

CHAPTER 204. - ENVIRONMENTAL PRESERVATION: ENVIRONMENTALLY ACCEPTABLE PACKAGING

204.10. - Legislative purpose.

The city council finds that discarded packaging from foods and beverages prepared for immediate consumption constitutes a significant and growing portion of the waste in Minneapolis' waste stream. Regulation of food and beverage packaging, therefore, is a necessary part of any effort to encourage a recyclable and compostable waste stream, thereby reducing the disposal of solid waste and the economic and environmental costs of waste management for the citizens of Minneapolis and others working or doing business in Minneapolis.

The council further finds that plastic packaging is rapidly replacing other packaging material, and that some plastic packaging used for foods and beverages is nonreusable, nonreturnable, nonrecyclable and noncompostable.

The council also finds that the two (2) main processes used to dispose of discarded nonreusable, nonreturnable, nonrecyclable and noncompostable plastic food and beverage packaging are land filling and incineration, both of which should be minimized for environmental reasons.

The council therefore finds that the minimization of nonreusable, nonreturnable, nonrecyclable and noncompostable food and beverage packaging originating at retail food establishments and at events providing food and/or beverages within the city of Minneapolis is necessary and desirable in order to minimize the city's waste stream, so as to reduce the volume of landfilled waste, to minimize toxic by-products of incineration, and to make our city and neighboring communities more environmentally sound places to live. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 1, 6-28-96; 2014-Or-023, § 1, 5-23-14)

204.20. - Definitions.

As used in this chapter, the following terms and phrases shall have the meanings as defined in this section:

- (a) *Packaging* shall mean and include food or beverage cans, bottles or containers used to package food and beverage products for distribution including glasses, cups, plates, serving trays, and to-go containers; but shall specifically exclude foods pre-packaged by the manufacturer, producer or distributor; plastic knives, forks and spoons sold or intended for use as utensils; and plastic films less than ten (10) mils in thickness.
- (b) *Environmentally acceptable packaging* shall mean and include any of the following:
 - (1) *Reusable and returnable packaging*: Food or beverage containers or packages, such as, but not limited to, water bottles, growlers, milk containers and bulk product packaging that are capable of being refilled at a retail location or returned to the distributor for reuse at least once as a container for the same food or beverage;
 - (2) *Recyclable packaging*: Packaging that is separable from solid waste by the generator or during collection for the purpose of recycling including glass bottles, aluminum cans and plastic food and beverage packaging that have robust recycling markets. For the purposes of this chapter, environmentally preferable plastic packaging includes the following plastic types:
 - a. Polyethylene Terephthalate (#1 PET or PETE);
 - b. High Density Polyethylene (#2 HDPE); and

c. Polypropylene (#5 PP).

(3) *Compostable packaging*: Packaging that is separable from solid waste by the generator or during collection for the purpose of composting. Compostable packaging must be made of paper, certified compostable plastics that meet ASTM D6400 or ASTM D6868 for compostability or other cellulose-based packaging capable of being decomposed through composting or anaerobic digestion.

(c) *Food establishment*, as used in this chapter, means a "food establishment" as defined in section 186.50 of the Minneapolis Code of Ordinances. (89-Or-060, § 1, 3-31-89; 90-Or-067, § 1, 2-23-90; 96-Or-059, § 2, 6-28-96; 2013-Or-145, § 1, 12-6-13; 2014-Or-023, § 2, 5-23-14)

204.30. - Prohibitions and duties.

(a) No person owning, operating or conducting a food establishment or any person or organization providing free food or beverage products within the city of Minneapolis pursuant to a permit or license, or in a manner which would require a permit or license, shall do or allow to be done any of the following within the city: Sell or convey at retail or possess with the intent to sell or convey at retail any food or beverage intended for immediate consumption contained, at any time at or before the time or point of sale, in packaging which is not environmentally acceptable packaging. The presence on the premises of the food establishment of packaging which is not environmentally acceptable packaging shall constitute a rebuttable presumption of intent to sell or convey at retail, or to provide to retail customers packaging which is not environmentally acceptable packaging; provided, however, that this subparagraph shall not apply to manufacturers, brokers or warehouse operators, who conduct or transact no retail food or beverage business.

