

Be it ordained by the City Council of Boston as follows:

Section 1.

The City of Boston Code, Ordinances, is hereby amended in Chapter XVII by inserting the following new section after existing Section 17-21:

17-22 Road Safety and Accountability for Delivery Providers

17-22.1 Purpose & Scope

- a. *Purpose.* The purpose of this section is to establish rules and regulations governing the oversight of Third-Party Delivery Services within the City of Boston in furtherance of the public interest, safety, and convenience.
- b. *Scope.* This ordinance applies to any Third-Party Delivery Provider operating within the City of Boston.

17-22.2 Definitions

BTD: Boston Transportation Department.

Operator Active Status (“Active Status”): The period from the time an Operator accepts a Third-Party Delivery Order until the Order is either completed or canceled. This includes the time spent traveling to the food service establishment to pick up the Order, waiting at the food service establishment for the Order, and transporting the Order to the delivery destination.

Third-Party Delivery Operator (“Operator”): Any person or entity that provides Third-Party Delivery Services through a Third-Party Delivery Provider.

Third-Party Delivery Order (“Order”): A single request for Third-Party Delivery Services either originating from or ending at a location in the City of Boston that is performed by a Third-Party Delivery Operator.

Third-Party Delivery Provider (“Provider”): Any person or entity that operates a website, mobile application, or other internet-based service that facilitates, offers, or arranges for the on-demand delivery by a third party of food or beverages prepared by more than one food service establishment, excluding grocery or convenience stores. Provided that the term “Provider” does not include: (a) any such operator that facilitates, offers, or arranges fewer than 1,000,000 orders each week; and (b) a food service establishment that facilitates, offers, or arranges for the delivery of only its own food or beverages.

Third-Party Delivery Provider Permit (“Permit”): A written approval issued by BTD authorizing a Third-Party Delivery Provider to facilitate Third-Party Delivery Services in the City of Boston.

Third-Party Delivery Services (“Services”): The delivery of food to a customer from a food service establishment, as facilitated by a Third-Party Delivery Provider.

Third-Party Delivery Vehicle (“Vehicle”): A vehicle, whether motorized or otherwise, that is used by an Operator to provide Services, including but not limited to motor vehicles, motorcycles, motorized bicycles, non-motorized bicycles, electric bicycles, motorized scooters, low-speed motor vehicles, and limited use motor vehicles as defined by M.G.L. c. 90, § 1, and regulated by the Massachusetts Registry of Motor Vehicles pursuant to 540 C.M.R. 2.00.

17-22.3 Third-Party Delivery in the City of Boston

No Third-Party Delivery Provider shall facilitate Third-Party Delivery Services except in compliance with the provisions of this section.

17-22.4 Third-Party Delivery Provider Permit Process

- a. A Provider shall maintain a valid Permit in order to provide Services within the City of Boston.
- b. A Provider shall, in a manner that BTD prescribes, apply to BTD for a Permit and apply annually to renew its Permit. BTD shall not grant or renew a Permit unless the Provider has satisfied the requirements of this section. BTD may revoke a Permit if the Provider is not in compliance with this section.
- c. To obtain a Permit, a Provider shall submit the following to BTD:
 - i. Proof of adequate insurance as certified by BTD in accordance with the provisions of this section;
 - ii. A certification that the Provider will comply with the data requirements of this section; and
 - iii. Proof of provision of the disclosures required below.

17-22.5 Insurance

- a. A Permit shall only be valid for the explicit time period covered by the effective dates of the Providers’s relevant insurance policy submitted pursuant to Subsection 17-22.4(c)(i).
- b. Insurance coverage requirements shall include:
 - i. Coverage for liability in the event that any uninsured or underinsured Operator is involved in an accident. The Provider must ensure that the Operator, the Provider, or any combination of the two maintains liability insurance that insures an Operator of a Vehicle for liability to third parties with coverage amounts of not less than \$50,000 for damages arising out of bodily injury sustained by any one person in an accident, not less than \$100,000 for damages arising out of bodily injury sustained by all persons injured in an accident, and \$30,000 for all damages arising out of damage to or destruction of property in an accident.
 - ii. Coverage for Operators using all modes of transportation for which registration is required by M.G.L. c. 90, § 1A, as well as electric bicycles and motorized bicycles;

- iii. Coverage for all times during which an Operator is in Active Status.
 - iv. The Provider shall ensure compliance with all applicable federal, state, and local laws and regulations governing insurance requirements for Vehicles, including any future laws or regulations that may impose additional insurance requirements on such Vehicles when used for commercial purposes.
- c. Upon application to operate, and before an Operator can provide Services, a Provider shall clearly and conspicuously provide an Operator with the following disclosures:
- i. A statement that the Operator's own insurance policy might not provide coverage during the provision of Services; and
 - ii. A statement of the insurance coverage that the Provider supplies, including the types of coverage and the limits for each coverage, in each circumstance:
 - 1. an Operator available to receive requests for Services but not engaged in Services;
 - 2. an Operator engaged in Services; and
 - 3. an Operator neither available to receive requests for Services nor engaged in Services.

17-22.6 Data Reporting Requirements

- a. No later than the end of each quarter, each Provider shall submit to BTM, in a format approved by BTM, data related to each Order in the previous quarter, which shall include only anonymized data to protect consumer privacy. The data shall include:
- i. a unique ID number for each Order;
 - ii. the type of Vehicle used for each Order;
 - iii. the name, the address, longitude, and latitude of the vendor from which the delivery Order originated;
 - iv. the 12-digit FIPS Code for the census block group to which the Order was delivered;
 - v. the distances traveled, in increments of 1/10 of a mile, (A) between Order acceptance and arrival at the vendor, and (B) between the vendor and the delivery location;
 - vi. the date and time of the origination and termination, calculated to the nearest minute;
 - vii. the total time, in minutes, that (A) the Operator spent between Order acceptance and arrival at the vendor, (B) the Operator spent stopped at the vendor waiting for the Order, (C) the Operator spent driving to deliver the Order; and

- viii. if multiple Orders were picked up or delivered by the Operator during the course of this delivery (e.g., by multi-restaurant ordering or batching), a list of ID numbers (as defined in subsection (a)(i) above) for other Orders that were combined with this Order.
- b. Each Provider shall submit to BTM, upon BTM request, additional data for the purposes of congestion management and other legitimate regulatory needs, which may include the total number of Operators that utilized the Provider's digital network within specified geographic areas and time periods and broken out by mode of transportation as determined by BTM.
- c. BTM shall implement and maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect the trip data from unauthorized access, destruction, use, modification, or disclosure.
- d. BTM shall not use the data for any purpose other than regulating traffic safety, congestion management, policy development, or traffic enforcement within the City of Boston.

17-22.7 Enforcement

The provisions of this section may be enforced by all enforcement mechanisms authorized, including but not limited to the noncriminal disposition process of M.G.L. c. 40, § 21D, and, if applicable, by seeking to restrain a violation by injunction.

Any Provider that accepts a fee for facilitating Services when such Provider does not have a valid Permit shall be fined three hundred dollars (\$300) per day per restaurant from which Services are available and/or three hundred dollars (\$300) per Order. The BTM Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the provision of Services by any unpermitted Provider.

17-22.8 Severability

The provisions of this section are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions which shall remain in full force and effect.

17-22.9 Effective Date

This section shall take effect nine months after passage.