

VILLAGE OF BRADLEY

ORDINANCE NO. O-2-20-5

AN ORDINANCE AMENDING CHAPTER 30 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE V (NUISANCES), DIVISION 2 (NUISANCE PROPERTY) AND CHAPTER 30 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE VII (POSSESSION OF CANNABIS) OF THE BRADLEY VILLAGE CODE

ADOPTED BY THE
BOARD OF TRUSTEES OF THE
VILLAGE OF BRADLEY

THIS 24th DAY OF February, 2020

Published in pamphlet form by the authority of the Board of Trustees of the Village of Bradley, Kankakee County, Illinois this 25th day of February, 2020

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AN ORDINANCE AMENDING CHAPTER 30 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE V (NUISANCES), DIVISION 2 (NUISANCE PROPERTY) AND CHAPTER 30 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE VII (POSSESSION OF CANNABIS) OF THE BRADLEY VILLAGE CODE

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, the Illinois General Assembly recently enacted the Cannabis Regulation and Tax Act (410 ILCS 705/1-1, *et seq.*), which *inter alia* legalizes the possession and use of cannabis under certain circumstances; and

WHEREAS, the Village of Bradley previously passed ordinances that regulate and prohibit the possession and use of cannabis where such possession or use would amount to a violation of the Cannabis Control Act (720 ILCS 550/1, *et seq.*) and other applicable Illinois and federal statutes; and

WHEREAS, the Corporate Authorities of the Village have determined that it is necessary and in the best interests of the Village and its citizens to amend its ordinances related to the possession and use of cannabis to be consistent with the Cannabis Regulation and Tax Act, as amended, and the Cannabis Control Act, as amended.

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 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 30 (Offenses and Miscellaneous Provisions), Article V (Nuisances), Division 2 (Nuisance Property), Section 30-224 (Definitions) is hereby amended in part to read as follows:

Sec. 30-224. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chronic nuisance property means property upon which three or more of the following behaviors have occurred during any 90-day period, as a result of any three separate

factual events that have been independently investigated by any law enforcement agency:

* * *

- (12) Possession, cultivation, manufacture, delivery, or use of cannabis in violation of and as defined in the Illinois Cannabis Control Act (720 ILCS 550/1 et seq), except that no activities permitted by the Cannabis Regulation and Tax Act (410 ILCS 705/1-1, et seq.), as amended; the Industrial Hemp Act (505 ILCS 89/1, et seq.), as amended; or any other state or federal law, as amended, permitting the cultivation, production, manufacture, sale, purchase, delivery, possession, consumption, and/or use of cannabis shall be considered a nuisance behavior for the purposes of this Section.

* * *

SECTION 3. Chapter 30 (Offenses and Miscellaneous Provisions), Article V (Nuisances), Division 2 (Nuisance Property), Section 30-288 (Offensive Odors from Businesses) is hereby amended to read as follows:

Sec. 30-288. - Offensive odors from businesses.

To erect, continue or use any business, building, or other place, for the exercise of any trade, employment or manufacture which, by occasion of noxious exhalations, offensive smells, or otherwise, is offensive or dangerous to the health of individuals or of the public is hereby declared to be a nuisance within the village, provided that the erection, continuance, or use of any building, business, or other place for any lawful activity associated with cannabis, as permitted by the Cannabis Regulation and Tax Act (410 ILCS 705/1-1, et seq.), as amended; the Industrial Hemp Act (505 ILCS 89/1, et seq.), as amended; and/or any other state or federal law, as amended, is not and shall not be deemed a nuisance for the purposes of this Section.

SECTION 4. Chapter 30 (Offenses and Miscellaneous Provisions), Article VII (Possession of Cannabis), Section 30-390 (Prohibited) is hereby amended to read as follows:

Sec. 30-390. - Prohibited.

Except as provided in the Cannabis Regulation and Tax Act (410 ILCS 705/1-1, *et seq.*), as amended; the Industrial Hemp Act (505 ILCS 89/1, *et seq.*), as amended; or any other state or federal law, as amended, permitting the cultivation, production, manufacture, sale, purchase, delivery, possession, consumption, and/or use of cannabis, it shall be unlawful for any person to knowingly possess thirty (30) grams or less of cannabis (as defined by the Cannabis Control Act (720 ILCS 550/1 *et seq.*)). Any person illegally in possession of thirty (30) grams or less of cannabis shall be taken into custody and transported to the village police department for a criminal history check.

