

## **ORDINANCE**

**WHEREAS**, the City of Chicago has the power and duty to protect its natural environment, its economy, and the health of its citizens; and,

**WHEREAS**, Rochester Institute of Technology estimates that every year 22 million pounds of plastic enter the Great Lakes; and,

**WHEREAS**, single use plastic and polystyrene consume non-renewable resources and are often thrown away and become litter, which pollutes waterways, parks, forests, storm drains, and other public spaces; and,

**WHEREAS**, plastics in waterways break down into smaller pieces that are not biodegradable and are present in all the Great Lakes; and,

**WHEREAS**, plastic and polystyrene can now be found in almost every marine habitat on Earth and single use plastics endanger local wildlife; and,

**WHEREAS**, nearly all plastic is made from fossil fuels, and refining plastic is the most greenhouse gas intensive part of the plastic lifecycle; and,

**WHEREAS**, single use plastic foodware contaminates our recycling and compost systems, soiling other recyclables, such as paper, and jeopardizing the quality of our compost; and,

**WHEREAS**, restaurants and businesses around the United States recognize the negative environmental impacts of single use plastics and are providing sustainable alternatives; and,

**WHEREAS**, it is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that the amount of litter on public streets, in parks, and in other public spaces be reduced; and,

**WHEREAS**, efforts to reduce single use plastics should not interfere with the City's goal of an inclusive and accessible city; and,

**WHEREAS**, reduction of single use food and beverage packaging furthers the City's goal to eliminate solid waste at its source and to maximize recycling and composting; now therefore,

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** The above recitals are expressly incorporated herein and made part of this ordinance.

**SECTION 2.** Title 7 of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 7-60, as follows:

## **CHAPTER 7-60 PLASTIC-FREE WATER ORDINANCE**

### **7-60-010 Definitions.**

As used in this chapter:

“Accessory disposable foodware” means any disposable foodware item such as stirrers, napkins and utensils; condiment cups and packets; cup sleeves, tops, lids, and spill plugs; and other similar accessory or accompanying disposable foodware items used as part of food or beverage service or packaging.

“Compostable material” means products or materials that will completely break down into organic matter within one hundred eighty (180) days and the microorganisms present in compost will consume the material at the same rate they would natural materials.

“Department” refers to the Department of Public Health, except as otherwise specified in this chapter.

“Disposable cup” is a beverage cup designed for a single use to serve beverages, such as water, cold drinks, hot drinks and alcoholic beverages.

“Disposable foodware” means containers, bowls, plates, trays, cartons, cups, lids, forks, spoons, knives, napkins, and other items that are designed for one-time use for beverages, prepared food, or leftovers from meals prepared by a food service business. The term “disposable food service ware” shall not include items composed entirely of aluminum.

“Expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by multiple techniques, including fusion of polymer spheres (expanded bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

“Expanded polystyrene food service products” means food containers, plates, hot and cold beverage cups, meat and vegetable trays, egg cartons, and other products made of expanded polystyrene and used for selling or providing food.

“Food dispensing establishment” has the same definition as ascribed in Section 4-8-010 of the Municipal Code of Chicago. This definition does not include mobile food vendors.

“Licensed premises” has the same definition as ascribed in Section 4-8-010 of the Municipal Code of Chicago.

“Prepared food” means foods or beverages which are prepared and served by a food dispensing establishment on the licensed premises by cooking, chopping, slicing, mixing, freezing, squeezing, or other processing and which require no further preparation for human consumption. Prepared food does not include raw, uncooked whole fruits or vegetables which are not chopped, squeezed, or mixed, or raw uncooked meat products.

“Recyclable material” has the same definition as ascribed in Section 11-5-080 of the Municipal Code of Chicago.

“Reusable foodware” means all foodware, including plates, bowls, cups, trays, glasses, stirrers, condiment cups and utensils, that is manufactured of durable materials and that is specifically designed and manufactured to be washed and sanitized and to be used repeatedly over an extended period of time, and is safe for washing and sanitizing according to applicable regulations.

“Sanitized” has the same definition as ascribed in Section 4-8-010 of the Municipal Code of Chicago.

“Serve food” or “serve” has the same definition as ascribed in Section 4-8-010 of the Municipal Code of Chicago.

“Take-out food” means prepared food which is purchased to be consumed off the licensed premises of a food dispensing establishment. Take-out food includes prepared food carried out by a customer or delivered by a food dispensing establishment or a take-out food delivery service.

“Take-out food delivery service” is a third-party delivery service which picks up take-out food from a food dispensing establishment and delivers it to a customer for consumption off of the licensed premises.

#### **7-60-020 Expanded polystyrene foodware – Prohibited.**

(a) Beginning January 1, 2021, no food dispensing establishment shall sell or serve prepared food in, with, or on expanded polystyrene foodware products, regardless of where the food will be consumed.

(b) Subsection (a) of this section shall not apply to food or beverages that are filled and sealed in expanded polystyrene containers before a food dispensing establishment receives them or to materials used to package raw, uncooked, or butchered meat, fish, poultry, or seafood for off-premises consumption.

