

CITY OF FLAT ROCK

WAYNE COUNTY, MICHIGAN

Ordinance No. 420

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF FLAT ROCK BY ADDING A NEW DIVISION 3 TO ARTICLE VI, CHAPTER 58, TO PROHIBIT THE POSSESSION AND USE OF, AND TRAFFICKING IN, SYNTHETIC MARIJUANA AND OTHER PRODUCTS OR MATERIALS THAT ARE IN A FORM THAT ALLOWS FOR HUMAN CONSUMPTION BY INHALATION OF SMOKE OR VAPORS, INGESTION, INJECTION OR APPLICATION, AND THAT CONTAIN CHEMICAL SUBSTANCES, COMPOUNDS, OR AGENTS THAT CAUSE OR MAY CAUSE AN INTOXICATING, NARCOTIC, STIMULANT, DEPRESSANT, AND/OR HALLUCINOGENIC EFFECT AND AN IMMINENT THREAT TO THE SAFETY OF PERSONS THAT CONSUME SUCH PRODUCTS OR MATERIALS AND/OR PERSONS THAT COME IN CONTACT WITH SUCH SUBSTANCES.

THE CITY OF FLAT ROCK ORDAINS:

SECTION I. Chapter 58, Article VI, of the Code of the City of Flat Rock is hereby amended to add a new Division 3, Synthetic Marijuana/Dangerous Products, which shall read as follows:

DIVISION 3. SYNTHETIC MARIJUANA/DANGEROUS PRODUCTS

Sec. 58-180. Findings, intent and purpose.

(a) The city finds that synthetic marijuana, consisting of plant or other material treated with chemicals or other substances that have not been approved for human consumption, is being marketed and sold as herbal incense and is being used in the same manner and for the same purposes as marijuana, with that use having become increasingly popular, particularly among teens and young adults.

(b) The city further finds based on information and reports from poison control centers, hospitals, emergency room doctors, and police agencies, that individuals who use synthetic marijuana experience dangerous side effects including convulsions, tremors, seizures, hallucinations, unconsciousness, anxiety attacks, dangerously elevated heart rates, increased blood pressure, vomiting, and disorientation, evidencing that these herbal incense products are harmful if consumed and present an imminent and significant public health danger to persons consuming such products and other persons coming in contact with them.

(c) The city further finds that, notwithstanding the high potential for abuse, and lack of any accepted medical use, the ability of the state to prohibit all forms of synthetic marijuana as a controlled substance has been frustrated due to the changing nature of the chemicals used in the manufacturing process.

(d) The city further finds that in addition to synthetic marijuana, there may be other products or materials containing chemicals or substances, that while not approved for human consumption, are or may be marketed and sold in a form that allows for such consumption and which, upon consumption, may result in the same serious side effects and public health dangers as synthetic marijuana.

(e) Based on these findings, this ordinance is adopted for the purpose and with the intent to protect the public health and safety of the township and its residents from the threat posed by the availability and use of synthetic marijuana and other dangerous products by prohibiting persons from trafficking in, possessing, and using them in the city.

Sec. 58-181. Definitions and adoption by reference.

As used in this division, the following words and phrases have the meanings indicated.

Act means the controlled substances provisions in Article 7 of the Public Health Code, Public Act No. 368 of 1978, MCL 333.7101 to MCL 333.7545, as amended, which is hereby adopted by reference as a part of this division.

Chemical agent means any chemical or organic compound, substance, or agent that is not made, intended and approved for consumption by humans.

Consumable produce or material means a product or material, that regardless of packaging disclaimers or disclosures that it is not for human consumption or use, is in a form that readily allows for human consumption by inhalation, ingestion, injection, or application, through means including but not limited to smoking, or ingestion by mouth with or without mixing with food or drink.

Controlled substance means a substance included as a controlled substance in schedules 1 through 5 of the Act or a substance temporarily scheduled or rescheduled as a controlled substance as provided in the Act.

Controlled substance analogue has the same meaning as defined in the Act, which is a substance, the chemical structure of which is substantially similar to that of a controlled substance in schedules 1 and 2 of the Act.

Dangerous product means a consumable product or material containing a dangerous substance.

