Ordinance no. _____-19

An ordinance amending the St. Louis Park city code relating to environment and public health

The City of St. Louis Park does ordain:

SECTION 1. That Chapter 12 of the St. Louis Park city code is hereby amended by adding underscored language and deleting stricken language:

ARTICLE II. NUISANCES

DIVISION 1. GENERALLY

Sec. 12-33. Nuisances affecting health.

In addition to those conditions identified elsewhere, the following are declared to be nuisances affecting health:

(3) Accumulations of decaying animal or plant material, animal or human feces, trash, refuse, yard waste, garbage, rotting lumber, packing material, scrap metal, tires or any other substances which can be breeding places for flies, mosquitoes or vermin, except compost maintained in compliance with chapter 22, article IV.

(9) The intentional or negligent discharge of items including but not limited to refuse, leaves, grass clippings, garbage, yard waste, solvents, antifreeze, oil, gas, fireplace ashes, paint, swimming pool water or cement rein sate into a street, storm sewer system, or water resource such as a wetland, creek, pond or lake. This includes illegal discharge or discard of any item on to any land within the city limits.

Sec. 12-34. Nuisances affecting peace and safety.

In addition to those conditions identified elsewhere, the following are declared to be nuisances affecting public peace, welfare and safety:

(23) Accumulations of personal property, garbage, or debris in any residence that could prevent emergency egress.

(24) Accumulations of animal feces, garbage, or junk remaining in any place as to become dangerous or injurious to the safety of any individual or to the public.

ARTICLE III. LITTER

Sec. 12-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food the portion of solid waste that is not separated at the source by the generator for the purpose of reuse, recycling, organics recycling, or yard waste composting.
Licensed solid waste collector means any person holding a valid license from the city who shall offer to, or engage in, the collection of solid waste in the city.

Litter means garbage, refuse and rubbish, solid waste and all other waste material which, if thrown or deposited as prohibited in this article, tends to create a danger to public health, safety and welfare.

Refuse means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, trash, ashes, street cleanings, dead animals, junk, abandoned automobiles, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, wood, glass, bedding, crockery and similar materials.

Solid waste means garbage, recyclable materials, organic materials, yard waste, appliances, bulk waste, and other solid waste from residential or commercial buildings, and activities thereof, that the generator of the material aggregates for collection, but does not include construction demolition debris, hazardous waste, dirt, rocks, sod, or sewage sludge.

ARTICLE IV. NOISE, NOISE POLLUTION AND VIBRATION

Sec. 12-124. Hourly restrictions on certain operations.

(d) Garbage collection. Except in a general industrial zoning district, no person shall collect or remove garbage or refuse solid waste except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and between the hours of 9:00 a.m. and 10:00 p.m. on weekends and holidays.

Sec. 12-125. Prohibited noises.

(h) Apartment Multifamily or multiuse building. No person may cause, allow, or permit any noise pollution in any multiuse or apartment building as determined beyond the property line of

ARTICLE V. STORMWATER, SOIL EROSION, AND SEDIMENTATION

Sec. 12-152. Definitions

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

ARTICLE VI. ZERO WASTE PACKAGING

Sec. 12-201. Legislative Purpose.

The City of St. Louis Park 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 to increasing 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 landfilling 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.

The purpose and intent of this ordinance is to:

(a) **Encourage the use of reusable food and beverage packaging when possible;**

(b) **Minimize the amount of single-use, disposable food and beverage packaging that must be thrown in the garbage, and thus disposed via incineration or landfilling;**

(c) **Maximize the amount of single-use food and beverage packaging items that can be recycled or composted;** and

(d) **Minimize contamination in organics and recycling.**

**Sec. 12-202. Definitions.**

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

**Compostable packaging** shall mean packaging that is separable from solid waste prior to collection for the purpose of composting or anaerobic digestion. Compostable packaging must be made of unlined paper (unless lining is certified compostable), certified compostable plastic that meets ASTM D6400 or ASTM D6868 or other material accepted by the facility receiving and processing the materials as determined by the St. Louis Park Public Works Division by rule promulgated pursuant to Section 12-205.

**Distributor** shall mean a business that distributes food and beverages but does not conduct retail food or beverage transactions.

**Food and beverage packaging** shall mean packaging used to serve food and beverage products intended for immediate consumption including cups, plates, bowls, serving trays, to-go containers, clamshells, wrappers, and lids.

**Food establishment** as used in this chapter, shall mean a “food establishment” as defined by Chapter 3.3.1 Hennepin County Code of Ordinances.

**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.
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, bowls, 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.

Non-packaging food service items shall mean items that are not packaging, but are used to consume food, including straws and utensils.

Recyclable packaging shall mean food or beverage packaging that is separable from solid waste prior to collection for the purpose of recycling. 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 St. Louis Park Public Works Division by rule promulgated pursuant to Section 12-205.

Reusable packaging shall mean food or beverage packaging that is 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.

Single-use shall mean an item designed and intended for a single use.

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.

Zero waste packaging shall mean and include reusable packaging, single-use recyclable packaging, and single-use compostable packaging.

Sec. 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 or Minnesota Department of Agriculture 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.
   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).