SECTION 5. Chapter 30 (Offenses and Miscellaneous Provisions), Article VII (Possession of Cannabis), Section 30-391 (Penalties) is hereby amended to read as follows:

Sec. 30-391. – Penalties.

- A. If a criminal history check required by Section 30-390 reveals that the individual in question has any (i) outstanding warrants, (ii) previous drug convictions for possession, sale, or intent to deliver, (iii) previous drug paraphernalia convictions, (iv) possible probation violations, or (v) any other basis that would necessitate criminal processing, the individual shall be processed and the cannabis offense charged criminally.
- B. If a criminal history check required by Section 30-390 does not reveal any of the circumstances stated in Subpart (A), *supra*, the arresting officer shall issue an ordinance violation citation in lieu of criminal processing and charging and the following shall apply:
 - (1) Upon a finding of guilt, the individual may be:
 - a. Fined in an amount not less than \$200.00 and not more than \$750.00; and/or
 - b. Ordered to attend and complete a drug awareness or drug education program at their own expense; and/or
 - c. Ordered to complete community service work.
 - (2) In any case where the individual in question is under the age of 18, such individual must be ordered to (i) attend and complete a drug awareness or drug education program at their own expense and (ii) complete public service work, in addition to any fine that may be assessed consistent with this section.
- C. No officer shall issue an ordinance violation citation in lieu of criminal processing if the violation in question occurred on the grounds of, or within 1,000 feet of, a school, church, or public park. All such violations shall be criminally processed.
- D. A portion of all fines collected pursuant to this Section shall be designated and used for drug enforcement purposes and shall be deposited into the drug seizure fund of the Village of Bradley.

SECTION 6. 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 7. 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 8. That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 9. 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.

PASSED by the Board of Trustees on a roll call vote on the 24th day of Feb., 2020.

TRUSTEES:

ROBERT REDMOND	Aye - <u>X</u>	Nay - <u> </u>	Absent - <u> </u>
MICHAEL WATSON	Aye - <u>X</u>	Nay - <u> </u>	Absent - <u> </u>
RYAN LEBRAN	Aye - <u>X</u>	Nay - <u> </u>	Absent - <u> </u>
BRIAN BILLINGSLEY	Aye - <u>X</u>	Nay - <u> </u>	Absent - <u> </u>
DARREN WESTPHAL	Aye - <u>X</u>	Nay - <u> </u>	Absent - <u> </u>
BRIAN TIERI	Aye - <u>X</u>	Nay - <u> </u>	Absent - <u> </u>

ACTING VILLAGE PRESIDENT:

MICHAEL WATSON Non-Voting - X

TOTALS: Aye - 6 Nay - 0 Absent - 0


ATTEST:


JULIE TAMBLING, VILLAGE CLERK

APPROVED this 24th day of February, 2020.


MICHAEL WATSON, ACTING VILLAGE PRESIDENT

ATTEST:

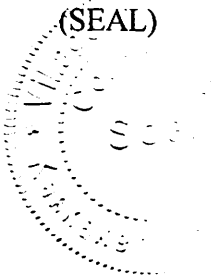

JULIE TAMBLING, VILLAGE CLERK

STATE OF ILLINOIS)
)
COUNTY OF KANKAKEE) §§

I, Julie Tambling, 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 O-2-20-5, "AN ORDINANCE AMENDING CHAPTER 30 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE V (NUISANCES), DIVISION 2 (NUISANCE PROPERTY) AND CHAPTER 30 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE VII (POSSESSION OF CANNABIS) OF THE BRADLEY VILLAGE CODE," which was adopted by the Village Corporate Authorities at a meeting held on the 24th day of Feb., 2020.

IN WITNESS WHEREOF, I have hereunto set my hand in the Village of Bradley, County of Kankakee and State of Illinois, on this 24th day of Feb., 2020.

Julie Tambling
JULIE TAMBLING, VILLAGE CLERK



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