

BOARD OF SUPERVISORS

Hilda L. Solis
Holly J. Mitchell
Lindsey P. Horvath
Janice Hahn
Kathryn Barger

February 18, 2025

18 February 18, 2025

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012


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Director

Jessica Kim
Chief Deputy

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Assistant Director, Workforce

GET IN TOUCH

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Dear Supervisors:

APPROVAL OF AN ORDINANCE TO AMEND TITLE 8 - CONSUMER PROTECTION, BUSINESS, AND WAGE REGULATIONS TO DELETE CHAPTER 8.203 AND ADD CHAPTER 8.46 – FOOD DELIVERY PLATFORMS (ALL DISTRICTS - 3 VOTES)

SUBJECT

The Department of Economic Opportunity (DEO) is seeking approval of the enclosed ordinance amending Title 8 – Consumer Protection, Business, and Wage Regulations, of the Los Angeles County Code, to delete Chapter 8.203 and add Chapter 8.46 – Food Delivery Platforms, to create more protections for consumers and restaurants in the unincorporated communities that contract with third party food delivery platforms and update County Code language related to third party food delivery services that was adopted during the COVID-19 emergency. The ordinance modifies the current County Code by requiring that the food delivery platforms offer a basic delivery service at a maximum rate of 15% of the total amount of a food order, while also allowing the platforms to contract with restaurants to provide additional services for additional fees.

IT IS RECOMMENDED THAT THE BOARD:

1. Introduce, waive reading, and place on a future agenda for the adoption of the proposed ordinance that amends Title 8- Consumer Protection, Business, and Wage Regulations, of the Los Angeles County Code by deleting Chapter 8.203 and adding Chapter 8.46 – Food Delivery Platforms.



2. Approve the proposed ordinance that amends Title 8 – Consumer Protection, Business, and Wage Regulations, of the Los Angeles County Code, by deleting Chapter 8.203 and adding Chapter 8.46

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On March 31, 2023, Los Angeles County (County) officially concluded its COVID-19 declaration of local emergency. As a result, the DEO recommended an update to the existing COVID-19 emergency language related to third party food delivery services within the County Code.

On December 19, 2023, your Board of Supervisors (Board) adopted a motion by Supervisors Hilda L. Solis and Lindsey P. Horvath, directing DEO, in partnership with County Counsel, to report back to the Board within 180 days with an ordinance to amend the County Code to:

1. Remove the existing 20% cap on all fees charged to restaurants by food delivery platforms.
2. Require that food delivery platforms offer basic delivery and listing services at a rate of no more than 15% of the total amount of the food order; and
3. Allow food delivery platforms to charge for additional services based on the needs of the restaurant owner if they also provide notice of this new 15% option for basic delivery and listing services.

On June 13, 2024, a 60-day extension was granted to DEO to allow for further stakeholder input and to provide County Counsel with additional time to finalize the amended language. Attached for your Board's approval is the new ordinance, which deletes the previous Chapter 8.203 - Covid 19 Food Delivery Platforms in Title 8 of the County Code and establishes the new Chapter 8.46 – Food Delivery Platforms, which retains parts of the previous ordinance while adding new sections that comply with your Board's above directives.

The new Chapter 8.46 of the County Code will require that food delivery platforms offer basic delivery and listing services at a rate of no more than 15% of the total amount of a food order. However, the ordinance will now allow restaurants the option to opt in for additional services, and the food delivery platforms to charge additional fees for those services, so long as the restaurant owner consents in writing to the additional services. These recommended changes align with similar ordinances recently passed in other jurisdictions as noted in the October 31, 2023, report back to your Board.

DEO will also initiate an informational campaign, in collaboration with the Department of Consumer and Business Affairs (DCBA), to restaurants and food delivery services that serve the unincorporated areas, which details the changes to the existing ordinance while highlighting its new consumer protections.

SURVEY RESULTS

DEO and its Office of Small Business (OSB) conducted an online survey in March and April of 2023. After two attempts, the survey resulted in a lower-than-expected response. As a result, the

DEO expanded its outreach strategies to restaurant stakeholders to include another survey, over an additional three (3) months, which resulted in 35 responses.

