

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 18 (“PEDDLERS AND SOLICITOR”), ARTICLE 2 (“FARMERS’ MARKET”), SECTION 18-2-2 (“DEFINITIONS”) AND SECTION 18-2-8 (“GENERAL REGULATIONS; CERTIFICATE OF PRODUCTION”) OF THE OAK PARK VILLAGE CODE TO ALLOW THE SALE OF FISH AT THE FARMERS’ MARKET

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, as a home rule unit, the Village of Oak Park’s powers shall be construed liberally as held by the Illinois Supreme Court in the case of *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

WHEREAS, the Village conducts a farmers’ market pursuant to the Farm Products Marketing Act, 505 ILCS 70/1 *et seq.*, and its home rule authority; and

WHEREAS, at its regular meeting on June 14, 2023, the Farmers’ Market Commission unanimously voted to recommend that the Village adopt this Ordinance to allow the sale of fish at the Farmers’ Market; and

WHEREAS, the Village Board agrees with the Farmers’ Market Commission’s recommendation and has determined to adopt this Ordinance.

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 by reference as though fully set forth.

Section 2. Village Code Amended. Chapter 18 (“Peddlers and Solicitors”), Article 2 (“Farmers’ Market”), Section 18-2-2 (“Definitions”) of the Oak Park Village Code is amended by adding the underlined language to read as follows:

18-2-2:DEFINITIONS:

For the purpose of this article only, the following words and phrases shall have the meanings, and are hereby defined, as follows:

CHEESE MAKER: Any person in the five (5) state region of Illinois, Iowa, Wisconsin, Michigan and Indiana offering for sale at the farmers' market only cheese products that are made by such persons in an artisanal fashion primarily by hand, in small batches, with particular attention paid

to the tradition of the cheese maker's art and using as little mechanization as possible to make the cheese. The cheese maker shall obtain its milk from their immediate locale/state, or any of the other four (4) states, and shall be licensed as an itinerant vendor by the Village.

FARMERS' MARKET: A designated area where, on designated days and times, growers and producers may sell directly to the public in accordance with Village regulations. The Village shall have the right to relocate or discontinue the market, to specify the days and times of its use, and to stipulate what goods may be sold.

FISH: The flesh of any numerous cold blooded aquatic vertebrates of the superclass Pisces, having a bony skeleton, jaws, fins, gills and normally a streamlined body.

FISHERMAN/FISHER: Any person that raises or catches freshwater fish in Illinois, Iowa, Wisconsin, Indiana and Michigan and uses local processing facilities for the sale of freshwater fish.

FOOD SERVICE VENDOR: Any person that has a valid Village peddler's or solicitor's license pursuant to this Code that offers a service related to the farmers' market, such as home food production, processing or preparation or knife sharpening.

GROWER OR PRODUCER: Any person from the five (5) state region of Illinois, Iowa, Wisconsin, Indiana and Michigan offering for sale articles for human consumption, with the exception of persons offering for sale frozen pre-packaged fish, including fruits, vegetables, edible grains, nuts and berries, apiary products, maple sugars and syrups, eggs, dairy products, bread products, baked goods, cheese, cider, prepackaged meat, poultry or fish that are frozen and that have been processed and properly labeled at a Federal or State licensed facility or nonedible articles such as cut or potted flowers as long as all such edible and nonedible articles have been raised and prepared by the grower or producer, members of their families, or by persons in their employ. All meat, poultry, fish, bread products/baked goods or any other processed food item offered for sale at the farmers' market shall conform with all applicable local, Village, State and Federal Statutes, rules, regulations and codes. Sale of any article proscribed by the Director of Public Health shall be prohibited.

LOCAL NOT-FOR-PROFIT ORGANIZATIONS: Organizations which are located in Oak Park or which have most of their members in Oak Park, and which are incorporated as not for profit corporations or which are operated solely for educational, religious or charitable purposes.

PROCESSORS OF BREAD PRODUCTS/BAKED GOODS: Any person licensed by a governmental entity as a food retailer in a permanent location in which such person makes non-potentially hazardous one hundred percent (100%) natural bread products and/or baked goods by hand and from scratch with no premade or premixed ingredients and without preservatives or other additives and from which he or she transports his or her bread products and/or baked goods directly to the farmers' market and whose business is more than fifty percent (50%) from bread products (not including other bakery goods) and is licensed as an itinerant vendor by the Village.

Bread products must make up more than fifty percent (50%) of the product which the person has available for sale at the market.

PRODUCE: Farm products including, and limited to, apiary products, fruits and vegetables and products made from animals which are raised on the farm where the products are made.

