

Work Session

Agenda Item #	4
Meeting Date	June 16, 2014
Prepared By	Brian Kenner City Manager
Reviewed By	

Discussion Item	Discussion of Proposed Ordinance: 1) Restrictions on Use of Polystyrene Food Serviceware by Commercial Establishments; 2) Multi-Family Residential and Commercial Property Food Waste and Compostable Food Serviceware Collection and Composting Regulations; and 3) Collection of Business Recyclable Materials
Background	<p><i>Background prepared by Councilmember Grimes:</i></p> <p>The Young Activists Act of 2014 is a proposed ordinance drafted for consideration by the community, city staff, city attorney, and city council. The Act is motivated by the persistent, commendable work of the Takoma Park Young Activists Club. It is a “zero waste” initiative that closes a Montgomery County business-recycling loophole, bans harmful polystyrene food-service materials, and extends City recycling – in keeping with the City’s 2013-4 pilot collection of compostable food wastes from single-family homes – to collection of compostable food wastes from all city residents and from businesses.</p> <p>The Act mimics similar laws enacted in San Francisco and other cities several years ago, but new to the eastern United States. The text draws from some of those laws, and also draws on work done by organizations that include the Institute for Local Self-Reliance (ILSR), “a nonprofit organization and advocacy group that provides technical assistance to communities about local solutions for sustainable community development.”</p> <p>The attached version of the Act was drafted by Councilmember Seth Grimes and has been reviewed (although not necessarily endorsed) by Councilmember Tim Male, the Committee on the Environment (COE), Brenda Platt of ILSR, and Public Works Director Daryl Braithwaite. It addresses COE comments made regarding an earlier draft.</p> <p>The Act would:</p> <ul style="list-style-type: none"> • Ban food-service facility polystyrene use of food serviceware and certain packaging, effective January 1, 2015, with penalties delayed until July 1, 2015; • Require multifamily residential buildings, commercial buildings, and businesses to submit plans, by April 1, 2015, for collection and composting of food wastes and associated compostable materials, and have collection for composting in place by July 1, 2015, although it would NOT require residents to participate; • Require restaurants, markets, and cafeterias to segregate food wastes and associated compostable materials from recyclables and other refuse, by September 1, 2015;

	<ul style="list-style-type: none"> • Explicitly opt-in to Montgomery County Code provisions requiring recycling by businesses (which would additionally require a city-county MOU); and • Recognize and commend the Young Activist Club for their hard work and dedication that led to the creation of this ordinance. <p>The attached version of the proposed ordinance was drafted for council and community-stakeholder discussion and should not be considered vote-ready.</p> <p>The COE, at its June 9, 2014 meeting, voted to endorse City opt-in to Montgomery County business-recycling requirements. Successful local implementation of the ordinance’s other provisions will depend on availability of acceptable food-service supplies and collection services and composting facilities – and on extensive outreach to City businesses, property owners, and residents – significant additional research and stakeholder discussions will be needed.</p> <p>An approach for further development of this ordinance could include:</p> <ul style="list-style-type: none"> • Review of the draft by the Public Works and Housing and Community Development departments, and by the city attorney, with appropriate revisions. • Research on availability and capacity of food-waste collection services and composting facilities, and on options to facilitate food-service transition from polystyrene and disposable serviceware to compostable, that would be conducted by the Act’s proponents. • Outreach to solicit input from Takoma Park businesses, Washington Adventist Hospital, and Washington Adventist University, concerning the proposed ordinance. • Scheduling of a public hearing and council worksession discussion for early September, followed by final revision by the city attorney. • Further review by the Committee on the Environment in early September. <p>If, after these steps, the council wishes to move forward with an ordinance, the required two readings could be scheduled for late September.</p> <p>Takoma Park resident Brenda Platt, co-director of the Institute for Local Self-Reliance, will be present to discuss the feasibility and implications of a polystyrene ban and business and residential food-waste collection for composting, and to respond to questions.</p>
Policy	The City seeks to further environmental sustainability, involving businesses and residents
Fiscal Impact	Unknown at this time.
Attachments	Draft ordinance.

