

VILLAGE OF BRADLEY

ORDINANCE NO. 0-05-24-04

AN ORDINANCE AMENDING THE TOBACCO LICENSE PROVISIONS OF THE VILLAGE OF BRADLEY CODE OF ORDINANCES TO CREATE MULTIPLE CLASSES OF TOBACCO LICENSES

ADOPTED BY THE
BOARD OF TRUSTEES OF THE
VILLAGE OF BRADLEY

THIS 13th DAY OF May, 2024

Published in pamphlet form by the authority of the Board of Trustees of the Village of Bradley, Kankakee County, Illinois this 13th day of May, 2024

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AN ORDINANCE AMENDING THE TOBACCO LICENSE PROVISIONS OF THE VILLAGE OF BRADLEY CODE OF ORDINANCES TO CREATE MULTIPLE CLASSES OF TOBACCO LICENSES

WHEREAS, the Corporate Authorities of the Village of Bradley, Kankakee County, Illinois, have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, pursuant to Section 11-60-1 of the Illinois Municipal Code, the Village is authorized to fix the amount, terms, and manner of issuing and revoking licenses (65 ILCS 5/11-60-1); and

WHEREAS, pursuant to Section 11-20-3 of the Illinois Municipal Code (65 ILCS 5/11-20-3), the Village is authorized to regulate the sale of all beverages and food for human consumption and to provide for and regulate the inspection of tobacco; and

WHEREAS, pursuant to Section 11-20-5 of the Illinois Municipal Code (65 ILCS 5/11-20-5), the Village is authorized to make regulations which may be necessary or expedient for the promotion of health or suppression of diseases; and

WHEREAS, pursuant to Section 11-1-1 and Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/11-1-1 and 65 ILCS 5/11-60-2), the Village is authorized to pass and enforce all necessary police ordinances and may define, prevent and abate nuisances; and

WHEREAS, the Corporate Authorities have determined that it is necessary, expedient, and in the best interests of the Village and its citizens to amend the Village Code as forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF BRADLEY, KANKAKEE COUNTY, ILLINOIS, PURSUANT TO ITS STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1. The Corporate Authorities hereby find that all of the recitals contained in the preamble to this Ordinance are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2. Chapter 12 (Business Regulation), Article IV (Specific Businesses), Division 5 (Tobacco Products) of the Village Code is hereby repealed and replaced with the following:

Sec. 12-228. – Definitions

For purposes of this Chapter, the following terms shall have the meanings prescribed unless the context of their usage clearly indicates otherwise:

- (a) “Licensee” shall mean any person, firm, corporation, partnership or club holding a license for the retail sale of tobacco products under the provisions of this division.

- (b) "Tobacco Products" shall mean any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, and any product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or any other means including, but not by way of limitation, what is commonly referred to as e-cigarettes or vaping.
- (c) "Tobacco Shop" means an establishment primarily engaged in the retail sale and display of tobacco, tobacco products, alternative nicotine products, electronic cigarettes, vape or vaping products including, without limitation, vapes, vaporizers, vape pens, vapor cigarettes and alternative vapor transmission modalities and paraphernalia associated with any of the foregoing. The term "Tobacco Shop" shall also include smoking lounges, which are retail establishments dedicated in whole or in part to entertaining smokers and users of tobacco and vape products and includes without limitation both hookah lounges and vaping lounges. The term "Tobacco Shop" does not include Cannabis Business Establishments.

Sec. 12-229. – Local tobacco commissioner.

The Village President shall be the local tobacco commissioner and shall be charged with the administration of this Division.

Sec. 12-230. – License required and classifications.

- (a) It shall be unlawful to engage in the sale at retail of Tobacco Products in any form or in any number without first having obtained a tobacco license from the village for each location in which Tobacco Products are sold.
- (b) All tobacco licenses shall be renewed annually.
- (c) A tobacco license shall be a purely personal privilege, good until the May 31st following issuance, unless formally revoked as herein provided, and shall not be transferable, except a new license will be issued to a tobacco Licensee who changes location.
- (d) Tobacco license classifications:
 - (1) A Class A tobacco license is required for any business that operates a Tobacco Shop.
 - (2) A Class B tobacco license is required for any business or establishment that sells any Tobacco Product at retail, but which is not a Tobacco Shop, including without limitation gas stations, grocery stores, convenience stores, taverns, etc.