Section 3. Village Code Amended. Chapter 18 ("Peddlers and Solicitors"), Article 2 ("Farmers' Market"), Section 18-2-8 ("General Regulations; Certificate of Production") of the Oak Park Village Code is amended by adding the underlined language to read as follows:

18-2-8: GENERAL REGULATIONS; CERTIFICATE OF PRODUCTION:

A. No permittee shall:

1. Sell any product other than produce of the permittee's farm, orchard, vineyard or garden except as follows:

a. A "local not-for-profit organization" shall be allowed a maximum of two (2) spaces per year for bake sale (additional spaces for bake sales may be allocated when space is available), provided that each use of a space for a bake sale shall constitute a "day" upon which goods are sold for purposes of licensing itinerant vendors in accordance with section 18-1-2 of this chapter.

b. A maximum of two (2) parking spaces per Saturday will be reserved for "food demonstrations". Food demonstration participants shall adhere to the requirements of this Code and any rules and regulations promulgated pursuant to this article and shall be exempt from the temporary food service event fee set forth in section 8-2-1 of this Code. Dates will be scheduled on a first submitted, first assigned basis and Oak Park businesses will receive preference for participation in the demonstrations.

c. A grower or producer may be permitted to sell the products of another grower or producer upon approval by the Market Manager. An affidavit signed by the permittee and grower shall be submitted by the permittee to the Village in conformity with this article and any rules and regulations promulgated pursuant to this article. Only products of another grower or producer not currently grown and/or produced by the permittee grower or producer, may be sold at the market and shall not make up more than twenty percent (20%) of the items available for sale by the permittee grower or producer. All products shall be clearly labeled with the name and address of the grower or producer or a placard shall be displayed at the market that provides the grower's or producer's name and address.

2. Sell or offer any article according to weight except in accordance with the established standards for weight of the State of Illinois.

3. Sell apiary products, maple sugars and syrups or any processed food unless properly labeled in accordance with State standards for labeling.

4. Sell or offer any unwholesome or spoiled articles.
 5. Create or produce such loud, unnecessary, prolonged or unusual noise which disturbs the peace of others.
 6. Sell or offer any article without first obtaining current Illinois Sales Tax number and producing evidence satisfactory to the Market Manager of the payment of the preceding year's Sales Tax or fail to display prominently the Illinois Sales Tax number.
 7. Transport or display food without adequate protection against contamination. Delivery trucks and other equipment used for transportation and display shall be kept clean at all times. Semi-trailer trucks are prohibited at the market.
 8. Allow any waste, garbage or any other refuse to remain on or near the space after the closing hour of any market day.
 9. Begin set-up of its market space prior to six o'clock (6:00) A.M.
 10. Leave its market space prior to one o'clock (1:00) P.M. without prior written approval from the Village.
 11. Locate in walkways in order to attract customers to its market space.
- B. No animals or pets shall be allowed in the market except for service animals accompanying the disabled.
- C. No motorized vehicles, skateboards or bicycles other than those authorized by the Village shall be allowed in the market, except for motorized wheelchairs.
- D. All approved dairy products and frozen meat, poultry and fish offered for sale must be prepared and packaged under conditions meeting the requirements of Federal, State and local laws, packaged individually, stored and displayed at a temperature of forty one degrees Fahrenheit (41°F) or below in the case of dairy products and frozen meat, poultry and fish shall be kept frozen at all times in facilities that meet the requirements of State and local rules and regulations, and served directly to the customer in the unopened container in which it was packaged. An existing permittee may sell frozen freshwater fish upon approval by the Market Manager subject to the permittee's compliance with all applicable local, Village, state and federal Statutes, rules, regulations and codes. The fish must be sourced from a fisherman/fisher that is approved by the Market Manager. No fish sourced from a retailer or wholesaler shall be resold at the Market.
- E. Permittees and growers and producers who sell their produce through the permittees, as authorized under subsection 18-2-8A of this section (hereinafter referred to as "affidavit

growers") shall cooperate fully and in good faith with the Market Manager in response to requests by the Market Manager to inspect the land used by the permittee or affidavit grower for the production of products sold at the farmers' market. It shall be the responsibility of the permittee or affidavit grower to provide the Market Manager or the Manager's designee with a timely opportunity to inspect and verify that the products sold by the permittee at the market is grown and produced by the permittee or affidavit grower on the land or processing facilities designated in the permittee's application or affidavit.

F. The permittee shall at all times abide by the regulations of the farmers' market.

1. Village staff shall have the right to conduct an inspection of any permittee's market space.
2. Participants shall conduct themselves in a manner that is courteous to other participants, market staff and the public.
3. Smoking is prohibited at the market.
4. Prices must be either displayed with each item or a list of all prices must be posted.
5. Price fixing among permittees is not allowed.
6. Permittees shall secure their tents with weights of sufficient size to prevent their tents moving due to high winds or other severe weather events.
7. All produce to be sold at the market shall be sold by legal weights and measures. Permittees are responsible for having their scales certified for compliance annually. The use of non-certified scales that do not conform to the State of Illinois regulations is prohibited. At the Market Manager's discretion, scale checks shall be performed.
8. Only those products set forth in a permit application may be sold by a permittee at the farmers' market.

Section 4. 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 5. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ADOPTED this 31ST day of July, 2023, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Scaman				
Trustee Buchanan				
Trustee Enyia				
Trustee Parakkat				
Trustee Robinson				
Trustee Straw				
Trustee Wesley				

APPROVED this 31st day of July, 2023.

Vicki Scaman, Village President

ATTEST

Christina M. Waters, Village Clerk

Published in pamphlet form this 31st day of July, 2023.

Christina M. Waters, Village Clerk