

ORDINANCE NO. 2010-08

AN ORDINANCE AMENDING CHAPTER 50, "OFFENSES AND MISCELLANEOUS PROVISIONS," OF THE MUNICIPAL CODE OF THE VILLAGE OF STICKNEY BY ADDING, SECTIONS 50-32.1, 50-32.2, and 50-32.3.

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS, A HOME RULE UNIT OF GOVERNMENT, AS FOLLOWS:

WHEREAS, the Village of Stickney (the "Village") is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village seeks to maintain the safety and welfare of its residents, and maintain the appearance and accessibility of the streets, roadways, and public places throughout the Village; and

WHEREAS, the Village maintains certain regulations of the streets, sidewalks, and other public areas within the Village; and

WHEREAS, the Village maintains certain regulations on the conduct of all those within the Village in order to ensure the safety and well-being of all Village residents; and

WHEREAS, it is within the Village's interest to reduce and prevent gang activity and operations within the Village; and

WHEREAS, it is within the Village's interest to reduce and prevent drug-related crime and activity within the Village;

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COUNTY OF COOK, ILLINOIS.

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Adoption. Chapter 50, Article II, of the Municipal Code of the Village of Stickney shall be amended by the addition of Section 50-32.1, Section 50-32.2, and Section 50-32.3, which shall read as follows:

Sec. 50-32.1. Loitering.

(a) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to

conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impractical, a police officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting the person to identify himself or herself and to explain his or her presence or conduct. No person shall be convicted of an offense under this Section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if it had been believed by the police officer at the time, would have dispelled the alarm. Any police officer may arrest any person suspected of being a loiterer or prowler without a warrant if it reasonably appears that the delay in arresting the suspect caused by obtaining a warrant would result in the suspect's escape.

(b) It shall be unlawful for any person, after first being warned by a police officer, or where a "no loitering" sign or signs have been posted, to loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, cross-walk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians or vehicles thereon. It shall be unlawful for any person to block, obstruct or prevent free access to the entrance to any building open to the public.

(c) For the purpose of this Section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

Public Place: An area generally visible to public view, including streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not) and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(d) Any person found liable of violating this Section shall be subject to a fine of not less than \$50.00 and not more than \$500.00 per violation.

Sec. 50-32.2. Gang Loitering.

(a) Whenever a police officer observes a member of a criminal street gang engaged in gang loitering with one or more other persons in any public place designated for the enforcement of this Section under subsection (b) below, the police officer shall, subject to all applicable procedures promulgated by the Chief of Police:

(1) Inform all persons that they are engaged in gang loitering with an area in which loitering by groups containing criminal street gang members is prohibited;

(2) Order all persons to disperse and remove themselves from within sight and hearing of the place at which the order was issued; and

(3) Inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further gang loitering within sight or hearing of the place at which the order was issued during the next three hours.

(b) The Chief of Police shall, by written directive, designate areas of the Village in which the Chief has determined that enforcement of this Section is necessary because gang loitering has enabled criminal street gangs to establish control over identifiable areas, to intimidate others from entering those areas or to conceal illegal activities. Prior to making a determination under this division, the Chief shall consult as he or she deems appropriate with persons who are knowledgeable about the effects of gang activity in areas in which this Section may be enforced. The persons may include but need not be limited to members of the Police Department, or police departments of surrounding communities, with special training or experience related to criminal street gangs; other personnel of the Department or police departments of surrounding communities with particular knowledge of gang activities in the proposed designated area; elected and appointed officials of the area; community-based organizations; and participants in any Neighborhood Watch Program who are familiar with the area. The Chief of Police shall develop and implement procedures for the periodic review and update of designations made under this division.

(c) The Chief of Police shall by written directive promulgate procedures to prevent the enforcement of this Section against persons who are engaged in collective advocacy activities that are protected by the Constitution of the United States or the State of Illinois.

(d) For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Criminal Gang Activity - The commission, attempted commission or solicitation of the following offenses listed in the following sections of the Criminal Code of 1961, being ILCS Ch. 720, Act 5, provided that the offenses are committed by two or more persons, or by an individual at the direction of or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members:

- (1) ILCS Ch. 720, Act 5, § 9-1 (murder);
- (2) ILCS Ch. 720, Act 5, § 9-3.3 (drug-induced homicide);
- (3) ILCS Ch. 720, Act 5, § 10-1 (kidnapping);
- (4) ILCS Ch. 720, Act 5, § 10-4 (forcible detention);
- (5) ILCS Ch. 720, Act 5, § 12-2(a)(13) (aggravated assault-discharging firearm);
- (6) ILCS Ch. 720, Act 5, § 12-4 (aggravated battery);
- (7) ILCS Ch. 720, Act 5, § 12-4.1 (heinous battery);
- (8) ILCS Ch. 720, Act 5, § 12-4.2 (aggravated battery with a firearm);
- (9) ILCS Ch. 720, Act 5, § 12-4.3 (aggravated battery of a child);