Sec. 12-231. – Qualifications of applicant.

No tobacco license shall be issued to any person who is not a person of good character or to any corporation that is not represented in the village by a person of good character.

Sec. 12-232. – Application for License; Fees.

- (a) Applications for tobacco licenses shall be made in writing to the Village Clerk.

- (b) A background check is required for all applications. Each applicant shall submit a background check authorization form with their application to the village.
- (c) The annual fee for a tobacco license shall be as provided in the village fee schedule in section 18-1.

Sec. 12-233. – Sale to minors.

- (a) It shall be unlawful to sell or give Tobacco Products to any person under the age of twenty-one (21) years of age.
- (b) The fines for violations of this Section shall be in accordance with the Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act (720 ILCS 675/1 *et seq.*).

Sec. 12-234. – Violations.

It shall be unlawful for any Licensee to violate any of the Village of Bradley Code of Ordinances.

Sec. 12-235. – Penalties.

- (a) Any tobacco Licensee who violates any of the provisions of this division, except for a violation of Sec. 12-233 for the sale to minors, shall be subject to graduated minimum fines and penalties as follows:
 - (1) For a first violation, \$500.00 fine;
 - (2) For a second violation, \$750.00 fine;
 - (3) For a third violation, \$750.00 fine.
- (b) Each day any person violates any of the provisions of this division shall constitute a separate offense.
- (c) Nothing in this section is intended or shall be construed as limiting in any way the village's authority to seek other remedies against any license that violates this division, including, but not limited to, suspension or revocation of the Licensee's license.
- (d) In addition to the fines and penalties set forth above, whenever any Licensee, or employee or agent of such Licensee, is convicted or otherwise pleads guilty to any violation of this chapter, the local tobacco commissioner may, in their discretion, also suspend or revoke said Licensee's license, provided that the Licensee shall be entitled to notice and a hearing before the local tobacco commissioner prior to any such suspension or revocation. It shall be unlawful and shall constitute a further violation of this division for any Licensee whose license has been revoked or suspended pursuant to this section to continue to operate under the license at any time that it is so revoked or suspended.

Sec. 12-236. Suspension and revocation of license.

- (a) Procedure: A first or subsequent violation of the provisions of this chapter within a twenty-four (24) month period by a Licensee shall result in a hearing as to whether the Licensee's license should be suspended or revoked.

- (b) **Notice Of Hearing:** No such license shall be suspended or revoked except after a public hearing by the local tobacco commissioner with a seven (7) day written notice to the Licensee affording the Licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) day notice provisions shall begin the day following delivery by certified mail or by personal service.
- (c) **Decision:** The local tobacco commissioner shall, within seven (7) days after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason for such determination in a written order and the period of suspension or that the license has been revoked and serve a copy of such order within the seven (7) days upon the Licensee.
- (1) In the case of a first violation within a twenty-four (24) month period, the Licensee's tobacco license may be suspended for not more than one (1) day. The Licensee must then remove all Tobacco Products merchandise from all areas accessible to the public while the license is suspended and shall not sell any Tobacco Products.
 - (2) In the case of a second violation within a twenty-four (24) month period, the Licensee's tobacco license may be suspended for not more than seven (7) consecutive days. The retailer must then remove all Tobacco Products merchandise from all areas accessible to the public while the license is suspended and shall not sell any Tobacco Products.
 - (3) In the case of a third violation within a twenty-four (24) month period, the Licensee's tobacco license may be revoked. Upon the revocation of a tobacco license, all Tobacco Products merchandise must be removed from all areas accessible to the public and the tobacco retailer shall not sell any Tobacco Products.
- (d) **Costs:** Any Licensee determined by the local tobacco commissioner to have violated any of the provisions of this division shall pay to the village the costs of the hearing before the local tobacco commissioner on such violation. The local tobacco commissioner shall determine the costs incurred by the village for said hearing, including, but not limited to, court reporter fees, the costs of transcripts or records, attorney fees, the cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the village or such lesser sum as the local tobacco commissioner may allow. The Licensee shall pay said costs to the village within thirty (30) days of notification of the costs by the local tobacco commissioner. Failure to pay said costs within thirty (30) days of notification is a violation of this chapter and may be cause for license suspension or revocation or the levy of additional fines.
- (e) **Use Of Premises After License Revocation:** When any License shall have been revoked for any cause, no license shall be granted to said Licensee for the period of one (1) year thereafter for the conduct of the business of selling Tobacco Products, as defined in section 12-228 of this division, in the premises described in such revoked license.