Recommendation	Discuss the draft ordinance. Staff will need additional time to review the ordinance prior to making a recommendation.
Special Consideration	

City of Takoma Park, Maryland

1 **Ordinance 2014-XX**

2 **“The Young Activists Act of 2014”**

3 **Amending the *Takoma Park Code* Title 8. Business, to add restrictions on the commercial use**
4 **of polystyrene food serviceware in Takoma Park; and Title 10. Collection of Refuse, to add**
5 **provisions for collection and composting of food wastes and serviceware by commercial**
6 **establishments and multi-unit residential buildings and to opt in to Montgomery County**
7 **provisions requiring recycling by County businesses.**

8 WHEREAS, Title 8 Business governs commercial operations within the City, including Sale of
9 Food and Drink, and Title 14 Health and Safety protects the public health, safety, comfort, and
10 general welfare of the residents and businesses of the City;

11 WHEREAS, Title 10 Collection of Refuse covers refuse collection by commercial establishments
12 and multi-unit residential buildings in the City;

13 WHEREAS, Takoma Park’s Strategic Plan for FY2010-15, adopted May 18, 2009, articulates
14 concern for clean water and safe neighborhoods and working environments and calls for “use of
15 alternative, less environmentally damaging products”;

16 WHEREAS, polystyrene (resin code #6, also known as Styrofoam), commonly used in the
17 manufacturer of food serviceware, is made from styrene, a known neurotoxicant that has been
18 found to be reasonably anticipated to be a human carcinogen;

19 WHEREAS, items composed of polystyrene are not recyclable;

20 WHEREAS, the Takoma Park Task Force on Environmental Action called on the City to institute a
21 polystyrene ban for its own use, which the City did via Resolution 2010-32, adopted June 7,
22 2010, which resolved that “organizers of public events, businesses, families and individuals in

23 Takoma Park are encouraged to seek and use alternatives to polystyrene (resin code #6) food
24 service ware”;

25 WHEREAS, by Ordinance 2013-31, enacted June 17, 2013, the City prohibited “use of Styrofoam
26 or similar polystyrene food service ware and containers” by “transient merchants” including
27 food trucks and stands at farmers markets and festivals;

28 WHEREAS, the City wishes to more widely promote health and environmental protections within
29 its borders;

30 WHEREAS, non-polystyrene food serviceware and packaging is affordable and available, as is
31 compostable food serviceware, although reuse of durable food serviceware is a preferable
32 alternative to disposal, recycling, and composting;

33 WHEREAS, organic or compostable waste that is buried in the anaerobic conditions of landfills
34 creates methane gas, at least 21 times as potent as carbon dioxide in changing the planet’s
35 climate, along with the leaching of toxins;

36 WHEREAS, Zero Waste Maryland, “the O’Malley/Brown Administration’s Plan to Reduce, Reuse
37 and Recycle Nearly All Waste Generated in Maryland by 2040,” currently in draft form, envisions
38 and advocates that 90% of food wastes in the state will be recycled by 2040, but reports that
39 only 8.5% of such wastes are currently recycled;

40 WHEREAS, steps to reduce, reuse, recycle, or compost solid waste generated in the city, before
41 any incineration or landfill disposal of waste, will conserve water, energy, and other natural
42 resources and protect the environment;

43 WHEREAS, the Task Force on Environmental Action identified “collection and composting all
44 organic household waste” as a high-priority recommendation, but City collection does not
45 extend to multi-unit apartment buildings, nor to business establishments;

46 WHEREAS, services now exist and are accessible to Takoma Park residents and businesses – to
47 commercial and multi-unit residential property owners and their tenants – for the collection and
48 composting of food waste and compostable serviceware;

49 WHEREAS, San Francisco, Portland, Seattle, and a number of smaller cities have adopted
50 mandatory recycling and composting, requiring residents and businesses to properly separate
51 recyclables and compostables and keep them out of the landfill or incinerator, and New York
52 City has announced its intent to adopt similar requirements by 2016;

53 WHEREAS, Takoma Park residents including the members of the Young Activists Club have long
54 sought city action, to complement their own, to protect City residents and visitors from
55 exposure to harmful polystyrene food serviceware and packaging;

56 WHEREAS, Takoma Park businesses including Capital City Cheesecake, SouperGirl, and the TPSS
57 Co-op have successfully and affordably implemented programs eliminating or restricting use of
58 polystyrene food serviceware, packaging and adopting use of durable or compostable food
59 serviceware, and/or source-separating food wastes and compostable serviceware for
60 composting; and

61 WHEREAS, the City of Takoma Park wishes to extend health and environmental protections and
62 benefits to all city residents, visitors, and businesses.

63 **THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND:**

64

65 **SECTION 8.** Title 8, Business, of the *Takoma Park Code* (XXXX edition) is amended as follows:

66 **8.16.080 Polystyrene food serveware and packaging.**

67 A. Definitions.

68 1. *Food-service facility* means any enterprise that prepares or sells food or drink for human
69 consumption on or off premises within the City of Takoma Park. Food-service facility includes:

70 a. Any restaurant, coffee shop, bakery, retail market, cafeteria, take-out counter, food
71 truck or stand, sidewalk or festival vendor or temporary stand, commercial kitchen, and catering
72 operation; and

73 b. Any food service facility in an institution, hospital, club, school, church, park or
74 public building, meeting or convention facility, or camp.