- (10) ILCS Ch. 720, Act 5, § 12-4.6 (aggravated battery of a senior citizen);
- (11) ILCS Ch. 720, Act 5, § 12-6 (intimidation);
- (12) ILCS Ch. 720, Act 5, § 12-6.1 (compelling organization membership of persons);
- (13) ILCS Ch. 720, Act 5, § 12-11 (home invasion);
- (14) ILCS Ch. 720, Act 5, § 12-14 (aggravated criminal sexual assault);
- (15) ILCS Ch. 720, Act 5, § 18-1 (robbery);
- (16) ILCS Ch. 720, Act 5, § 18-2 (armed robbery);
- (17) ILCS Ch. 720, Act 5, § 19-1 (burglary);
- (18) ILCS Ch. 720, Act 5, § 19-3 (residential burglary);
- (19) ILCS Ch. 720, Act 5, § 19-5 (criminal fortification of a residence or building);
- (20) ILCS Ch. 720, Act 5, § 20-1 (arson);
- (21) ILCS Ch. 720, Act 5, § 20-1.1 (aggravated arson);
- (22) ILCS Ch. 720, Act 5, § 20-2 (possession of explosives or explosive or incendiary devices);
- (23) ILCS Ch. 720, Act 5, § 24-1(a)(6), (a)(7), (a)(9) or (a)(12) (unlawful use of weapons);
- (24) ILCS Ch. 720, Act 5, § 24-1.1 (unlawful use or possession of weapons by felons or persons in the custody of the Department of Corrections facilities);
- (25) ILCS Ch. 720, Act 5, § 24-1.2 (aggravated discharge of a firearm);
- (26) ILCS Ch. 720, Act 5, § 25-1(d) (mob action - violence);
- (27) ILCS Ch. 720, Act 5, § 33-1 (bribery);
- (28) ILCS Ch. 720, Act 5, § 33A-2 (armed violence);
- (29) Sections 5, 5.1, 7 or 9 of the Cannabis Control Act, being ILCS Ch. 720, Act 550, where the offense is a felony (manufacture or delivery of cannabis, cannabis trafficking, calculated criminal cannabis conspiracy and related offenses; or

(30) Sections 401, 401.1, 405, 406.1, 407 or 407.1 of the State Controlled Substances Act, being ILCS Ch. 720, Act 550 (illegal manufacture or delivery of a controlled substance, controlled substance trafficking, calculated criminal drug conspiracy and related offenses).

Criminal Street Gang - Any ongoing organization, association in fact or group of three or more persons, whether formal or informal, having as one of its substantial activities the commission of one or more of the criminal acts enumerated under the definition of criminal gang activity herein, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

Gang Loitering - Remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable a criminal street gang to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities.

Pattern of Criminal Gang Activity - Two or more acts of criminal gang activity of which at least two acts were committed within five years of each other.

Public Place - The public way and any other location open to the public, whether publicly or privately owned.

(e) Any person found liable of violating this Section shall be subject to a fine of not less than \$250.00 and not more than \$500.00 per violation.

Sec. 50-32.3. Narcotics Loitering

(a) Whenever a police officer observes one or more persons engaged in narcotics-related loitering in any public place designated for the enforcement of this section under subsection (b) below, the police officer shall:

(1) Inform all persons that they are engaged in loitering within an area in which the loitering is prohibited;

(2) Order all persons to disperse and removed themselves from within sight and hearing of the place at which the order was issued; and

(3) Inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further narcotics-related loitering within sight or hearing of the place at which the order was issued during the next three hours.

(b) The Chief of Police shall by written directive designate areas of the Village in which enforcement of this section is necessary because the areas are frequently associated with narcotics-related loitering. Prior to making a determination under this division, the Chief of Police shall consult as he or she deems appropriate with persons who are knowledgeable about the effect of narcotics-related activity in areas in which this section may be enforced. The persons may include but need not be limited to members of the Police Department, or police

departments of surrounding communities, with special training or experience related to narcotics-related activity; other personnel of the Department or police departments of surrounding communities with particular knowledge of narcotics-related activities in the proposed designated area; elected and appointed officials of the area; community-based organizations; and participants in any Neighborhood Watch Program who are familiar with the area. The Chief of Police shall develop and implement procedures for the periodic review and update of designations made under this division.

(c) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Narcotics-Related Loitering - Remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to facilitate the distribution of substances in violation of the Cannabis Control Act, being ILCS Ch. 720, Act 550 or the Illinois Controlled Substances Act, being ILCS Ch. 720, Act 570.

Public Place - The public way and any other location open to the public, whether publicly or privately owned.

(d) Any person found liable of violating this Section shall be subject to a fine of not less than \$250.00 and not more than \$500.00 per violation.

Section 3. Home Rule. This ordinance is enacted under the Home Rule powers of the Village as set forth in the Constitution and laws of the State of Illinois.

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

Section 5. Conflicts. This Ordinance supersedes all ordinances or parts of ordinances directly conflicting with the terms and provisions contained herein, but only to the extent of such conflict.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 7. Certification and Publication. The Village Clerk of the Village of Stickney shall certify to the adoption of this Ordinance and cause the same to be published in pamphlet form.

PASSED AND APPROVED at a regular meeting of the President and the Board of Trustees of the Village of Stickney, Illinois this 6th day of April, 2010.

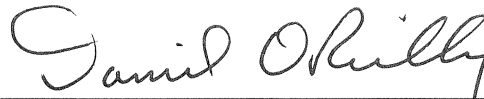
AYES: Lazansky, Mares, Morelli, Schimel, Walik, Zeedyk

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED by me this 7th day of April, 2010.

A handwritten signature in cursive script, reading "Daniel O'Reilly".

Daniel A. O'Reilly, President,
Village of Stickney, Cook County, Illinois

ATTESTED, Filed in my office,
and published in pamphlet form
this 7th day of April, 2010.

A handwritten signature in cursive script, reading "Kurt Kasnicka".

Kurt Kasnicka, Deputy Clerk
Village of Stickney, Cook County, Illinois