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Accessibility menu

[Skip to main content of page](#)

[Skip to search](#)

[Skip to primary navigation](#)

[Skip to section menu](#)

Minneapolismn.gov

Minneapolismn.gov

- City Services
 - Most Requested
 - Animal Care and Control
 - Crime Maps & Statistics
 - Data Practices Requests
 - Elections & Voter Services
 - Garbage & Recycling
 - Housing Inspections
 - Impound Lot
 - Jobs with the City
 - Maps of Minneapolis
 - Property Information
 - Snow Emergencies
 - Utility Billing
 - Issues & Complaints
 - Buildings & Construction
 - Housing Code Violations
 - Inspections Feedback
 - Rental Unit Complaints
 - Unpermitted Construction
 - Cable Service Problems
 - Civil Rights
 - File a discrimination complaint
 - File a police misconduct complaint
 - Environmental Violations
 - Graffiti Report
 - Health Violations

- Parking
 - Abandoned Vehicles
 - Impound Lot Lookup
 - Parking Meter Issues
 - Parking Ramp/Lot Issues
 - Parking Violations
- Police
 - Compliment a MPD Police Officer
 - Community Impact Statements
 - Crime Maps & Statistics
 - File complaint to Office of Police Conduct Review
 - Online police report
 - Report a crime
 - Request a police report
- Streets & Sidewalks
 - Potholes
 - Sidewalk Structural Issues
 - Snow or Ice on Sidewalks
 - Streetlight Issues
 - Traffic Sign Issues
 - Traffic Signal Issues
- Water Issues
- Permits & Fees
 - Buildings & Construction
 - Building Permits
 - Electrical Permits
 - Elevator Permits
 - Fire Code Permits
 - Mechanical/Heating Permits
 - Online epermits
 - Plumbing Permits
 - Wrecking / Moving Permits
 - Business Licenses
 - Alcohol Licensing
 - Burglar False Alarm Fees
 - Food Licensing
 - Rental Licenses
 - Taxi Licensing
 - Temporary Licensing
 - Trades Licensing
 - Vehicle Related Licensing
 - Environmental Permits
 - After Hours Work
 - Hazardous Waste Facility
 - Oil-Water Separator and Sediment Trap
 - Rock Crushing
 - Sand Blasting (Abrasive Blasting)
 - Sound Permit (Outdoor Amplified Sound)
 - Tank Permits

- Water Discharge
 - Well Permits
- Pet Licenses
- Stormwater Utility Fees
- Streets & Sidewalks
 - Block Event Permits
 - Street Use Permits
 - Mall and Plaza Use Permits
 - Obstruction Permits
 - Race or Parade Permits
- Zoning & Land Use
- Services A-Z
- Minneapolis 311
- Residents
 - Education
 - Employment
 - Environment
 - Health & Family
 - Housing & Property
 - Neighborhoods
 - Public Safety
 - Transportation & Parking
 - Utilities
 - Youth
- Business
 - Online Business Portal
 - City Request for Proposals and Bids
- Government
 - Mayor's Office
 - City Council
 - Ward 1 - Kevin Reich
 - Ward 2 - Cam Gordon
 - Ward 3 - Steve Fletcher
 - Ward 4 - Phillipe Cunningham
 - Ward 5 - Jeremiah Ellison
 - Ward 6 - Abdi Warsame
 - Ward 7 - Lisa Goodman
 - Ward 8 - Andrea Jenkins
 - Ward 9 - Alondra Cano
 - Ward 10 - Lisa Bender
 - Ward 11 - Jeremy Schroeder
 - Ward 12 - Andrew Johnson
 - Ward 13 - Linea Palmisano
 - Elections
 - Charter & City Ordinances
 - Boards & Commissions
 - Meetings & Hearings
 - Open Government
 - Calendars

- Goals, Budgets & Reports
- Government Partners
- Visitors
 - Final Four
 - X Games
 - Annual Events
 - Art & Museums
 - Food & Drink
 - Landmarks & Tours
 - Music & Theater
 - Recreation
 - Sports
 - Getting Around
 - Where to Stay
- Contact 311

SEARCH:  Search

DEPARTMENTS/DIVISIONS

- 311
- 911
- Animal Care and Control
- Assessor's Office
- Business Licensing
- City Attorney's Office
- City Clerk's Office
- City Council
- City Coordinator
- Civil Rights
- Communications
- Community Planning & Economic Development (CPED)
- Construction Code Services
- Cultural Engagement
- Elections & Voter Services
- Employment & Training Program
- Environmental Services
- Finance & Property Services
- Fire Department
- Fire Inspection Services
- Fire Investigations
- Fire Prevention Bureau
- Food, Lodging & Pools
- Geographic Information Systems
- Grants & Special Projects
- Health
- Human Resources
- Housing Inspections
- Information Technology
- Internal Audit
- Impound Lot

