

ORDINANCE NO. 2485-15

ORDINANCE TO INCREASE TRADITIONAL RECYCLING AND ORGANICS RECYCLING OF FOOD AND BEVERAGE PACKAGING AND TO-GO CONTAINERS

THE CITY OF ST. LOUIS PARK DOES ORDAIN:

CHAPTER 12 – Environment and Public Health
Division VI. ZERO WASTE PACKAGING

12-201. - Legislative purpose.

The city council (council) adopted the strategic direction in March 2007 stating that the city is committed to being a leader in environmental stewardship and will increase environmental consciousness and responsibility in all areas of city business.

As such, the council finds that discarded packaging from foods and beverages prepared for immediate consumption constitutes a portion of the waste stream in St. Louis Park that could be diverted for reuse, recycling, or organics recycling. 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 St. Louis Park and others working or doing business in St. Louis Park.

The council also finds that the two (2) main processes used to dispose of discarded nonreusable, nonreturnable, nonrecyclable and noncompostable 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 St. Louis Park is necessary and desirable in order to minimize the city's waste stream and maximize recycling and organics recycling, 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.

12.202. - Definitions.

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

- (a) “Distributor” shall mean a business that distributes food and beverages but who conduct no retail food or beverage transactions.
- (b) “Food establishment”, as used in this chapter, shall mean a "food establishment" as defined by Chapter 3.3.1 Hennepin County Code of Ordinances.
- (c) “Mobile use-food establishment”, as used in this chapter, shall mean “mobile use-food” as defined in Chapter 36-142(g)(5) of the City Code of Ordinances, as a vehicle or cart used to prepare and serve food and/or beverages in individual portions in a ready-to-consume state. Mobile use-food does not include the sale of groceries or vegetables and fruits not prepared for immediate consumption at the vehicle.

- (d) “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. The following exclusions apply: 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.
- (e) “Violation” shall mean any time a food establishment is found by the city to be non-compliant with one or more section(s) of this chapter.
- (f) “Zero waste 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 during collection for the purpose of recycling including, but not limited to, glass bottles, aluminum cans and plastic food and beverage packaging. Recyclable packaging must be accepted by the local material recovery facilities receiving and processing the materials and have existing robust recycling markets as determined by the Public Works Division by rule promulgated pursuant to section 12.205.
 - (3) “Compostable packaging”: Packaging that is separable from solid waste during collection for the purpose of composting. Compostable packaging must be made of unlined paper (unless lining is certified compostable), certified compostable plastic that meet ASTM D6400 or ASTM D6868 or other material accepted by the commercial compost or anaerobic digestion facility receiving and processing the materials.

12.203. - 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 St. Louis Park pursuant to a Hennepin County 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:
 - (1) 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 zero waste packaging. The presence on the premises of the food establishment of packaging which is not zero waste packaging shall constitute a rebuttable presumption of intent to sell or convey at retail, or to provide to retail customers packaging which is not zero waste 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 zero waste packaging only when the food establishment provides consumers with an on-site opportunity to recycle and/or appropriately manage compostable packaging and 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 city approved recycling program.
- (2) A qualified organics recycling 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 an 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.
- (3) A food establishment that does not have dine-in seating for consumers, except a mobile use-food establishment, is exempt from the requirement to provide consumers with an on-site opportunity to recycle and/or manage compostable packaging/compostable plastics as defined in Sec 12-203(b).

12.204. – Violations and Enforcement.

- (a) When a violation of this chapter has occurred, the food establishment shall be subject to the penalties set forth below.
- (b) A violation of this chapter is a misdemeanor.
- (c) Violations of this chapter shall be punishable as an administrative offense pursuant to City Code Ordinance 2420-12, Section 1-14 Administrative Penalties, as follows:
 - (1) A warning notice in writing for the first violation;
 - (2) A fine of \$100 for the second violation;
 - (3) Repeat subsequent violations within 24 months, a fine double the amount of the fine imposed for the previous violation, up to a maximum of \$2,000. For example if there were four occurrences of a violation that carried a \$100 fine: first is \$0 (warning); second is \$100, third is \$200, fourth is \$400).
- (d) At the time a violation occurs, the food establishment will be given 14 calendar days to take corrective action before a subsequent fine is issued.
- (e) The administrative offenses provided for in this chapter shall be in addition to any other legal or equitable remedy available to the city for city code violations.

12.205. - Rules and regulations.

The Public Works 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 list of recyclable and compostable packaging that meets definitions under section 12.202 and development of exemptions under section 12.206 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 12.201 of this chapter and shall

consult with the operators of affected food establishments, local material recovery facilities and local commercial composting facilities. The Public Works Division rules and regulations shall be approved by council annually.

12.206. - Exemptions.

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

- (a) Any packaging which is not zero waste packaging, but for which there is no commercially available alternative as determined by the Public Works Division by rule promulgated pursuant to section 12.205. In determining whether there are commercially available alternatives, the Public Works Division will consider whether there is availability of zero waste packaging for affected products. Every rule creating an exemption under this paragraph will be reviewed annually by the Public Works Division to determine whether current conditions continue to warrant the exemption.

12.207. - 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.

12.208. - Effective date.

This ordinance shall take effect January 1, 2017.

Secs. 12-209--12-250. Reserved.

First Reading	December 7, 2015
Second Reading	December 21, 2015
Date of Publication	December 31, 2015
Date Ordinance takes effect	January 1, 2017

Reviewed for Administration

Adopted by the City Council December 21, 2015

City Manager

Mayor

Attest:

Approved as to Form and Execution:

City Clerk

City Attorney