




Title Requirements and Temporary Exceptions for Food-Service Ware and Packaging Products		Number SW-500	Rev. no. 11
Responsibility Solid Waste		Supersedes N/A	Pages 3
General Manager/CEO signature  <small>Andrew Lee (Jun 20, 2023 10:41 PDT)</small>	Approval date Jun 20, 2023	Effective date July 1, 2023	

1. BACKGROUND

Seattle Ordinance 122751 banned the use of expanded polystyrene (EPS), sometimes called Styrofoam, on January 1, 2009. It also required that by July 1, 2010, all food-service businesses operating in the City of Seattle replace all single-use throw-away food-service ware with products that are compostable or recyclable. Leading up to this deadline, Seattle Public Utilities worked extensively with restaurant industry stakeholders and businesses in the food-service packaging industry. Through this process, which included restaurant industry comment and reports on in-use testing of various products, SPU determined that there were several types of products for which compostable or recyclable alternatives meeting acceptable performance standards or recyclability did not exist at the time. Since then, through SPU's Food+ outreach program, the Solid Waste Line of Business has continuously monitored the reported performance of compostable and recyclable single-use food-service products to determine if new products meeting acceptable performance standards have reached the market, warranting changes in the list of types of products deemed exempt from regulation.

2. AUTHORITY

The General Manager/CEO of Seattle Public Utilities has general authority to promulgate rules in accordance with the City's Administrative Code, SMC Chapter 3.02. Further, Ordinance 123307, effective June 19, 2010, authorizes the General Manager/CEO to issue rules for the "purposes of interpreting and clarifying the requirements of this section (SMC 21.36.086). Such rules may provide temporary waivers or other relief that apply for an initial period of up to one year from July 1, 2010, with the option for an up to one-year extension to expire no later than June 30, 2012. Such waivers or relief should be granted only for circumstances where commonly used recycling and composting technology cannot process the food-service ware, or where suitable alternative products that meet performance and food health and safety standards are unavailable."

Subsequently, on finding that there were essential food-service ware and packaging items for which there were currently no acceptable compostable or recyclable alternatives, the City Council passed Ordinance 123880 effective June 15, 2012, "providing the Director of Seattle Public Utilities additional rulemaking authority to grant waivers and other relief from requirements relating to single-use food-service ware and packaging." Ordinance 123880 allows the General Manager/CEO annually to revise by rule the list of those food-service products for which compliance with Ordinance 122751 shall be waived.

3. RULE

A. *Requirements for Provision of Food-Service Ware*

Compostable food-service ware provided by businesses must meet the Washington state requirements of RCW Chapter 70A.455, Plastic Product Degradability, which requires that products labeled compostable must:

- Meet ASTM D6400 or D6868 specifications or be made of wood or fiber-based substrate only.
- Meet labeling requirements under the U.S. Federal Trade Commission's guides.
- Feature labeling that meets industry standards for being distinguishable.
- Use a third-party certification logo.
- Display the word "compostable".
- Use green, beige, or brown labeling, striping, tinting, or other patterns that help differentiate compostable items from noncompostable items.
- Be included on the compliance declaration submitted in the Department of Ecology's (Ecology) database.

Food-service businesses providing single-use food-service ware for food consumed on premises must use compostable food-service ware.

Food-service businesses may only provide a brown-tinted plastic-lined paper food-service container as single-use food-service ware if it is compostable.

Food-service businesses must comply with the Washington state requirements of RCW Chapter 70A.245.080, Optional Serviceware. Under this state law, food-service business may only provide the following single-use food-service products upon customer request or by using self-service bins or dispensers:

- Utensils;
- Straws;
- Condiment packaging; and
- Cup lids for cold beverages unless served through a drive through, delivery service, or at a large sports or music venue.

In accordance with the Washington state requirements of RCW Chapter 70A.245.080, utensils may not be bundled or packaged in such a way that a customer is unable to take only the type of single-use utensil or utensils desired without also taking a different type or types of utensil.

Food-service businesses are encouraged to:

- Have an adequate supply of bendable compostable plastic straws or bendable disposable plastic straws to provide customers on request when needed due to medical or physical conditions; and
- Provide durable, reusable food-service ware and utensils for food consumed on premises whenever possible.

B. *Temporary Waivers*

Waivers are provided for a period of one year beginning July 1, 2022 and ending June 30, 2023; therefore, the requirement that all single-use food-service ware be either compostable or recyclable shall not apply to:

- Disposable long-handled thick plastic soda spoons when required and used for thick drinks and identified as non-compostable by the food-service business to its customers.
- Disposable bendable plastic drinking straws when needed by customers due to medical or physical conditions and for whom bendable compostable paper straws are unsuitable. Otherwise, straws must be compostable or designed to be reusable.
- Metal foil and metal foil-faced papers used to wrap hot food such as hamburgers and burritos.
- Thin, clear plastic wrap used to wrap meats, deli and bakery goods, or other food items if paper, compostable film, or other compostable or recyclable food packaging is unsuitable.

Food-service businesses that use items listed under Temporary Waivers must post a notice and identify the items as non-compostable and non-recyclable in a reasonable manner. This allows customers to recognize the status and manage them appropriately.

C. *Petitions for Changes to the List of Temporary Waivers*

Any person may petition the General Manager/CEO requesting that:

- Additional single-use food-service products be granted temporary waivers.
- Products already under waiver have their waiver period extended.
- Products already under waiver have their waiver period shortened or ended.

D. *Petitions for Waivers to Collection Requirements Due to Limited Space*

Food-service businesses or their landlords may petition for exemptions from compostable and/or recyclable materials collection requirements in cases where their buildings do not have space for storage of wheeled carts (toters) or dumpsters designated for these materials.

Petitions should include building location, description of the problem and contact information for a responsible person who can provide a tour of the site for SPU staff. Staff will evaluate space problems, including possible downsizing of garbage dumpsters that may result from increased separation of compostable and recyclable materials in the affected building.

Where applicable, SPU will apply the waste-container space standards set out in Ordinance 119836 for buildings constructed or remodeled in 2000 and later and will provide a response within a reasonable time following the site visit.

E. *How to Petition for Changes or Waivers*

Petitions should be in writing stating the petitioner's request and reasons supporting the proposed rule change or waiver. Correspondence should be addressed to:

Seattle Public Utilities
 Solid Waste Line of Business
 Attention: Single-use food-service ware regulation program
 P.O. Box 34018
 Seattle, WA 98124-4018
SPUSolidWasteCSRs@seattle.gov