The outreach showed that most respondents support lifting the 20% cap and allowing restaurants to opt in for additional services. DEO's outreach and engagement strategies included:

- Multiple meetings with Third Party Delivery Platforms, Digital Restaurant Association (DRA), Los Angeles Restaurant Association, and California Restaurant and Latino Associations.
- Survey sent to 20,000 stakeholders, including restaurants, businesses, Chambers of Commerce, and residents, as well as outbound calls to 360 restaurants.
- DEO also received commitments from third party delivery services and the DRA to send out the Survey to their members and contracted businesses.

Below are the most significant survey results:

Figure 1

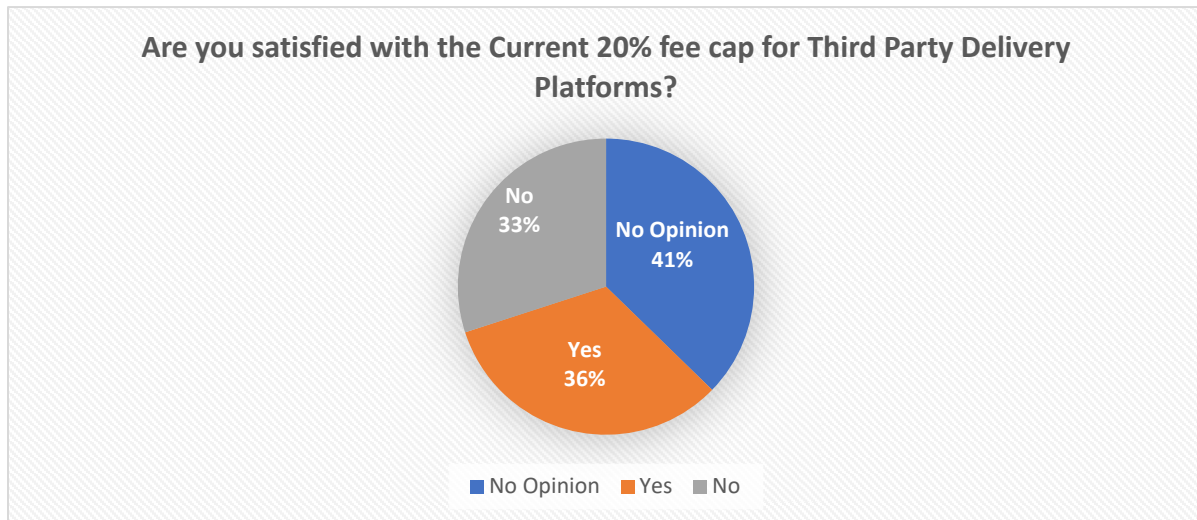


Figure 2

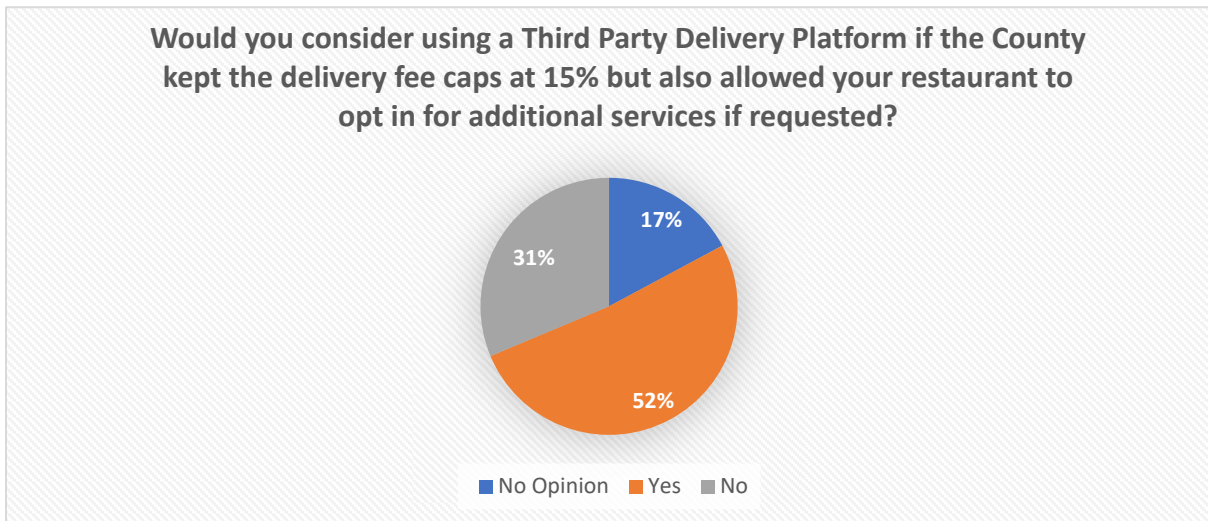
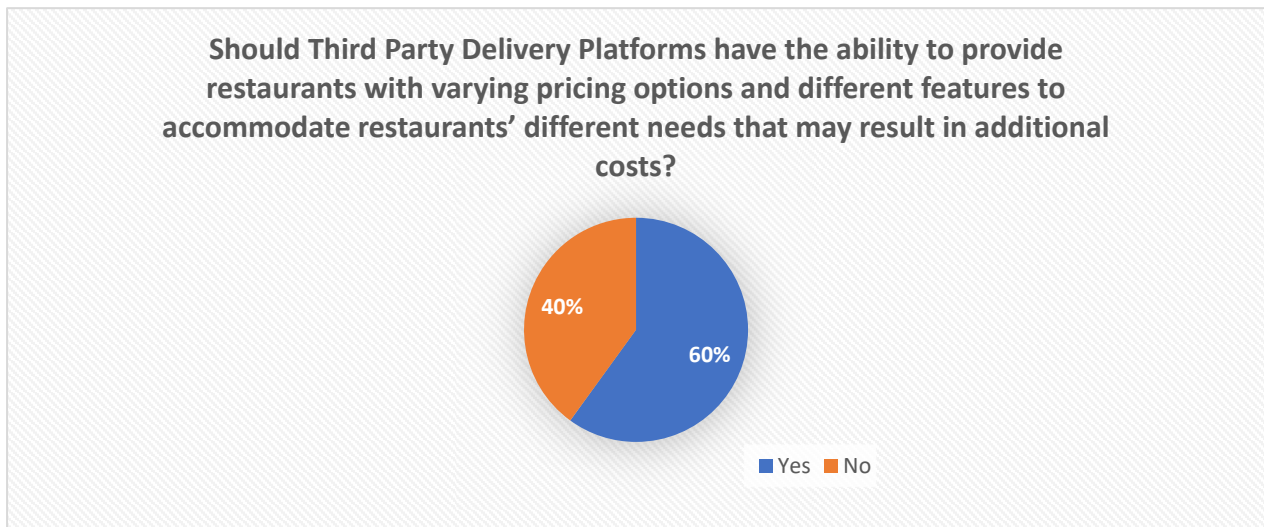


Figure 3



IMPLEMENTATION OF COUNTY STRATEGIC PLAN GOALS

The revised ordinance aligns with the County's Strategic Plan North Star 3: Realize tomorrow's government today; Focus Area Goal C. Equity-Centered Policies and Practices in which the County is taking proactive measures to protect small businesses and consumers against hidden costs and practices that may impact their financial well-being.

FISCAL IMPACT

Approval of the ordinance will not result in any costs to the County General Fund, DEO, or the budgets of any other County departments and agencies.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

As a result of the COVID-19 pandemic, and the emergency orders issued by the State of California and the County beginning on March 4, 2020, restaurants across the County had to either cease, or severely limit, dine-in services. Although the County was granted a variance on May 29, 2020, allowing restaurants to operate dine-in services at 60 percent capacity, the subsequent surges in COVID-19 cases led to further limits on dine-in activity in the hardest hit counties, including Los Angeles County. Restaurants relied heavily on delivery and pick-up services and many restaurants utilized third-party delivery platforms, such as Postmates, DoorDash, Grubhub, and Uber Eats, to stay in business during the pandemic.

On June 9, 2020, your Board adopted a motion by Supervisors Solis and Kuehl, as amended by Supervisor Barger, directing the Chief Executive Office (CEO), in partnership with County Counsel, DCBA, and other relevant departments, and after consideration of feedback from key stakeholders, to report back to the Board with draft ordinance language to cap fees charged by third-party delivery platforms to food establishments located within the unincorporated areas of the County.

Subsequently, on July 20, 2020, the Board approved ordinance language which added Chapter 8.203 to Title 8 of the County Code. This Chapter established a 20 percent cap on fees, (15% for delivery and no more than 5% for additional services), that a food delivery platform can charge to restaurants. The food delivery platforms were also required to make itemized cost disclosures to customers on each online order. Finally, the ordinance also required the CEO to report back to your Board 90 days after the lifting of the County Health Orders, for the purpose of recommending whether to sunset, or to continue, the ordinance.

DEO assumed responsibility for implementation of the final 90-day report, which was submitted to the Board on October 14, 2021, and recommended the following: (1) take no action relative to amending or sunsetting the existing ordinance; 2) maintain the existing protections in place; and (3) provide another review of the ordinance in 12 months.

After the County officially ended its local COVID emergency declaration on March 31, 2023, the DEO submitted its final report back on October 31, 2023, and recommended an update to the existing COVID-19 emergency language in the County Code that would lift the 20% cap on delivery and service fees and allow restaurants to opt in for additional services above the 15% delivery fee if they consent to those services and additional fees. Your Board directed DEO, in consultation with County Counsel, to report back within 180 days with an ordinance to amend County Code that implements these recommendations, which is now before your Board for approval.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impacts to current County services or projects during the implementation of the proposed ordinance amendment. The implementation of the proposed amendment will provide additional service and marketing options for restaurants from delivery platforms and enhance consumer protections for users of these delivery platforms.

CONCLUSION

In closing, DEO recommends that the Board adopt the attached new Chapter 8.203 *Food Delivery Platforms* and delete Chapter 8.203 *Covid-19 Food Delivery Platforms* in Tittle 8 of the County Code, thus providing third party food delivery platforms the option to provide their consumers additional services while still maintaining a 15% cap on basic services and ensuring transparency to consumers.

If you have any questions concerning this matter, please contact me or Gary Smith, Economic Development and Policy at (213) 309-6429 or gsmith@opportunity.lacounty.gov.

Respectfully submitted,



KELLY LOBIANCO
Director

KL:LL:KA

Enclosure

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel
Consumer and Business Affairs



County of Los Angeles

Dawyn R. Harrison
County Counsel



January 13, 2025

Kelly LoBianco, Director
Department of Economic Opportunity
510 South Vermont Avenue
Los Angeles, California 90020

**Re: Amendment to Title 8, Division 5, Adding Chapter 8.46
Food Delivery Fee Cap Ordinance**

Dear Ms. LoBianco:

Enclosed please find the analysis and ordinance amending Title 8 – Consumer Protection, Business and Wage Regulations by deleting Chapter 8.203 – COVID-19 Food Delivery Platforms and adding Chapter 8.46 – Food Delivery Platforms. In accordance with the Board of Supervisors' motion of December 19, 2023, the ordinance removes the existing 20 percent cap on fees charged to restaurants by food delivery platforms, requires that the delivery platforms offer a core delivery service to restaurants at a maximum rate of 15 percent, and allows both parties to contract for additional services. This version of the ordinance includes the provisions requested by the Board deputies at the November 21, 2024 Economic Development Policy Committee (EDPC) meeting.

The ordinance and its accompanying analysis may be presented to the Board of Supervisors for their consideration at a duly noticed public meeting.

Very truly yours,

DAWYN R. HARRISON
CounselCounty

By *Jason C. Carnevale*
JASON C. CARNEVALE
Deputy County Counsel

APPROVED AND RELEASED:

Judy W. Whitehurst
JUDY W. WHITEHURST
Chief Deputy

JCC:ec
Enclosure

ANALYSIS

This ordinance amends Title 8 – Consumer Protection, Business and Wage Regulations of the Los Angeles County Code, to delete Chapter 8.203 – COVID-19 Food Delivery Platforms and add Chapter 8.46 – Food Delivery Platforms.

Chapter 8.46 adopts portions of the former Chapter 8.203 but also establishes a new food delivery fee cap, exempts food delivery platforms from the new cap if the platform offers a core delivery service with a maximum fee cap, allows restaurants and food delivery platforms to contract for additional services in return for higher fees, and requires transparency in fee-for-services agreements between restaurants and food delivery platforms.