(b) To reduce contamination in recycling and organics, mobile-use food establishments shall implement the following by January 1, 2020, and all other food establishments shall implement the following by July 1, 2020:

1. Single-use cups and containers that are utilized with lids shall have lids of the same category of packaging:
   a. Recyclable packaging shall only have recyclable lids;
   b. Compostable packaging shall only have compostable lids.

2. Compostable cups shall be labeled to clearly indicate to the consumer that the cup is compostable. Labeling must include one or more of the following:
   a. The words “compostable,” “certified compostable,” “commercially compostable” or other such language. “Made from plants,” “bio-based,” or “biodegradable” are not acceptable alternatives on their own;
   b. The logo of a third party certification or testing body indicating the cup meets compostability standards, as approved by the St. Louis Park Public Works Division by rule promulgated pursuant to Section 12-205.

(c) All food establishments shall implement the following in relation to non-packaging food service items by January 1, 2020:

1. Single-use utensils including, but not limited to, forks, spoons, and knives shall be compostable.
2. Single-use straws of any kind shall only be provided to consumers upon request.

Sec. 12-204. Violations and Enforcement.

(a) When a violation of this ordinance has occurred, the food establishment shall be subject to the penalties set forth below.

(b) A violation of this ordinance is a misdemeanor.

(c) Violations of this ordinance shall be punishable as an administrative offense pursuant to City Code 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 will incur a fine double the amount of the fine imposed for the previous violation, up to a maximum of $2,000. For example, if there

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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 article shall be in addition to any other legal or equitable remedy available to the city for city code violations.

Sec. 12-204. On-site collection for recyclable and compostable packaging.

(a) A food establishment which utilizes single-use compostable and/or recyclable food packaging to serve consumers on-site shall have on-site collection for recyclable and/or compostable packaging.
(1) A food establishment that does not utilize single-use packaging to serve consumers on-site is exempt from the requirement to have on-site collection for recyclable and/or compostable packaging.
(2) A food establishment that does not have dine-in seating for consumers is exempt from the requirement to have on-site collection for recyclable and/or compostable packaging.
(3) If a mobile use-food establishments is being hosted by an entity as part of an event or regular business, the hosting entity shall provide on-site collection for recyclable and/or compostable packaging.

(b) Containers for the on-site collection of recyclable and/or compostable packaging shall be co-located with garbage containers.
(1) If garbage receptacles are available to consumers, then receptacles for separating recyclable and/or compostable packaging must also be made available to consumers in the same location.
(2) If garbage receptacles are not available to consumers and are instead placed in areas for use by staff only, then receptacles for separating recyclable and/or compostable packaging are only required in those locations.

(c) A food establishment shall arrange for the collection of recyclable and/or compostable packaging by a licensed solid waste collector for delivery to an appropriate transfer station or processing facility.

Sec. 12-205. Rules and regulations.

The St. Louis Park Public Works Division may, upon notice and hearing, promulgate such rules and regulations as may be necessary to carry out the purposes of this article and protect the health of the public, including:
(a) the development of a list of recyclable and compostable packaging that meets definitions under Section 12-202;
(b) a list of third party certification or testing bodies that meet the requirements under Section 12-203(b)(2);
(c) and development of a list of exemptions under Section 12-206(e) 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 ordinance 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.

Sec. 12-206. Exclusions and exemptions.

Notwithstanding any other provisions to the contrary, this ordinance shall not apply to:

(a) Manufacturers, brokers, distributors or warehouse operators who conduct or transact no retail food or beverage business;
(b) Food and beverage service provided through patient care at hospitals and nursing homes;
(c) Food packaging pre-packaged by a manufacturer, producer or distributor;
(d) Plastic films less than ten (10) mils in thickness;
(e) Any packaging which is not zero waste packaging, but for which there is no commercially available alternative as determined by the St. Louis Park 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.

Sec. 12-207. Violations and enforcement.

(a) Violations of this ordinance shall be punishable as a misdemeanor pursuant to City Code Section 1-13, and/or an administrative offense pursuant to City Code Section 1-14, Administrative Penalties.
(b) The administrative offenses provided for in this article shall be in addition to any other legal or equitable remedy available to the city for city code violations.
(c) At the time a violation occurs, a warning notice will be given in writing. The food establishment will be given 14 calendar days to take corrective action before a fine is issued.

Sec. 12-208. Severability.

If any part or provision of this ordinance or the application thereof to any person, entity, or circumstances shall be judged 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 ordinance or the application thereof to other persons, entities, or circumstances.

Sec. 12-209. Effective Date.

Unless otherwise indicated, this article shall take effect January 1, 2017.

Sec. 12-210-169–12-250. Reserved.

SECTION 2. Unless otherwise indicated, this ordinance shall take effect fifteen days after its passage and publication.

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<th>First reading</th>
<th>May 20, 2019</th>
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<tr>
<td>Second reading</td>
<td>June 17, 2019</td>
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<tr>
<td>Date of publication</td>
<td>June 27, 2019</td>
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<tr>
<td>Date ordinance takes effect</td>
<td>July 12, 2019</td>
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Reviewed for Administration
Adopted by city council _____________, 2019

Thomas K. Harmening, City Manager
Jake Spano, Mayor

Attest: Approved as to Form and Execution:

Melissa Kennedy, City Clerk
Soren Mattick, City Attorney