75 2. *Polystyrene* means a thermoplastic petrochemical material utilizing the styrene
76 monomer, including but not limited to polystyrene foam or expanded polystyrene, processed by
77 any number of techniques, including but not limited to fusion of polymer spheres (expandable
78 bead polystyrene), injection molding, foam molding, or extrusion-blow molding (extruded foam
79 polystyrene), and clear or solid polystyrene (oriented polystyrene). The recycle code for
80 polystyrene is '6' or 'PS,' either alone or in combination with other letters. This definition applies
81 to all polystyrene food serveware, regardless whether it exhibits a recycle code.

82 B. Materials covered by this section include:

83 1. Food serveware such as utensils, cutlery, tableware, cups, cup lids, stirrers, plates, and
84 napkins with which food or drink comes in contact during storage, preparation, or serving.

85 2. Food packaging such as bags, boxes, wrappings, trays, "clamshell" containers, jars,
86 bottles, and other containers, with which food or drink comes in contact during storage,
87 preparation, or serving.

- 88 C. Effective January 1, 2015, food-service facilities specified in Subsection A may not use
89 polystyrene-composed packaging or serveware described in Subsection B of this section when
90 providing facility-prepared foods for on-site or take-away consumption including via resale.
- 91 D. The City of Takoma Park shall not purchase any covered materials, nor shall any City
92 sponsored event use covered materials. No organization using the City of Takoma Park premises
93 or facilities shall use covered materials at City premises or facilities.
- 94 E. Food-service facilities are encouraged to use durable, reusable, non-polystyrene food
95 serveware and to minimize packaging and use durable, reusable packaging materials, or
96 recyclable materials when disposable packaging is are used.
- 97 F. Covered food-service facilities may request planning and/or implementation technical
98 assistance from the City Manager or the City Manager's designee, but shall in all cases be
99 responsible for timely compliance.
- 100 G. Notwithstanding other provisions, prepared foods prepared or packaged outside the city
101 are exempt from the provisions of this section. Preparers, packages, and purveyors of food
102 prepared or packaged outside the city are encouraged to follow the provisions of this section.
103 Polystyrene coolers and ice chests intended for reuse are also exempt from the provisions of
104 this section.
- 105 H. Food-service facilities may request a waiver, of fixed duration not more than two years,
106 allowing specific uses of specific serveware or packaging. The uses and specific serveware or
107 packaging must be listed in the waiver request, with a statement explaining the safety or health
108 reasons or lack of non-polystyrene alternatives or other hardship conditions that justify a
109 waiver.
- 110 I. The City Manager is authorized to extend a date of compliance if the business owner or

111 operator, or institutional director or food-service manager, requests an extension prior to the
112 applicable date of compliance and demonstrates that he or she, despite best efforts, cannot
113 comply with the requirements set forth in this section.

114 I. The City Manager shall identify or prepare, and then periodically disseminate, materials that
115 educate owners and operators of City food-service businesses about the deleterious health and
116 environmental consequences of polystyrene use in food serviceware and packaging, and that
117 describe non-polystyrene alternatives, especially durable, reusable materials. Educational
118 materials may take the form of pamphlets and brochures, whether produced and distributed on
119 paper or electronically, and classes and seminars, involving City staff, non-City governmental
120 agencies, community and advocacy groups, and other resources.

121 J. The City Manager shall publish notice of the city's polystyrene food serviceware ban,
122 including description of non-polystyrene alternatives, to customary outlets, and shall provide
123 notice regarding the polystyrene-related provisions of this ordinance periodically for one year
124 after the effective date of the City's ban, to commercial and institutional food-service outlets in
125 the City and to the operators of city festivals and events.

126 K. Failure to comply with any of the requirements in this section, as of July 1, 2015, shall
127 constitute a Class C offense and may be cited on a per-day basis.

128 **SECTION 2.** Title 10, Refuse, of the *Takoma Park Code* (XXXX edition) is amended as follows:

129 **10.12.100 Multiple-family unit food-waste and compostable-serviceware collection and**

130 **composting regulations.**

131 A. Licensees and owners of all multifamily dwellings, that are not covered by City food-waste
132 and serviceware collection for composting, must provide for collection of food wastes and
133 compostable serviceware from tenants in each rental unit, and must provide for composting of
134 collected materials, pursuant to the requirements set forth in this section. Provision of collection
135 and composting services described in this section must be implemented by July 1, 2015.