(b) Packaging used to contain food or beverages intended for immediate consumption shall be considered environmentally acceptable packaging only when the food establishment provides consumers with an opportunity to recycle and/or appropriately manage compostable plastics and utilizes a qualified recycling and/or organics management system.

(1) A qualified recycling system shall have the following elements:

- a. A clear and verifiable process for separating recyclable packaging from discarded solid waste; and
- b. Collection and delivery of recyclable packaging to a recycling facility for processing in the same or at least similar manner as recyclable packaging collected in a municipally approved recycling program.

(2) A qualified organics management system shall have the following elements:

- a. A clear and verifiable process for separating organic materials from discarded solid waste; and
- b. Collection and delivery of organic materials to a food to people, food to animals, organics composting or anaerobic digestion facility in the same manner or at least similar manner as organic materials collected in a municipally approved organics management program. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 3, 6-28-96; 2014-Or-023, § 3, 5-23-14)

204.40. - Enforcement.

The environmental health division of the health department shall have the duty and the authority to enforce the provisions of this chapter. The license official shall also have authority to enforce

the provisions of this chapter. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 4, 6-28-96; 2013-Or-145, § 2, 12-6-13; 2014-Or-023, § 4, 5-23-14)

204.50. - Rules and regulations.

The environmental health division may, upon notice and hearing, promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter and protect the health of the public, including the development of exemptions under section 204.70 for packaging for which there is no reasonable commercially available alternative. In promulgating such rules, the division shall consider the legislative purposes provided in section 204.10 of this chapter and shall consult with the operators of affected food establishments. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 5, 6-28-96; 2013-Or-145, § 3, 12-6-13; 2014-Or-023, § 5, 5-23-14)

204.60. - Reserved.

Editor's note— Ord.\No. 2014-Or-023, § 6, adopted May 23, 2014, repealed § 204.60, which pertained to advisory committee on environmentally acceptable packaging. See also the Code Comparative Table.

204.70. - Exemptions.

Notwithstanding any other provision to the contrary, this chapter shall not apply to:

- (a) Any packaging used at hospitals or nursing homes;
- (b) Any packaging which is not environmentally acceptable, but for which there is no commercially available alternative as determined by the environmental health division by rule promulgated pursuant to section 204.50. In determining whether there are commercially available alternatives, the environmental health division shall consider the following: (1) the availability of environmentally acceptable packaging for affected products; (2) the economic consequences to manufacturers, suppliers, retailers and other vendors of requiring environmentally acceptable packaging when available; and (3) the competitive effects on manufacturers, suppliers, retailers and other vendors involved in the sale of product brands or labels available only in packaging that is not environmentally acceptable packaging. Every rule creating an exemption under this paragraph shall be reviewed annually by the environmental health division to determine whether current conditions continue to warrant the exemption. (89-Or-060, § 1, 3-31-89; 90-Or-067, § 2, 2-23-90; 95-Or-044, § 1, 3-31-95; 96-Or-059, § 7, 6-28-96; 2013-Or-145, § 5, 12-6-13)

204.80. - Penalties.

Each violation of any provision of this chapter or of lawful regulations promulgated under section 204.50 hereof shall be punishable as an administrative offense pursuant to Chapter 2 of this Code. Each day on which a violation occurs constitutes a separate violation. (89-Or-060, § 1, 3-31-89; 2014-Or-023, § 7, 5-23-14)

204.90. - License adverse action.

A violation of section 204.30 shall be sufficient grounds for the revocation, suspension, denial or nonrenewal of any license for the food establishment at which the violation occurs. (89-Or-060, § 1, 3-31-89)

204.100. - Severability.

If any part or provision of this chapter or the application thereof to any person, entity, or circumstances shall be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application which is directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons, entities, or circumstances. (89-Or-060, § 1, 3-31-89)

204.110. - Effective date.

This ordinance shall take effect April 22, 2015. (89-Or-060, § 1, 3-31-89; 90-Or-067, § 3, 2-23-90; 2014-Or-023, § 8, 5-23-14)