#### **7-60-030 Accessory disposable foodware items.**

(a) Accessory disposable foodware items shall be provided only upon request by the customer or at self-serve stations, except that for safety reasons disposable cups for delivery by a food dispensing establishment or a take-out food delivery service may include lids, spill plugs, and sleeves without request. Plastic drinking straws must be provided when specifically requested.

(b) Accessory disposable foodware items provided when requested by customers may not be packaged in plastic.

(c) Food dispensing establishments and take-out food delivery services must provide options for customers to affirmatively request accessory disposable foodware items separate from order for food and beverages across all ordering or point of sale platforms, including but not limited to web, smartphone, and other digital platforms, telephone, and in-person.

(d) Food dispensing establishments offering condiments are encouraged to use dispensers rather than pre-packaged disposable condiment packets.

(e) Food dispensing establishments must post a sign which indicates that accessory disposable foodware will be made available to the customer upon request or at a self-serve station.

(f) Accessory disposable foodware shall conform to the disposable foodware standards set forth in Section 7-60-060.

#### **7-60-040 Reusable customer cups.**

Except as provided in 410 ILCS 620/3.15 and the Food Code of the United States Food and Drug Administration, customers may provide their own reusable foodware cups for beverage service. Food dispensing establishments may refuse, at their sole discretion, any customer-provided reusable foodware cup that is cracked, chipped, or corroded, appears inappropriate in size, material, or condition for the intended beverage, or that appears to be excessively soiled or unsanitary, and instead require use of a reusable foodware cup for a beverage consumed on the premises, or a disposable cup that conforms to the disposable foodware standards in Section 7-60-060.

#### **7-60-050 Reusable foodware for dining on the premises.**

(a) Beginning January 1, 2021, prepared food served for consumption on the premises of a food dispensing establishment shall only be served using reusable foodware. Exceptions shall be made for disposable paper food wrappers, sleeves, and bags; foil wrappers; plastic straws; paper napkins; and paper tray- and plate-liners for dining on the premises, so long as they meet the disposable foodware standards set forth in Section 7-60-060.

(b) Food dispensing establishments that do not have on-site or off-site dishwashing capacity; are unable to contract for services to wash, rinse, and sanitize reusable foodware in compliance with the Department; or are otherwise unable to comply with Subsection (a) of this section may request a full waiver or a partial waiver pursuant to Section 7-60-080.

(c) All disposable foodware used on the premises by food dispensing establishments that are operating under full or partial waivers granted by the Department must conform to the disposable foodware standards set forth in Section 7-60-060.

#### **7-60-060 Disposable foodware standards.**

- (a) Beginning, January 1, 2021, no food dispensing establishment shall sell or provide food or beverages for consumption on or off the licensed premises in disposable foodware unless the disposable foodware is compostable or recyclable.
- (b) The Department shall maintain and regularly update on its website a list of suppliers that offer disposable foodware that complies with the requirements of this section.
- (c) If no suitable or affordable product is available, food dispensing establishments may seek a full or partial waiver, subject to approval by the Department under Section 7-60-070.

#### **7-60-070 Waste management.**

- (a) The Department shall make available on its website printable color-coded receptacle signage for prepared food vendors to post on and/or above each receptacle, indicating the appropriate materials to be deposited into each receptacle. Signage shall be color-coded as follows:
  - (1) Blue for recycling and recyclable items,
  - (2) Green for composting and compostable items,
  - (3) Black for landfilled or otherwise wasted items.
- (b) Food dispensing establishments that share premises may share receptacles.

#### **7-60-080 Waivers – Process to obtain.**

- (a) The commissioner of the Department is authorized to promulgate rules and regulations for food dispensing establishments to obtain full or partial waivers from any requirement of this ordinance that is explicitly subject to waiver.
- (b) Waivers shall be granted for a period of up to one (1) year by the Department if the Department determines that no suitable and affordable alternative disposable foodware is available for the food dispensing establishment.

#### **7-60-090 Enforcement.**

- (a) In addition to the rules and regulations authorized under Section 7-60-070, the commissioner of the Department is authorized to promulgate any other rules and regulations necessary to implement the requirements of this chapter.
- (b) Beginning July 1, 2021, food dispensing establishments found in violation of this chapter will be subject to the following penalties administered by the Department:

- (1) A written warning notice for the first violation,
  - (2) \$100 for the second violation in the same calendar year,
  - (3) \$250 for the third violation in the same calendar year,
  - (4) \$500 for each subsequent violation in the same calendar year.
- (c) Each day that a violation continues shall constitute a separate and distinct offense.

**7-60-100 No private right action.**

Nothing in this chapter shall be construed to create a private right of action.

**7-60-110 Severability.**

If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional, or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid application or provision, and each invalid provision or invalid application of this chapter is severable. It is the legislative intent of the City Council that this chapter would have been adopted had the unconstitutional or otherwise invalid provision or application not been included.

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