

## § 222-16 Synthetic recreational drugs.

[Added 8-12-2014<sup>[1]</sup>]

### A.

Definitions. For purposes of this section, the following terms have the following meanings:

#### **PERSON**

An individual, corporation, partnership, wholesaler, retailer, or any licensed or unlicensed business.

#### **SYNTHETIC RECREATIONAL DRUGS**

Any product or substance that contains a synthetic chemical compound that, when consumed, inhaled, injected, or otherwise administered, produces a psychoactive, psychotropic, or hallucinogenic effect.

The term "synthetic drugs" shall include:

#### (1)

#### **SYNTHETIC MARIJUANA or SYNTHETIC CANNABINOIDS**

##### (a)

Any substance as defined by 21 U.S.C. § 812, excluding "marijuana" as such term is defined in MGL c. 94C, § 1; or

##### (b)

Any substance that contains chemical structures that mimic functionally the effects of delta-9-tetrahydrocannabinol (THC); or

##### (c)

Any substance that contains cannabinoids, including, but not limited to, AKB48, XLR-11, UR-144, JWH-210, STS-135, AB-001, JWH-018, JWH-073, CP-47, CP-497, JWH-200, or cannabicyclohexanol; or

##### (d)

Any substance that has been chemically treated and is possessed, sold, or purchased with the intent that it will, despite labeling to the contrary, be consumed by humans for the purpose of intoxication, which if consumed, may induce an effect or effects of any of the substances listed in this section.

#### (2)

#### **SYNTHETIC CATHINONES**

##### (a)

Any substance as defined by 21 U.S.C. § 812; or

##### (b)

Any  $\beta$ -keto phenethylamine derivative that produces pharmacological effects similar to the Schedule I substances cathinone, methcathinone, and 3,4-methylenedioxymethamphetamine (MDMA), Schedule II

stimulants amphetamine, methamphetamine, and cocaine, or contains 4-MEC, 4-MePPP,  $\alpha$ -PVP, Butylone, Pentadone, Pentylone, Flephedrone, or Naphyrone; or

(c)

Any substance that has been chemically treated and is possessed, sold, or purchased with the intent that it will, despite labeling to the contrary, be consumed by humans for the purpose of intoxication, which if consumed, may induce an effect or effects of any of the substances listed in this section.

B.

Possession, storage, provision, sale, and distribution of synthetic recreational drugs.

(1)

It is unlawful for any person to possess, store, manufacture, sell, distribute, or provide to another any synthetic recreational drug within the City of Lowell.

(2)

Attempting to disclaim a synthetic recreational drug as "not safe for human consumption" will not avoid application of the provisions of this section.

(3)

It is unlawful for any person to possess, store, manufacture, sell, distribute, or provide any synthetic recreational drug from any real property owned, possessed, managed, or controlled by that person in the City of Lowell.

(4)

Nothing in this section shall preclude the City of Lowell or any law enforcement officer of any jurisdiction from charging an offender for violation of any other applicable law or ordinance arising from the offender's prohibited conduct.

C.

Enforcement.

(1)

The Lowell Police Department, inspectors of the Development Services Department, the outreach worker from the Health Department and the Tobacco Control Director shall be the enforcing authorities for this section.

(2)

The enforcing authority may consider any of the following evidentiary factors to determine if the product is a synthetic recreational drug:

(a)

The product is not suitable for its marketed use;

(b)

The business does not typically provide, distribute, or sell products that are used for that product's marketed use;

(c)

The product contains a warning label not typically present on like products, such as "not for human consumption" or "not for purchase by minors";

(d)

The product is significantly more expensive than products that are used for that product's marketed use.

(e)

The product resembles an illicit drug; or

(f)

The product's name or packaging uses images or slang referencing an illicit drug.

(g)

A member of the Health Department or Inspectional Services office has reported the product to the Police Department.

D.

Penalties.

(1)

Any person, firm, store, corporation, or entity found in violation of this section shall be fined \$300 for the first and each subsequent offense. Each act and/or each day in violation of this section shall constitute a separate offense.

(2)

Any person, firm, store or entity who is licensed by the City and is found in violation of this section may, after a hearing, have any such local license revoked.

(3)

A penalty provided for under this section may be imposed in conjunction with any other charges or penalties that can be imposed for violation of any other criminal or civil offenses committed.

(4)

Violations of this section shall be disposed of in accordance with MGL c. 40, § 21D, and Lowell Code of Ordinances § 1-6. Nothing in this section shall limit or prevent written complaints to the Hearing Officer on this subject as provided in MGL c. 40U