136 B. The compostable material groups covered by this section include:

137 1. Food wastes;

138 2. Compostable food serviceware and packaging such as utensils, cutlery, tableware,
139 cups and containers, cup and container lids, stirrers, straws, plates, napkins, trays, and
140 wrappings that come in contact with food;

141 3. Compostable food-waste contaminated papergoods and cardboard.

142 C. The licensee or owner of each dwelling covered by this section shall submit a compliant
143 collection and composting plan, on a form developed by and available from the City Manager, to
144 the City Manager or the City Manager's designee no later than April 1, 2015. Compliant plans
145 shall include yearly notice to tenants regarding the collection of compostable materials,
146 although tenants shall not be required to participate. Covered entities may request planning
147 and/or implementation technical assistance from the City Manager or the City Manager's
148 designee, but shall in all cases be responsible for timely plan submission and implementation.

149 D. The licensee or owner of each dwelling covered by this section may occasionally revise the
150 plan for the covered dwelling and shall timely submit compliant revised plans no less than one

151 month prior to implementation.

152 E. The City Manager is authorized to extend the date of compliance given in this section if the
153 licensee or owner requests an extension prior to the applicable date of compliance and
154 demonstrates that he or she, despite best efforts, cannot comply with the requirements set
155 forth in this section.

156 F. Failure to comply with any of the requirements in this section shall constitute a Class C
157 offense and may be levied on a per-day, per-unit basis.

158 **10.13.010 Commercial-property food-waste and compostable-serviceware collection and**
159 **composting regulations**

160 [10.12.100 above could be consolidated with this Section as **10.13.010 Multiple-family**
161 **residential and commercial-property food-waste and compostable-serviceware collection and**
162 **composting regulations.]**

163 A. Licensees and owners of all commercial buildings, that are not covered by City food-waste
164 and serviceware collection for composting, must collect food wastes and compostable
165 serviceware from tenants in each unit, and must provide for composting of collected materials,
166 pursuant to the requirements set forth in this section. Provision of collection and composting
167 services described in this section must be implemented by July 1, 2015.

168 B. The compostable material groups covered by this section include:

- 169 1. Food wastes;
- 170 2. Compostable food serviceware and packaging such as utensils, cutlery, tableware,
171 cups and containers, cup and container lids, stirrers, straws, plates, napkins, trays, and
172 wrappings that come in contact with food;
- 173 3. Food-waste contaminated papergoods and cardboard.

174 C. The licensee or owner of each building covered by this section shall submit a compliant
175 collection and composting plan, on a form developed by and available from the City Manager, to
176 the City Manager or the City Manager's designee no later than April 1, 2015. Compliant plans
177 shall include yearly notice to tenants regarding the collection of compostable materials. Covered
178 entities may request planning and/or implementation technical assistance from the City
179 Manager or the City Manager's designee, but shall in all cases be responsible for timely plan
180 submission and implementation.

181 D. The licensee or owner of each building covered by this section may occasionally revise the
182 plan for the covered building and shall timely submit compliant revised plans no less than one
183 month prior to implementation.

184 F. Each business operator or owner must segregate compostable materials described in
185 Subsection B from recyclable and non-compostable refuse, and dispose of these compostable
186 materials via a collection and composting program as described in Subsection C, or via another
187 recognized collection and composting program, beginning no later than September 1, 2015.

188 F. The City Manager is authorized to extend a date of compliance given in this section if the
189 property licensee or owner, or business operator or owner, requests an extension prior to the
190 applicable date of compliance and demonstrates that he or she, despite best efforts, cannot
191 comply with the requirements set forth in this section.

192 G. Failure to comply with any of the requirements in this section shall constitute a Class C
193 offense and may be levied on a per-day, per-unit basis.

194

195 **SECTION 3.** Title 10, Refuse, of the *Takoma Park Code* (XXXX edition) is amended as follows:

196 **10.08.065 Recycling by businesses.**

197 **[Or 10.08.085 Collection of recyclable materials – Business.]**

198 Montgomery County Code, Chapter 48, Solid Wastes – Regulations, Section 48.00.03.03, Solid

199 Waste Reduction and Recycle Program, paragraph (c), Commercial recycling and waste

200 reduction program - Generators/Businesses, as amended from time-to-time, shall apply in the

201 City of Takoma Park as allowed by Montgomery County. **[The “as allowed...” clause is in**

202 **response to the need for an MOU with the county. It will delay applicability until an MOU is in**

203 **place and provisions take effect.]**

204 **AND BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND:**

205 The City of Takoma Park recognizes and commends the Young Activist Club for their hard work

206 and dedication that led to the creation of this ordinance.

207

208 ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS XX DAY OF XX,

209 2014, BY ROLL-CALL VOTE AS FOLLOWS:

210 AYE:

211 NAY:

212 ABSENT:

213 ABSTAIN: