

ORDINANCE

**AN ORDINANCE AMENDING CHAPTER 8 (“BUSINESS LICENSING”),
ARTICLE 1 (“GENERAL PROVISIONS”) OF THE OAK PARK VILLAGE CODE
BY ADDING A NEW SECTION 8-1-16 (“HOURS OF OPERATION
FOR RETAIL GOODS ESTABLISHMENTS AND SERVICE STATIONS”)**

WHEREAS, the Village of Oak Park (“Village”) as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, pursuant to its Constitutional home rule powers, the Village has the authority “to regulate for the protection of the public health, safety, morals, and welfare,” Ill. Const art. 7, § 6; and

WHEREAS, the “powers and functions of home rule units shall be construed liberally,” and written “with the intention that home rule units be given the broadest powers possible,” *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

WHEREAS, the Village Board previously determined to regulate the hours of operations of service stations in the Village due to the occurrence of eighteen (18) violent criminal offenses at 24-hour service stations between January 1, 2019 through July 29, 2022, eleven (11) of which occurred between the hours of 12:00 A.M. and 5:00 A.M. and four (4) of these involved the discharge of a firearm; and

WHEREAS, additionally a violent criminal offense occurred at 11:52 P.M. on June 2, 2020 and another occurred at 5:26 a.m. on July 30, 2021, both at the service station located at 100 Chicago Avenue in the Village, and the offense on June 2, 2020 involved the discharge of a firearm; and

WHEREAS, one of the violent criminal offenses occurring after 12:00 A.M. was a murder which occurred on June 22, 2022 at 1:52 A.M. also at the service station located at 100 Chicago Avenue in the Village; and

WHEREAS, each of the above described offenses occurred while the service station was open for business; and

WHEREAS, each of these criminal offenses were committed against either service station customers or service station employees; and

WHEREAS, the Board of Trustees of the Village (“Village Board”) held a public hearing on

October 25, 2022 at 7:00 p.m. at Village Hall, to which all interested parties and stakeholders were invited and provided an opportunity to be heard to assist the Board in determining whether Ordinance 22-65 should be amended; and

WHEREAS, at the October 25, 2022 public hearing, the owners and operators of the two (2) 24-hour retail goods establishments in the Village, a 7-Eleven located at 661 South Boulevard and a 7-Eleven located at 240 Chicago Avenue, spoke at the hearing and requested that their businesses be included as part of the hours of operations' restrictions applicable to service stations; and

WHEREAS, retail goods establishments are defined in Section 2.3 of the Village's Zoning Ordinances as "[a] commercial enterprise that provides physical goods, products or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser;" and

WHEREAS, twelve (12) violent criminal offenses at 24-hour retail goods establishments occurred between January 1, 2019 through July 29, 2022, five (5) of which occurred between the hours of 12:00 A.M. and 5:00 A.M. and involved or implied the use of a firearm; and

WHEREAS, additionally a violent criminal offense occurred at 11:27 P.M. on April 13, 2022 at the 7-Eleven located at 661 South Boulevard in the Village, and the offense was an armed robbery in which an assault rifle was displayed by one of the offenders; and

WHEREAS, each of the above described offenses occurred while the retail goods establishment was open for business; and

WHEREAS, each of these criminal offenses were committed against retail goods establishment employees; and

WHEREAS, the federal Occupational Safety and Health Administration ("OSHA") released a report titled "Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments," in 2009 in which the OSHA stated "late-night retail establishments, such as convenience stores, liquor stores, and gasoline stations, experience relatively high homicide and assault rates;" and

WHEREAS, OSHA recommended in its report that "police reports of incidents or near-incidents of assaults or aggressive behavior should be examined to identify and analyze trends in assaults relative to particular . . . [d]ate and time of day;" and

WHEREAS, the First District Appellate Court held in the case of *Bi-Lo Stations, Inc. v. Village of Alsip*, 22 Ill.App.3d 514 (1st Dist. 1974), that an ordinance which regulated the hours of operation of service stations adopted by an Illinois municipality was a proper exercise of that municipality's police power because it was reasonably related to the public safety, health, and welfare and to prevent nuisances; and

WHEREAS, the Village Board previously adopted Ordinance 22-65, pursuant to the Village’s authority set forth above, to protect the public safety, health and welfare and to prevent nuisances in the Village by requiring service stations to close at twelve o’clock (12:00) A.M. and be permitted to reopen at five o’clock (5:00) A.M. on a daily basis; and

WHEREAS, after the public hearing and testimony, the Village Board has determined that there is a sufficient nexus between violent crime committed at service stations and retail establishments such that it warrants this Amended Ordinance; and

WHEREAS, the Village Board directed Village staff to draft this Amended Ordinance 22-83 for consideration by the Board at the November 7, 2022 Board meeting as a result of the October 25, 2022 public hearing; and

WHEREAS, the Village Board has determined to adopt this Ordinance pursuant to the Village’s authority set forth above to protect the public safety, health and welfare and to prevent nuisances in the Village to also require retail goods establishments to close at twelve o’clock (12:00) A.M. and be permitted to reopen at five o’clock (5:00) A.M. on a daily basis.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein as though fully set forth.

Section 2. Repeal of Ordinance 22-65. Ordinance 22-65, “An Ordinance Amending Chapter 8 (“Business Licensing”), Article 20 (“Service Stations”) of the Oak Park Village Code to Add a New Section 8-20-7 (“ Hours of Operation”),” is hereby repealed and deleted and is replaced by this Ordinance.

Section 3. Village Code Amended. Chapter 8 (“Business Licensing”), Article 1 (“General Provisions”) of the Oak Park Village Code is amended to add a new Section 8-1-16 (“Hours of Operation for Retail Goods Establishments and Service Stations”) to read as follows:

8-1-16: HOURS OF OPERATION FOR RETAIL GOODS ESTABLISHMENTS AND SERVICE STATIONS:

- A. It shall be unlawful for retail goods establishments and service stations to open earlier than five o’clock (5:00) A.M.
- B. Retail goods establishments and service stations shall close no later than twelve o’clock (12:00) A.M.
- C. Hours of operation shall apply to all sales and delivery activities for retail goods establishments and service stations, including the sale of gasoline or any highly volatile fuel for

motor vehicles or internal combustion engines, packaged food and tobacco products, beverages, and other merchandise.

D. No retail goods establishment and service station shall permit any person other than an operator and its employees to remain in or on a retail goods establishment or a service station premises longer than thirty (30) minutes after the closing hour or thirty (30) minutes prior to the opening hour.

E. For purposes of this section, a retail goods establishment is as defined in Section 2.3 of the Village's Zoning Ordinance, as amended, as a commercial enterprise that provides physical goods, products or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser.

F. For purposes of this section, a service station shall be as defined in Section 8-20-1 of this Code, as amended.

Section 4. Village Code Amended. Chapter 8 ("Business Licensing"), Article 1 ("General Provisions"), Section 8-1-16 ("Penalty") of the Oak Park Village Code is amended to add the underlined language and delete the overstricken language to read as follows:

~~8-1-16~~ 8-1-17: PENALTY:

Any person violating any provision of this chapter shall be fined in accordance with the provisions of section 1-1-5 of this code.

Section 5. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

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ADOPTED this 7th day of November, 2022, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Scaman				
Trustee Buchanan				
Trustee Enya				
Trustee Parakkat				
Trustee Robinson				
Trustee Taglia				
Trustee Wesley				

APPROVED this 7th day of November, 2022.

Vicki Scaman, Village President

ATTEST

Christina M. Waters, Village Clerk

Published in pamphlet form this 7th day of November, 2022.

Christina M. Waters, Village Clerk