- Intergovernmental Relations
- Mayor's Office
- Minneapolis Development Review (MDR)
- Neighborhood & Community Relations
- Office of Emergency Management
- Parking
- Police Department
- Planning & Zoning
- Purchasing Division
- Public Works
- Race & Equity
- Regulatory Services
- Sewer and Storm Drains
- Sidewalk Inspections
- Solid Waste & Recycling
- Storm and Surface Water Management
- Sustainability
- Traffic
- Traffic Control
- Transportation Planning & Engineering
- Utility Billing
- Video Services
- Water Treatment & Distribution Services

Text -A A +A Translate

- Coronavirus
 - Impacts to Services
 - Gap Funding
 - COVID-19 Dashboard
 - Community Support
 - Community Briefings
 - COVID-19 FAQs
 - COVID-19 Vaccines
 - COVID-19 Testing & Flu Shots
 - Print Resources
 - Housing
 - Información sobre el coronavirus en español
 - Akhbaarta cudurka Koroona oo ku qoran afka Somaliga
 - Lus qhia txog tus kabmob coronavirus hais ua lus Hmoob
 - Vaayirasii Koronaa COVID-19
- Businesses & Employees
 - Business FAQs
 - Business Preparedness Plan
 - Employees and Coronavirus
- Official Notices
 - Emergency Declaration
 - Emergency Regulation No. 1
 - Emergency Regulation No. 2
 - Emergency Regulation No. 3

- Emergency Regulation No. 4
- Emergency Regulation No. 5
- Emergency Regulation No. 6
- Emergency Regulation No. 7
- Emergency Regulation No. 8
- Emergency Regulation No. 9
- Emergency Regulation No. 10
- Emergency Regulation No. 11
- Emergency Regulation No. 12
- Emergency Regulation No. 13
- Emergency Regulation No. 14
- Emergency Regulation No. 15
- Emergency Regulation No. 16
- Emergency Regulation No. 17
- Emergency Regulation No. 18
- Emergency Regulation No. 19
- Emergency Regulation No. 20

[Home](#) > [Coronavirus](#) > [Official Notices](#)

Emergency Regulation

Issued pursuant to MCO Section 128.60

I, Jacob Frey, Mayor of the City of Minneapolis, subject to the authority granted to me pursuant to Minnesota Statutes, Ch. 12.29, and Minneapolis Code of Ordinances (MCO), Sections 128.50 and 128.60 do hereby proclaim the following Emergency Regulation:

Proclamation of the Mayor

Emergency Regulation No. 2020-20

Whereas, on March 16, 2020, I declared a local public health emergency related to the COVID-19 pandemic in the City of Minneapolis and assumed executive responsibilities attendant thereto; and

Whereas the COVID-19 pandemic and resultant local and state emergency regulations and executive orders continue to restrict the operational options and capacities of licensed food establishments within the city, thereby increasing the need for take-out meal services; and

Whereas, the necessary public health operating restrictions within the city have had severe and ongoing financial impacts on all food service establishments within the city; and

Whereas, while some restaurants may receive take-out orders directly, there are many third-party food delivery platforms and other services that operate through websites and/or mobile phone applications used by consumers to quickly and easily order pick-up and delivery meals from local restaurants; and

Whereas, in many instances the third-party food delivery platforms and services, without the local restaurant's knowledge or consent, will purport to sell meals from the local restaurant to consumers, and sometimes charge exorbitant fees to the already struggling local restaurants during the time of the declared emergency and the operational restrictions attendant thereto; and

Whereas, the fees charged by a third-party food delivery platform should be capped for the period that the local public health emergency results in necessary restrictions on the operations of licensed food establishments to avoid further harm to such valuable and important establishments in the city; and

Whereas, pursuant to the authority granted to me pursuant to Minnesota Statutes, Ch. 12.29, and Minneapolis Code of Ordinances, Sections 128.50 and 128.60, I am authorized to promulgate emergency regulations to protect the public health, safety, and welfare during this declared emergency; and

Whereas, it is a priority that race and equity be of paramount consideration in enacting and carrying out emergency regulations during the COVID-19 pandemic; and

Whereas, to aid in these efforts, pursuant to the emergency authorities vested in the Mayor pursuant to the emergency declaration to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency and adopt additional protections for the preservation of public health and safety;

NOW, THEREFORE, I, Jacob Frey, Mayor of the City of Minneapolis, do hereby order the following emergency regulation:

