PROPOSED LOCAL LAW NO. 8 OF THE YEAR 2019

A Local Law Establishing the Environmental Protection Code for the City of Oswego.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF OSWEGO, NEW YORK AS FOLLOWS:

Section 1. The Code of the City of Oswego, New York, Chapter 115, Environmental Protection Code, is hereby established, including Article I, Styrofoam Products Ban, Article II, Littering, Article III, Smoking, and hereby adopted as follows:

CHAPTER 115
ENVIRONMENTAL PROTECTION CODE
“Keep Oswego Clean” Initiative

§ 115-1 Statutory Authority.

Pursuant to Municipal Home Rule Law §10, Subdivision 1 (ii) a (12), the Environmental Protection Code of the City of Oswego is enacted.

§115-2 Legislative Intent

It is the intent of the Common Council of the City of Oswego, as an exercise of its police power, to promote the general health, safety and welfare of the residents of the city by enacting this chapter. The City of Oswego is the first fresh water port of the Great Lakes of the United States of America for vessels traveling from the Atlantic Ocean and through the St. Lawrence Seaway. Derived from the Iroquois language meaning, “the pouring out place, a river’s mouth” Oswego has long strived to be a steward of the environment. The enactment of the articles contained in this chapter are intended to support and strengthen that stewardship for the benefit of the many generations to follow so they can appreciate and perpetuate the beauty and resources of Oswego.

ARTICLE I
Disposable Expanded Polystyrene Containers

§ 115-3 Purpose.

The Common Council for the City of Oswego finds that disposable expanded polystyrene, commonly referred to as Styrofoam, is difficult to recycle, does not decompose and makes up a significant portion of the trash polluting local waterways. There are also potential health risks; styrene, which is used to make polystyrene, is listed as a possible carcinogen by the International Agency for Research on Cancer. The intent of this article is to improve the environment in the City of Oswego, as well as the health of its residents, by banning the use of expanded polystyrene containers.
§ 115-4 Definitions.

For purposes of this article, the terms used herein are defined as follows:

DISPOSABLE

A thing intended to be used once, or until no longer useful, and then thrown away.

EXPANDED POLYSTYRENE

Blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).

FOOD SERVICE ESTABLISHMENT

A premises or part of a premises where food is provided directly to the consumer, whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises or is provided from a pushcart, stand or vehicle. "Food service establishment" shall include, but not be limited to, full-service restaurants, fast-food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts and public or private cafeterias.

POLYSTYRENE LOOSE-FILL PACKAGING

A void-filled packaging product made of expanded polystyrene that is used as a packaging fill (commonly known as "packing peanuts").

SINGLE-SERVICE ARTICLES

Cups, containers, lids, closures, trays, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles that are intended by the manufacturer to be used once for eating or drinking and generally recognized by the public as items to be discarded after one use.

STORE

A retail or wholesale establishment, other than a food service establishment.

§ 115-5 Restrictions.

A. Effective April 22, 2020, no food service establishment or store shall sell or provide single-service articles that consist of disposable expanded polystyrene, including but not limited to providing food in single-service articles that consist of disposable expanded polystyrene.

B. This section shall not apply to:
   (1) Expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment or store; or
   (2) Expanded polystyrene containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance.
(3) Expanded polystyrene containers and loose-fill packaging that is pre-packaged in boxes or containers that are used as packing material for goods sold or delivered within the City of Oswego that originate outside the City of Oswego.

(4) Expanded polystyrene containers used to store cooked meat, pork, fish, seafood, or poultry sold by a charitable organization as part of a fundraising effort held within the City of Oswego.

C. No store shall sell or offer for sale polystyrene loose-fill packaging.

§ 115-6 Penalties for offenses.

A. In the event that there is noncompliance with this article, the owner of the property or the owner's agent or the person performing such violation shall be notified in writing with a first-time warning and shall forthwith stop with the violating activity. Such notice shall be served upon a person to whom it is directed either by delivering it personally to him or her or by posting same upon a conspicuous portion of the property and sending a copy of same by certified mail. Such notice shall provide a period of 10 business days to cure such violation and come into compliance with this chapter, after which a violation and summons may be issued.

B. Any owner, representative, or business establishment which violates any provision of this article shall, upon conviction of violation, be fined not more than $100 for a first violation after a first-time warning and a fine not exceeding $200 for a second or subsequent violation.

C. Any violation of this article may also be enjoined pursuant to law.

ARTICLE II
Littering

§ 115-7 Definitions.

A. Definitions and word use. As used within this section, the following terms shall have the meanings indicated:

AUTHORIZED PRIVATE RECEPTACLE
A litter storage and collection receptacle of steel, aluminum or plastic of ten-to-thirty-five-gallons capacity, with tight cover or a larger steel container with closed lid.

CITY
The City of Oswego, New York.

GARBAGE
Putrescible animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.
LITTER
Garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited are herein prohibited, tend to create a danger to public health, safety and welfare, or tend to create blight.

PARK
A park, reservation, playground, beach, recreation center or any other public area in the City, owned or operated by the City and devoted to active or active and passive recreation.

PERSON
Any person, firm, partnership, association, corporation, company, or organization of any kind.

PRIVATE PREMISES
Any pond, stream, body of water, or any house, building or other structure not owned or operated by the City or other governmental unit, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, ground, parking lot, walk, driveway, porch steps, vestibule or mailbox belonging or appurtenant to such house, building or structure.

PUBLIC PLACES
Any and all streets, roads, sidewalks, boulevards, alleys or other public ways, and any and all public parks, beaches, squares, spaces, grounds and buildings, and any and all public waterways, streams, stream beds, ponds, and rivers.

REFUSE
Includes garbage and rubbish.

