



City of New Bedford

IN COMMITTEE

February 25, 2016

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Ordinances at a Meeting held on Tuesday, February 23, 2016, considered a Written Motion, Councillors Abreu, Lopes, Martins, Winterson and Bousquet, requesting that the Health Director, Dr. Brenda Weis, attend an upcoming Committee on Ordinances meeting to discuss a potential collaborative strategy regarding the City's plan to address the on-going epidemic as it relates to the smoking and consumption of synthetic drugs (including, but not limited to K12, Spice, Potpourri) which are still being sold on store shelves; and further, that Mayor Mitchell engage in dialogue with the City Council in a search of a collaborative effort to help confront this matter. (Ref'd 2/11/16)

On motion by Councillor Abreu and seconded by Councillor Lopes, the Committee VOTED: To recommend that the City Council requests the Board of Health to use their regulatory authority and enact a regulation banning the sale of synthetic drugs in the City of New Bedford, and that they use the current Wareham and Lowell Ordinances for guidelines; and further, that the Board of Health has the leeway to use other Ordinances as they see fit. This motion passed on a voice vote.

IN COMMITTEE ON ORDINANCES


Councillor Steven Martins, Chairman

SM: dmb

Town of Wareham

SECTION 6: Synthetic Drugs

Statement of Purpose

Whereas it has been reported by various agencies that synthetic cannabinoids, synthetic stimulants and synthetic psychedelic/hallucinogens have been linked to serious physical effects resulting in hospitalization and death when ingested, inhaled or otherwise introduced into the human body. These synthetic cannabinoids, synthetic stimulants and synthetic psychedelic/ hallucinogens pose health, safety, and welfare issues for the residents of Wareham.

1. **Authority:** This regulation is promulgated pursuant to the authority granted to the Wareham Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations."
2. **Definitions:** As used in this Section, the following terms shall have the meaning ascribed to them below:
 - A. **Person:** An individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.
 - B. **Synthetic Marijuana:** (i) any substance as defined by 21 U.S.C. §812(d), excluding "marijuana" as such term is defined in Massachusetts General Laws chapter 94C §1, 21 U.S.C. §812(d) notwithstanding; or; (ii) any one or any combination of the following cannabinoids, or, a substance containing any one or combination of the following cannabinoids: JWH-018, JWH-073, CP-47,497, JWH-200, or, cannabicyclohexanol; or, (iii) vegetable material that has been chemically treated and is possessed, sold, or, purchased, with the intent that it will, despite any labeling to the contrary, be consumed by humans, for the purpose of voluntary intoxication, said vegetable material typically having a retail price of over five dollars per ounce and contained within packaging indicating that the content is not for human consumption, which, if consumed, may induce an effect or effects of intoxication similar to a controlled substance or imitation controlled substance, said effect or effects to include elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, dulling of the senses or nervous system, or, distortion of audio, visual or mental processes.
 - C. **Synthetic Marijuana Analogue:** a substance: (i) the chemical structure of which is substantially similar to the chemical structure of synthetic marijuana; (ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of synthetic marijuana; or (iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of synthetic marijuana.
 - D. **Consumed:** introduced into the human body by any manner including but not limited to inhalation and ingestion.

3. Prohibited Activity:

- A. No person shall sell, offer to sell, distribute, gift, or, publicly display for sale, any synthetic marijuana or synthetic marijuana analogue.
- B. This Regulation shall apply regardless of whether the synthetic marijuana or synthetic marijuana analogue is described as tobacco, herbs, incense, spice, bath salts, plant food or any blend thereof, and, regardless of whether the substance is marketed for the purpose of being smoked or ingested, and, regardless of whether the substance is marked "not for human consumption".

4. Penalty for violation: Any violation of this section shall be punishable by a fine of \$150 (one hundred fifty dollars) for a first offense. Any subsequent violation shall be punishable by a fine of \$300 (three hundred dollars) for each offense.

5. This regulation may be enforced by criminal complaint before the District Court, or, bynoncriminal disposition.

6. Severability: If any part of this regulation or the application thereof to any person or circumstances is held by a court of competent jurisdiction to be invalid, the remainder of the ordinance shall remain in effect.

This regulation was approved by the Board at a legally posted and regularly scheduled meeting held October 2, 2013. This regulation shall take effect immediately upon publication of a summary in a newspaper of general circulation in the Town, which date shall be posted on the front page of this regulation.

IN CITY COUNCIL, February 11, 2016

Referred to the Committee on Ordinances.

Dennis W. Farias, City Clerk

a true copy, attest:

Dennis W. Farias
 City Clerk

§ 222-16 Synthetic recreational drugs.

[Added 8-12-2014^[1]]

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 β -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, α -PVP, Butylone, Pentedrone, 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

IN CITY COUNCIL, February 11, 2016

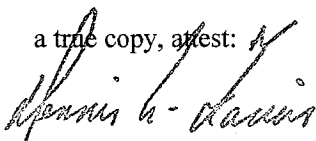
Adopted.

Presented to the Mayor for approval February 16, 2016.

Dennis W. Farias, City Clerk

Dennis W. Farias, City Clerk

a true copy, attest:



City Clerk