1. A third-party food delivery platform shall not perform any service for or disclose any information about a licensed food establishment without the consent of the licensed food establishment.
2. A third-party delivery food platform shall not charge any additional fee to a licensed food establishment that the licensed food establishment has not voluntarily agreed to pay.
3. No person shall cause a third-party food delivery platform to charge a licensed food establishment a commission fee for the use of the platform's services for delivery or pick-up that exceeds fifteen percent (15%) of the purchase price per online order. The provisions of this emergency regulation shall not limit the ability of any licensed food establishment to choose to pay a higher commission or supplemental fee to access additional advertising or other products and services offered by any third-party food delivery platform.
4. No person shall cause a third-party food delivery platform to reduce the compensation rate paid to a delivery service driver or request that a delivery service driver accept lower compensation in the future or garnish gratuities in order to comply with the terms of this emergency regulation.
5. At the time a final price is disclosed to a customer for the intended purchase and delivery of food from a licensed food establishment through a third-party food delivery platform and before that transaction is completed by the customer, the third-party food delivery platform shall disclose to the customer, in plain language and in a conspicuous manner, any commission, fee, or any other monetary payment charged to the customer by the third-party food delivery platform.
6. After a transaction occurs for the purchase and delivery of food from a licensed food establishment through a third-party food delivery platform, the third-party food delivery platform shall provide an electronic or printed receipt to the customer. The receipt shall disclose, in plain and simple language and in a conspicuous manner: (i) the menu price of the food; (ii) any sales or other tax applied to the transaction; (iii) any delivery charge or service fee, imposed on and collected from the customer by the third-party food delivery platform and by the covered establishment, in addition to the menu price of the food; (iv) any tip/gratuity that will be paid to the person delivering the food, and not to the third-party food delivery platform, that was added into the transaction when it occurred, and (v) any commission associated with the transaction as referenced in paragraph 3 of this emergency regulation, not including any agreed-upon higher commission or fee for access to additional advertising or other products or services.
7. No third-party food delivery platform may charge any fee from a licensed food establishment for a telephone order if a telephone call between such licensed food establishment and a customer does

not result in an actual transaction during such telephone call.

8. Subject to any rules and regulations or guidance that may be issued by the licensing official, any licensed food establishment or delivery service driver may submit a complaint of a violation of this section to the licensing official. Any such complaint shall be made in writing to the licensing official and shall include all information relied upon by the licensed food establishment.
9. The licensing official shall investigate written complaints, shall notify any third-party food delivery platform alleged to have violated this emergency regulation of any complaint, and shall provide a summary of findings regarding any such complaint to both the complainant and the third-party delivery platform. Third-party food delivery platforms shall maintain books and records sufficient for the licensing official to conduct an investigation and issue an assessment. Such books and records shall be made available to the licensing official upon demand.
10. If the licensing official determines a violation of this emergency regulation has occurred, the third-party food delivery platform may be subject to the administrative enforcement and hearing process of Chapter 2 of the Minneapolis Code of Ordinances, each day a violation of this emergency regulation occurs. For purposes of this emergency regulation, the continuation of a violation shall be a separate violation for each day the licensing official determines a third-party food delivery platform has violated this article. The licensing official shall be authorized to enforce the terms of this emergency regulation through the issuance of written notices and warnings and/or through the issuance of administrative citations or referral for misdemeanor prosecution or any other legal or equitable relief authorized by law.

Definitions:

1. "Licensed food establishment" shall have the meaning provided pursuant to the Minnesota State Food Code and the Minneapolis Code of Ordinances.
2. "Licensing official" means the licensing official of the business licensing division or that individual's delegates.
3. "Online order" means an order placed by a customer through a platform provided by the third-party food delivery platform for delivery or pickup within the city.
4. "Person" shall have the meaning provided pursuant to MCO § 3.60.
5. "Purchase price" means the menu price of an online order, excluding taxes, gratuities, or any other fees that may make up the total cost to the customer of an online order.
6. "Telephone order" means an order placed by a customer to a licensed food establishment through a telephone call forwarded by a call system provided by a third-party food delivery platform for delivery or pickup within the city.
7. "Third-party food delivery platform" means any person, website, mobile application, or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, licensed food establishments.

Additional Terms:

1. This Order is effective at 12:00 a.m. (CST) December 23, 2020, and continuing until further notice or until it is extended, rescinded, superseded, or amended, or until the declaration of the local public health emergency expires.
2. A violation of this Emergency Regulation may be enforced by the issuance of notices, warning letter(s), administrative citation(s), and/or misdemeanor prosecution or any other legal or equitable relief authorized by law. Minn. Stat. § 12.45; MCO § 1.30 and MCO § 259.250. A violation shall be considered an offense subject to administrative enforcement pursuant to MCO § 2.40.

See official signed copy (pdf)

Last updated Dec 21, 2020

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