

# PROPOSED

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2020, Legislative Day No. 33

Bill No. 108-20

Introduced by Ms. Lacey, Chair  
(by request of the County Executive)

By the County Council, December 15, 2020

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Introduced and first read on December 15, 2020 (Emergency Legislative Session)  
Public Hearing set for December 21, 2020  
Bill Expires March 20, 2021

By Order: JoAnne Gray, Administrative Officer

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## A BILL ENTITLED

1 AN EMERGENCY ORDINANCE concerning: Third-Party Food Delivery Service Fees  
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3 FOR the purpose of limiting third-party food delivery service fees; and making this  
4 Ordinance an emergency measure.  
5

6 WHEREAS, a state of emergency and catastrophic health emergency was  
7 proclaimed by Lawrence J. Hogan, the Governor of the State of Maryland, on  
8 March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June  
9 3, 2020, July 1, 2020, August 10, 2020, September 8, 2020, October 6, 2020,  
10 October 29, 2020, and November 25, 2020, to control and prevent the spread of  
11 COVID-19 within the State, and the state of emergency and catastrophic health  
12 emergency still exists; and  
13

14 WHEREAS, on March 13, 2020, County Executive Steuart Pittman issued  
15 Executive Order No. 16 proclaiming a civil emergency in Anne Arundel County  
16 due to the rapid onset of the COVID-19 pandemic, which Executive Order was  
17 extended by the County Council on March 20, 2020, to continue for the duration of  
18 the Governor's state of emergency proclamation; and  
19

20 WHEREAS, throughout the state of emergency presented by COVID-19, it has  
21 been recognized that establishments providing prepared food ("restaurants") to the  
22 citizens of the County are providing an essential service; and  
23

24 WHEREAS, during the state of emergency, the Governor and the County Executive  
25 have issued various orders limiting capacity of restaurants to prevent the  
26 transmission and spread of COVID-19; and

1 WHEREAS, the Governor and the County Executive and other federal, State, and  
2 local agencies have recommended that citizens of the County limit contact and  
3 utilize various options, such as curbside delivery and home delivery, for purchases,  
4 including prepared food from restaurants; and

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6 WHEREAS, this limitation has resulted in restaurants utilizing third-party food  
7 delivery services, such as Grubhub, DoorDash, and Uber Eats; and

8  
9 WHEREAS, these third-party delivery services charge a fee to the restaurants and  
10 customers to provide these services; and

11  
12 WHEREAS, the fees charged by third-party delivery services may be so high that  
13 they result in the restaurants being unable to continue to provide the essential  
14 service of feeding the citizens of the County; and

15  
16 WHEREAS, it is in the best interests of the citizens of the County that restaurants  
17 continue to provide food to the citizens of the County in ways that minimize  
18 contact, including curbside and home delivery, at a reasonable fee; now, therefore

19  
20 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*  
21 That:

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23 A. It shall be unlawful for a third-party food delivery service to charge a restaurant  
24 any fee or fees, including a delivery fee, for the use of the third-party food delivery service  
25 that exceeds 15% of the purchase price of an online order.

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27 B. It shall be unlawful for a third-party food delivery service to reduce the  
28 compensation rate paid to a delivery service driver or to garnish or reduce gratuities paid  
29 to a delivery service driver to comply with paragraph A, such that the compensation paid  
30 to the third-party food delivery service by a restaurant may not exceed 15% of the purchase  
31 price of an online order.

32  
33 C. A restaurant may agree to pay a third-party food delivery service a fee that exceeds  
34 the limit in paragraph A to obtain optional products or services, including, but not limited  
35 to, advertising, marketing, or access to customer subscription programs, in addition to  
36 delivery or pickup service.

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38 D. A violation of this Ordinance shall be a Class B civil offense and shall be enforced  
39 in accordance with § 9-2-101 of the County Code.

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41 E. For the purposes of this Ordinance, the following terms have the meanings stated:

42  
43 1. “Delivery fee” means a fee charged by a third-party food delivery service for  
44 providing a service delivering or facilitating the ordering or delivery of food or beverages  
45 from a restaurant to a customer;

46  
47 2. “Delivery” includes curbside delivery of orders, orders picked up by customers,  
48 and orders delivered to a customer’s location;

1           3. “Online order” means any order placed by a customer through or with the  
2 assistance of a platform provided by a third-party food delivery service, including a  
3 telephone order;

4  
5           4. “Purchase price” means the total price of an online order based on prices  
6 contained on the restaurant’s menu, exclusive of taxes and gratuities;

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8           5. “Restaurant” means an establishment that prepares or serves food and  
9 beverages for consumption onsite, through take-out, or through delivery; and

10  
11           6. “Third-party delivery service” means any website, mobile application, internet,  
12 or other service that offers or arranges for the sale and same-day delivery or pick-up of  
13 food or beverages from restaurants.

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15           SECTION 2. *And be it further enacted*, That this Ordinance is hereby declared to be an  
16 emergency ordinance and necessary for the immediate preservation of the public peace,  
17 health, safety, welfare, and property, and being passed by the affirmative vote of five  
18 members of the County Council, the same shall take effect from the date it becomes law.

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20           SECTION 3. *And be it further enacted*, That this Ordinance shall remain in effect for  
21 so long as a state of emergency continues in the State and the County.