RUBBISH
Nonputrescible solid wastes consisting of both combustible wastes and noncombustible wastes, such as, but not limited to, paper wrappings, cardboard, tin cans, wood, glass, bedding and crockery.

B. Word usage. When not inconsistent with the context, words used in the present tense include the future, words used in plural number include the singular, words used in the singular number include the plural, and words in the masculine include the feminine and the neuter. The word "shall" is always mandatory and not merely directory.

§ 115-8 Littering Prohibited.

A. Public Places.

(1) No person shall throw, deposit, or place litter, or cause same to be thrown, placed, or deposited in or upon any street, road, sidewalk, or other public place within the City, except in public receptacles or in authorized private receptacles for collection.

(2) Persons placing litter or causing litter to be thrown or deposited in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, road, sidewalk, or other public place, or upon private property.

(3) No person shall sweep, throw, deposit, place, or cause to be swept, thrown, dumped, placed or
deposited in any gutter, street, road or other public place within the City, the accumulation of litter from any building or lot or from any public place or private sidewalk or driveway.

(4) Persons owning or occupying property shall keep the sidewalk, if any, in front of their premises free of litter.

B. Parks, beaches, and bodies of water.

(1) No person shall throw or deposit or cause litter to be thrown or deposited in any park or beach within the City, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or beach, or upon any street or other public or private place. Where public receptacles are not provided, all such litter shall be carried away from the park or beach by the person responsible for its presence and properly disposed of elsewhere, as provided herein.

(2) No person shall throw or deposit or cause litter to be thrown or deposited in any pond, river, stream or other body of water or within the limits of such pond, river, stream or other body of water within the City.

C. Private property.

(1) No person shall throw, deposit or place litter, or cause same to be thrown, dumped, deposited or placed on any private property within the City, whether owned by such person or not, and whether occupied or vacant, except that the owner or person in control of private property may maintain an authorized private receptacle for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place, or upon private property.

(2) The owner or person in control of private property or any portion thereof shall at all times maintain the premises of that portion controlled by him free of litter, except when stored properly in authorized private receptacles for collection, when such person shall have actual notice thereof or when said litter shall have been present a sufficient period of time to constitute constrictive notice.

§ 115-9 Penalties for offenses.

Any person who violates any provision of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined in the following manner:

(1) First offense: a fine of not less than $200 nor more than $250 or to be imprisoned for a period not to exceed 15 days, or by both such fine and imprisonment.

(2) Second offense: if the second offense occurs within six months of the first offense, the fine of not less than $300 nor more than $500 or imprisonment not to exceed 15 days, or by such fine and imprisonment.
Article III
Part 1
Smoking - City Facilities

§ 115-10 Legislative intent.
A. The City of Oswego Common Council finds that scientific studies have proven that cigarette smoking, cigar smoking or the smoking of other tobacco products causes chronic lung disease, coronary heart disease, stroke and cancer of the lungs, larynx, esophagus, mouth, bladder and contributes to cancer of the cervix, pancreas and kidneys. More than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable illness. Furthermore, a number of studies have indicated that exposure to outdoor tobacco smoke is similar to the levels of exposure to indoor levels of secondhand smoke. The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a Group A carcinogen. Exposure to secondhand smoke is the third leading cause of preventable death in this country. In addition to the health impact, outdoor smoking results in significant amount of litter from cigarettes, cigarette filters, tobacco packaging and wrappers, which can be costly to both the environment and municipalities.

B. The City of Oswego Common Council further finds that smoking in outdoor public areas makes it difficult to pass through because of individuals smoking and the clouds of smoke that fill the air. It has become unsightly as cigarette butts, filters, and tobacco packaging are thrown on the ground, causing a litter problem in public areas.

§ 115-11 Restrictions.
Smoking is prohibited throughout the city facilities and in any offices visited by the public on a regular basis. Smoking is permitted only in designated areas identified by "smoking permitted" signs.

§ 115-12 Enclosed work areas; rights of nonsmoker.
Smoking is prohibited in any indoor enclosed work area occupied by more than one person, unless all employees in such area agree to allow smoking. The rights of a nonsmoker to a smoke-free work area shall prevail.

§ 115-13 Common areas.
A. Smoking is prohibited in all employee restrooms, elevators, hallways and areas containing office equipment used in common.

B. Smoking is prohibited in conference or meeting rooms and municipal vehicles used by more than one person unless all occupants agree to allow smoking.

§ 115-14 Conflicts and complaints.
Conflicts should be brought to the attention of the appropriate supervisory personnel. Employees may also file a formal complaint with the Oswego County Health Department, which has the sole jurisdiction to enforce the new law on a county-wide basis.
§ 115-15 Rules to be posted and distributed.

Copies of these rules will be posted and distributed to all departments, employees and to all prospective employees upon request.

§ 115-16 Amendments.

This policy may be amended from time to time by resolution of the City of Oswego. All amendments shall be in conformance with New York State law, and employees will be notified accordingly.

Article III

Part 2

Smoking - Outdoors

§115-17 Outdoor Smoking Prohibited.

No person shall smoke cigarettes, cigars, pipes or any form of tobacco products in or on any City-owned parks, beaches, pools, recreation centers, playgrounds, outdoor sporting arenas, outdoor stages, parking garages or the sidewalks immediately adjoining the parks, outdoor recreation areas, parking garages and public places.

§ 115-18 Penalties for offenses.

Any person who violates any provision of this chapter shall, upon conviction for a first offense, be punished by a fine of not less than $100, nor more than $150; and upon a second offense the sum of not less than $150, nor more than $200; and upon a third and subsequent offense the sum of $250 or by imprisonment of not more than 15 days or both.

Section 2. When Effective.

This Local law shall take effect immediately upon filing with the Secretary of State.