

2014-Or-_____

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By A. Johnson

Amending Title 10, Chapter 204 of the Minneapolis Code of Ordinances relating to Food Code: Environmental Preservation: Environmentally Acceptable Packaging.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 204.10 of the above-entitled ordinance be amended to read as follows:

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 ~~most~~ some plastic packaging used for foods and beverages is ~~nondegradable nonreusable, nonreturnable, and nonrecyclable and noncompostable.~~

The council also finds that the two (2) main processes used to dispose of discarded ~~nondegradable nonreusable, nonreturnable, and 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 ~~nondegradable nonreusable, nonreturnable, and 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~~ reduce the city's waste stream, so as to reduce the volume of landfilled waste, to minimize toxic by-products of incineration, ~~to make the waste stream less damaging to the environment,~~ and to make our city and neighboring communities more environmentally sound places to live.

Section 2. That Section 204.20 of the above-entitled ordinance be amended to read as follows:

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, glass bottles, or plastic 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, soft drink bottles water bottles, growlers, and milk containers and bulk product packaging that are capable of being refilled at a retail location or returned to the distributor, such as, but not limited to, dairies and soft drink bottlers, 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 ~~488.10~~ 186.50 of the Minneapolis Code of Ordinances.

Section 3. That Section 204.30 of the above-entitled ordinance be amended to read as follows:

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 ~~consumed at the point of sale~~ 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. ~~A qualified recycling system shall have the following elements:~~

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

- a.(1) A clear and verifiable process for separating recyclable packaging from discarded solid waste; and
- b.(2) 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.

Section 4. That Section 204.40 of the above-entitled ordinance be amended to read as follows:

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.

Section 5. That Section 204.50 of the above-entitled ordinance be amended to read as follows:

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 ~~director~~ division shall consider the legislative purposes provided in section 204.10 of this chapter and shall consult with the operators of affected food establishments.

Section 6. That Section 204.60 of the above-entitled ordinance be and is hereby repealed:

~~**204.60. Advisory committee on environmentally acceptable packaging.** (a) The city council shall, by resolution, establish an advisory committee on environmentally acceptable packaging. The resolution shall provide for the membership, manner of appointment, the committee's charge and its duration. The membership shall be drawn from affected governmental units, business and industry, trade associations, general business organizations, consumer groups, environmental groups and others as determined in the resolution. The advisory committee shall include a member designated by the Hennepin County Board of Commissioners from outside the City of Minneapolis and a member designated by the Association of Metropolitan Municipalities. The charge of the committee shall include the following:~~

~~(b) — Advising the environmental health division on implementation issues.~~

Section 7. That Section 204.80 of the above-entitled ordinance be amended to read as follows:

204.80. Penalties. Each violation of any provision of this chapter or of lawful regulations promulgated under section 204.50 hereof shall be a ~~petty misdemeanor, for which the maximum fine shall be fifty dollars (\$50.00)~~ punishable as an administrative offense pursuant to Chapter 2 of this Code. Each day on which a violation occurs constitutes a separate violation.

Section 8. That Section 204.110 of the above-entitled ordinance be amended to read as follows:

204.110. Effective date. This ordinance shall take effect April 22, 1994 2015.