

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 20 (“PUBLIC HEALTH”) OF THE OAK PARK VILLAGE CODE TO ADD A NEW ARTICLE 8 (“SINGLE-USE PLASTIC FOODWARE AND POLYSTYRENE FOAM PACKAGING”)

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;

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;

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 Energy and Environment Commission unanimously voted recommended that this Ordinance be adopted by the Village Board by a vote of six (6) in favor and none (0) against at its meeting on April 10, 2023; and

WHEREAS, single-use plastics do not readily breakdown in our environment. Plastics deteriorate into increasingly smaller fragments (“microplastics”) which augment through the food chain, pass through water filtration systems, and are consumed by humans and wildlife. Some plastic products contain harmful endocrine disrupter chemicals which alter normal hormone functioning; and

WHEREAS, the Village’s adopted sustainability, climate action, and resiliency plan titled *Climate Ready Oak Park* adopted by the Village Board on August 1, 2022 pursuant to Resolution 22-183; and

WHEREAS, *Climate Ready Oak Park* includes a goal to reduce plastics and packaging waste in the Village and calls for the adoption of an ordinance by the Village to remove all non-medical, single-use plastics and polystyrene foam products from circulation by 2030 in restaurants and retail establishments, with the exception of single-use plastic straws, and based upon availability and affordability of alternatives to single-use plastic products; and

WHEREAS, single-use plastic straws are important accessibility tools that are necessary for community members to participate fully in Oak Park’s eating and drinking establishments; and

WHEREAS, the Village Board has determined to adopt this Ordinance pursuant to the above authority and recommendation of the Energy and Environment Commission in order to restrict the use of single-use plastic foodware and polysterene foam packaging subject to the conditions set forth herein.

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. Village Code Amended. Chapter 20 (“Public Health”) of the Oak Park Village Code amended to add a new Article 8 (“Single-Use Plastic Foodware and Polystyrene”) as follows:

ARTICLE 8

SINGLE-USE PLASTIC FOODWARE AND POLYSTYRENE FOAM PACKAGING

20-8-1: Purpose and Intent

20-8-2: Definitions

20-8-3: Single-Use Plastic Foodware Prohibited Except Upon Request

20-8-4: Polysterene Foam Packaging Prohibited

20-8-5: Conflict with State Law

20-8-6: Penalty

20-8-1: PURPOSE AND INTENT:

- A. Providing single-use plastic foodware without an affirmative request from a customer, and the usage of polystyrene foam packaging for food and beverage orders, is declared to be a nuisance in the Village and is detrimental to the health, safety, and welfare of the Village.
- B. The terms of this article shall be construed so as to promote:
 - 1. The protection of environmental and public health by reducing the amount of plastic and polystyrene foam in the waste stream;
 - 2. The promotion of sustainable dining practices; and
 - 3. Accommodations in support of food establishment customers who require single-use plastic straws.

20-8-2: DEFINITIONS:

The words and phrases set forth below are hereby defined as follows for purposes of this article:

DISPOSABLE FOOD SERVICE CONTAINER: Serviceware designed for one-time use. “Disposable food service container” includes, but is not limited to, serviceware for take-out foods, bakery products, and leftovers from partially consumed meals. “Disposable food service container” does not include polystyrene foam coolers or ice chests that are used for the processing or shipping of seafood or serviceware that is used to contain, transport, or otherwise package raw, uncooked, or butchered meat, poultry, fish or seafood.

FOOD ESTABLISHMENT: Any fixed location where food or drink is routinely prepared and served.

POLYSTYRENE FOAM: Blown polystyrene and expanded or extruded foams using a styrene monomer.

SELF-SERVICE STATION: An area dedicated to customers taking away single-use plastic foodware and condiments.

SINGLE-USE PLASTIC FOODWARE: Any plastic eating utensil or other item to be used as part of food or beverage service that is designed and intended by the manufacturer for only one usage before being discarded.

20-8-3: SINGLE-USE PLASTIC FOODWARE PROHIBITED EXCEPT UPON REQUEST:

A. Except as provided in subsection B of this section, food establishments may only provide single-use plastic foodware upon request from the customer or at a self-service station, in connection with any delivery or take-out order of food or beverage. Food establishments are required to display signage regarding single-use plastic foodware and provide options for customers to affirmatively request single-use plastic foodware when ordering food or beverages for delivery or take-out on or after June 1, 2023.

B. Exceptions. The prohibitions set forth in this section shall not apply in the following situations:

1. Single-use plastic foodware necessary to address safety concerns, such as lids, drink stoppers, beverage trays, and cup sleeves for beverages served at an average temperature great than 170 degrees Fahrenheit;
2. Drinking straws;
3. An automatic food vending machine;

4. Any single-use plastic foodware that is prepackaged with or attached to any food or beverage products by the manufacturer prior to receipt by the food dispensing establishment;
5. Any not-for-profit corporation;
6. A federal, state, or local governmental agency that provides food to needy individuals a no or nominal charge; and
6. Supplies and services provided in response to a public health or other emergency that is declared by a governmental body with jurisdiction in the Village.

20-8-4: POLYSTYRENE FOAM PACKAGING PROHIBITED:

- A. Except as provided in subsections B and C of this section, food establishments may not sell or distribute a disposable food service container composed in part or in whole of polystyrene foam packaging on or after January 1, 2024.
- B. A food establishment with an annual gross income under \$500,000 per location as stated on the food establishment's income tax filing for the most recent tax year as provided to the Village shall comply with this section on or after January 1, 2025.
- C. Exceptions. The prohibitions set forth in this section shall not apply in the following situations:
 1. Supplies and services provided in response to a public health or other emergency that is declared by a governmental body with jurisdiction in the Village.
 2. Any polystyrene foam that is prepackaged with or attached to any food or beverage products by the manufacturer prior to receipt by the food dispensing establishment;
 3. Any not-for-profit corporation; or
 4. A federal, state, or local governmental agency that provides food to needy individuals a no or nominal charge.

20-8-5: CONFLICT WITH STATE LAW:

If any provision of this article conflicts or is otherwise inconsistent with a provision of state law, the more stringent or restrictive provision shall prevail and shall be enforced by the Village.

20-8-6: PENALTY:

Any owner, entity or person in violation of any provision of this article shall be fined in accordance with the provisions of section 1-1-5 of this Code.

Section 3. 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 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

ADOPTED this 15th day of May, 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 15th day of May, 2023.

Vicki Scaman, Village President

ATTEST

Christina M. Waters, Village Clerk

Published in pamphlet form this 15th day of May, 2023.

Christina M. Waters, Village Clerk