SECTION 3. Chapter 12 (Business Regulation), Article IV (Specific Businesses), Division 5 (Tobacco Products), Section 12-236 through Section 12-239 of the Village Code are hereby reserved as follows:

Secs. 12-236—12-239. Reserved.

SECTION 4. Chapter 12 (Business Regulation), Article IV (Specific Businesses), Division 6 (Home Kitchen Operations), Section 12-232 (Home Kitchen Operations Authorized; Registration Required; Educational Requirements) of the Village Code is hereby numbered to Section 12-240 (Home Kitchen Operations Authorized; Registration Required; Educational Requirements).

SECTION 5. Chapter 12 (Business Regulation), Article IV (Specific Businesses), Division 6 (Home Kitchen Operations), Section 12-241 through Section 12-257 of the Village Code are hereby reserved as follows:

Secs. 12-241—12-257. Reserved.

SECTION 6. Chapter 18 (Fees and Other Charges), Section 18-1 (Fees) of the Village Code is hereby amended in part to read as follows:

Sec. 18-1. Fees.

Section	Description	Amount (in dollars)
* * *		
<i>Chapter 12—Business Regulation and Taxation</i>		
* * *		
12-230	Class A tobacco shop license—annually	500.00
	Class B tobacco retail license—annually	200.00
* * *		

SECTION 7. In the event that any provision or provisions, portion or portions, or clause or clauses of this Ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 8. That all ordinances, resolutions, motions, or parts thereof, conflicting with any of the provisions of this Ordinance, are hereby repealed to the extent of the conflict.

SECTION 9. That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 10. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

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PASSED by the Board of Trustees on a roll call vote on the 13th day of May, 2024.

TRUSTEES:

RYAN LEBRAN	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
BRIAN BILLINGSLEY	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
DARREN WESTPHAL	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
BRIAN TIERI	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
GRANT D. VANDENHOUT	Aye - <input type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input checked="" type="checkbox"/>
GENE JORDAN	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>

VILLAGE PRESIDENT:

MICHAEL WATSON Aye - Nay - Absent -

TOTALS: Aye - 5 Nay - 0 Absent - 1

ATTEST:

Kelli Brza
KELLI BRZA, VILLAGE CLERK

APPROVED this 13th day of May, 2024.

Michael Watson
MICHAEL WATSON, VILLAGE PRESIDENT

ATTEST:

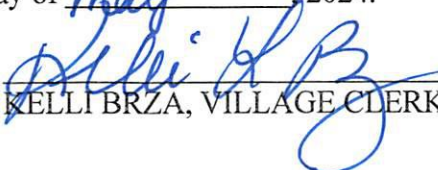
Kelli Brza
KELLI BRZA, VILLAGE CLERK



STATE OF ILLINOIS 7)
) §§
COUNTY OF KANKAKEE)

I, KELLI BRZA, Village Clerk of the Village of Bradley, County of Kankakee and State of Illinois, DO HEREBY CERTIFY that the attached is a true, perfect, and complete copy of Ordinance number 0-05-24-04 "AN ORDINANCE AMENDING THE TOBACCO LICENSE PROVISIONS OF THE VILLAGE OF BRADLEY CODE OF ORDINANCES TO CREATE MULTIPLE CLASSES OF TOBACCO LICENSES," which was adopted by the Village Corporate Authorities at a meeting held on the 13th day of May, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand in the Village of Bradley, County of Kankakee and State of Illinois, on this 13th day of May, 2024.



KELLI BRZA, VILLAGE CLERK