DAWYN R. HARRISON
County Counsel

By 

JASON C. CARNEVALE
Deputy County Counsel
Government Services Division

JCC:lp

Requested: 03/27/24
Revised: 12/19/24

ORDINANCE NO. _____

An ordinance amending Title 8 – Consumer Protection, Business and Wage Regulations of the Los Angeles County Code, to delete Chapter 8.203 – COVID-19 Food Delivery Platforms, and add Chapter 8.46 – Food Delivery Platforms.

Chapter 8.46 adopts portions of the former Chapter 8.203, but also establishes a new food delivery fee cap, exempts food delivery platforms from the new cap if the platform offers a core delivery service with a maximum fee cap, allows restaurants and food delivery platforms to contract for additional services in return for higher fees, and requires transparency in fee-for-services agreements between restaurants and food delivery platforms.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 8.46 is hereby added to read as follows:

Division 2 Business Regulations.

Chapter 8.46 FOOD DELIVERY PLATFORMS.

8.46.010 Purpose.

8.46.020 Definitions.

8.46.030 Prohibitions.

8.46.040 Disclosures.

8.46.050 Agreements.

8.46.060 Enforcement.

8.46.070 No Waiver of Rights.

8.46.080 Severability.

8.46.010 Purpose.

The use of third-party food delivery platforms is widespread throughout the County of Los Angeles. In addition to fees that may be charged to the customer, the food delivery platforms also charge fees to restaurants. These restaurants have limited bargaining power to negotiate lower fees with the food delivery platforms and must accept these fees or risk closure. Restaurants are essential to the public health and welfare, and also help drive the local economy by providing jobs and serving as commercial anchors in neighborhoods across the County of Los Angeles. The County of Los Angeles previously enacted a twenty percent (20%) cap on the fees which a food delivery platform could charge restaurants for the delivery of food. This ordinance removes that twenty percent (20%) cap and replaces it with a fifteen percent (15%) cap on the fees a food delivery platform may charge restaurants for basic delivery and listing services, while allowing food delivery platforms to charge additional fees to restaurants for additional services.

8.46.020 Definitions.

The following definitions shall apply to this Chapter:

- A. "Core Delivery Service" means a service offered by a Food Delivery Platform that:
1. Lists a Restaurant and makes it discoverable on the Food Delivery Platform's website, mobile application, or other internet service;

2. Facilitates and/or performs the delivery (through its employees or independent contractors) of food and/or beverages from the Restaurant to Customers; and

3. Does not include any other service that may be provided by the Food Delivery Platform to a Restaurant, including, but not limited to, advertising services, search engine optimization, business or marketing assistance, and debit/credit card processing.

B. "County" means the unincorporated areas of the County of Los Angeles.

C. "Customer" means any person, firm, or association who makes use of a Food Delivery Platform for the purpose of obtaining food from a Restaurant.

D. "Food" shall have the same meaning as set forth in Section 11.02.250 of the County Code.

E. "Food Delivery Platform" means any person, firm, or association that utilizes an online website, mobile application, or other similar presence to interact with Customers, to act as an intermediary between its Customers and a Restaurant, and offers or arranges for the sale, delivery, or pick-up of Food sold or prepared by no fewer than twenty (20) separately owned and operated Restaurants.

F. "Online Order" means an order placed by a Customer through or with the assistance of a Food Delivery Platform, including telephone orders, orders made over the internet through a website, and orders made via a mobile application, for delivery to, or pick-up by, the Customer.

G. "Purchase Price" means the price for the items contained in an Online Order, minus any applicable coupon or promotional discount provided to the Customer by the Restaurant through the Food Delivery Platform. This definition does not include taxes, gratuities, or any other fees or costs that may make up the total amount charged to the Customer of an Online Order.

H. "Restaurant" shall have the same meaning as set forth in Section 8.04.400 of the County Code.

I. "Worker" means any person working for a Food Delivery Platform, including as an employee or an independent contractor.

