM

January 6, 2021

Please respond to: (650) 363-4787

Via U.S. Mail

DoorDash, Inc.
Attn: Legal
303 2nd St, South Tower, Suite 800,
San Francisco, CA 94107

Re: San Mateo County emergency regulation limiting fees that food delivery companies can charge restaurants during COVID-19 pandemic

Ladies and Gentlemen:

San Mateo County has adopted an emergency regulation temporarily limiting the fees that food delivery service providers, such as your company, can charge restaurants (“Fee Cap”). Since the regulation went into effect on November 17, 2020, restaurants have reported violations by multiple food delivery companies. These complaints are anecdotal, so we assume that any violations are not willful nor widespread. We are writing to make sure that you are aware of the regulation and its provisions.

Like many other jurisdictions in California and across the country, the County enacted this Fee Cap to support restaurants relying on take-out and delivery orders to stay afloat amid restrictions on in-person dining due to the COVID-19 pandemic. The Fee Cap went into effect immediately upon adoption, and it will remain in force through June 30, 2021, or until the County is no longer in a state of emergency due to COVID-19, whichever comes first. The Fee Cap applies to all restaurants throughout San Mateo County, including in the cities and the unincorporated areas.

Under the Fee Cap, when a customer places a delivery order through your online platform, the total fees charged to a County restaurant – delivery, marketing, listing, and other fees combined – cannot exceed 15 percent of the purchase price of that order. For pick-up orders, the cap is 10 percent. The 15 and 10 percent caps are intended to capture all fees of any kind that apply to an individual order. However, the Fee Cap does not prohibit companies from charging additional fees if a restaurant chooses to participate in an optional program that provides a service above and beyond your core delivery, marketing, and listing services – DoorDash’s Dash Pass program, for example.

Additional provisions include a prohibition on reducing delivery driver compensation as a result of the Fee Cap, as well as requirements that companies obtain written consent from a restaurant before listing it, let restaurants set their prices, give customers the option to tip the restaurant, and give customers receipts that detail all fees and charges. Restaurants can bring a lawsuit to enforce the regulation and can recover attorney’s fees if successful.

We have attached the final regulation, as well as a Fee Cap Q&A document that we are circulating to County restaurants. Please reach out if you have any questions or concerns. We appreciate your attention to this matter.

Sincerely,

JOHN C. BEIERS, COUNTY COUNSEL

By: _____


John D. Nibbelin, Chief Deputy

JCB:JDN/ag

Enclosure(s):

San Mateo County Board of Supervisors Resolution No. 077858
San Mateo County Food Delivery Service Fee Cap Q&A