J. "In Writing" or "Written" for the purposes of this Chapter means any form of communication that is documented in a tangible or electronic format. This includes text that is manually inscribed, typed, printed, or otherwise recorded on paper or in digital form and includes any communication delivered by email, text message, software application, facsimile, personal delivery, or mail.

8.46.030 Prohibitions.

A. It shall be unlawful for a Food Delivery Platform to charge a Restaurant any fee, commission, charge, or combination thereof, that totals more than fifteen percent (15%) of the Purchase Price of an Online Order.

B. The fee cap in Subsection A of this section shall not apply to a Food Delivery Platform that does both of the following:

1. Offers all Restaurants the option to obtain Core Delivery Service for a total fee not to exceed fifteen percent (15%) of the Purchase Price of an Online Order, without requiring the Restaurant to purchase any additional services; and

2. Notifies all Restaurants that have an existing contract with the Food Delivery Platform of the option described in Subsection B.1.

C. It shall be unlawful for a Food Delivery Platform to charge a Restaurant any fee, commission, or charge in addition to the cost of Core Delivery Service, unless the Restaurant has contracted In Writing with the Food Delivery Platform to pay for additional services.

D. It shall be unlawful for a Food Delivery Platform to charge a Restaurant any fee, commission, charge, or combination thereof for an Online Order that does not result in Food being delivered to, or picked up by, the Customer.

E. A Food Delivery Platform shall not impose any restrictions on the Purchase Price that a Restaurant may charge for Food.

F. It shall be unlawful for a Food Delivery Platform to reduce the compensation, including any tip or gratuity, paid to any Worker as a result of the prohibitions in this Chapter.

G. A Food Delivery Platform shall not purposefully obscure or reduce the visibility of a Restaurant on its website, mobile application, or other internet service solely because the Restaurant declines any additional service offered by the Food Delivery Platform.

8.46.040 Disclosures.

A. A Food Delivery Platform shall disclose to the Customer an accurate, clearly identified, and itemized cost breakdown for each and every Online Order, including the following:

1. The Purchase Price of any Food.
2. Each and every fee, commission, or cost charged to the Customer.
3. Any tip or gratuity authorized by the Customer to be paid to the

Worker delivering the Food.

B. None of the fees, commissions, or costs in Subsection A, above, may be combined together.

C. A Food Delivery Platform shall advise the Customer that the price of Food items in an Online Order may vary from the price of the same Food items if ordered in-person at the Restaurant.

8.46.050 Termination of Service.

A. A Food Delivery Platform must terminate any service contract with a Restaurant within seventy-two (72) hours after the Restaurant provides notice In Writing of its decision to terminate its contract with the Food Delivery Platform.

8.46.060 Enforcement.

A. A Restaurant, Customer, or Worker claiming a violation of this Chapter may bring an action in Superior Court of the State of California against a Food Delivery Platform and may be awarded:

1. All actual damages suffered.

2. Other legal or equitable relief the court may deem appropriate.

3. The court shall award reasonable attorneys' fees and costs to a Restaurant, Customer, or Worker who prevails in any such enforcement action. If a Restaurant, Customer, or Worker fails to prevail against a Food Delivery Platform, a court may award reasonable attorneys' fees and costs to the Food Delivery Platform upon a determination by the court that the action was frivolous.

B. A civil action alleging a violation of any provision of this Chapter shall commence only after the following requirements have been met:

1. The Restaurant, Customer, or Worker has provided notice In Writing to the Food Delivery Platform of the specific section of this Chapter which is alleged to have been violated and the facts to support the alleged violation; and

2. The Food Delivery Platform is provided 45 days, from the date of receipt of the notice in Subsection B.1., to cure any alleged violation.

8.46.070 No Waiver of Rights.

Except for a collective bargaining agreement provision, any waiver by a Worker of any or all provisions of this Chapter shall be deemed contrary to public policy and shall be void and unenforceable. Other than in connection with the bona fide negotiation of a collective bargaining agreement, any request by a Food Delivery Platform to a Worker to waive rights given by this Chapter shall be a violation of this Chapter.

8.46.080 Severability.

If any subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors hereby declares that it would have adopted this Chapter and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the Chapter would be subsequently declared invalid or unconstitutional.

SECTION 2. Chapter 8.203 is hereby deleted in its entirety.

[CH846JCCC]