Dangerous substance means: (i) a chemical agent that under section 2451 of the Act, MCL 333.2451, has been determined by the local health officer to be or present an imminent danger to the health or lives of humans when present in a consumable product or material; and, (ii) a chemical agent in a consumable product or material unless that chemical agent is conspicuously identified and described in writing on the packaging of the product, and has not been previously determined by the city or other governmental authority to be or present an imminent danger to the health or lives of humans when present in that type of consumable produce or material.

Synthetic cannabinoid means a chemical compound, substance or agent identified in the Synthetic Cannabinoid Appendix that is part of this division, as amended from time to time by resolution of the city council.

Synthetic marijuana means a consumable product or material that contains a synthetic cannabinoid or other dangerous substance, which on the date this division was added to the Code, included herb and herbal incense products marketed and most commonly known as K-2 and Spice.

Traffic and trafficking means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, sell, or transfer.

Transfer means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

Sec. 58-182. Trafficking prohibitions.

It shall be unlawful for any person to traffic, or knowingly allow trafficking on property owned or controlled by that person, in any of the following:

- (a) A consumable product or material containing a controlled substance or controlled substance analogue.
- (b) A dangerous product.
- (c) Synthetic marijuana.

Sec. 58-183. Possession and use prohibitions.

It shall be unlawful for any person to possess or use, or knowingly allow the possession and use on property owned or controlled by that person, of any of the following:

- (a) A consumable product or material containing a controlled substance or controlled substance analogue.
- (b) A dangerous product.
- (c) Synthetic marijuana.

Sec. 58-184. Probable cause evidentiary presumption.

In recognition that the presence of a controlled substance, controlled substance analogue, synthetic cannabinoid, or dangerous substance in a consumable product material may require laboratory testing that can not be done at the time a violation of this division is believed to have occurred, for purposes of determining the existence of probable cause, it shall be presumed that a consumable product or material contains one or more of those substances if it is being or has been marketed or sold for a price that is substantially higher than the price at which the same quantity of a similar and comparable product or material that is known to not contain such substances can be purchased.

Sec. 58-185. Penalties.

Every person convicted of a violation of this division shall be punished by a fine, cost of prosecution, and/or imprisonment in accordance with Section 1-16 of this Code.

SYNTHETIC CANNABINOID APPENDIX

Synthetic Cannabinoids include all of the following chemical compounds, substances and agents.

“AM Cannabinoids” being synthetic chemical compounds, substances or agents created by Alexandros Makriyannis or his research group and identified as AM-087; AM-251; AM-281; AM-356; AM-374; AM-381; AM-404; AM-411; AM-630; AM-661; AM-678; AM-679; AM-694; AM-855; AM-881; AM-883; AM-905; AM-906; AM-919; AM-926; AM-938; AM-1116; AM-1172; AM-1220; AM-1221; AM-1235; AM-1241; AM-1248; AM-2201; AM-2212; AM-2213; AM-2232; AM-2233; AM-2102; AM-4030; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

“CP Cannabinoids” being synthetic chemical compounds, substances or agents identified as CP-47, 497; (C6)-CP-47, 497; (C7)-CP-47, 497; (C8)-CP-47, 497; (C9)-CP-47, 497; CP-50, 556-1; CP-55, 244; CP-55, 940; CP-945, 598; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

“HU Cannabinoids” being synthetic chemical compounds, substances or agents synthesized at the Hebrew University and identified as HU-210; HU-211; HU-243; HU-308; HU-320; HU-331; HU-336; HU-345; and other substances with a structure and effect that is substantially similar to those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

“JWH Cannabinoids” being synthetic chemical compounds, substances or agents created by John W. Huffman or his research group and identified as JWH-007; JWH-015; JWH-018; JWH-019; JWH-030; JWH-047; JWH-048; JWH-051; JWH-057; JWH-073; JWH-081; JWH-098; JWH-116; JWH-120; JWH-122; JWH-133; JWH-139; JWH-147; JWH-148; JWH-149; JWH-161; JWH-164; JWH-166; JWH-167; JWH-171; JWH-175; JWH-176; JWH-181; JWH-182; JWH-184; JWH-185; JWH-192; JWH-193; JWH-194; JWH-195; JWH-196; JWH-197; JWH-198; JWH-199; JWH-200; JWH-203; JWH-205; JWH-210; JWH-213; JWH-229; JWH-234; JWH-249; JWH-250; JWH-251; JWH-253; JWH-258; JWH-300; JWH-302; JWH-307; JWH-336; JWH-350; JWH-359; JWH-387; JWH-398; JWH-424; and other substances with a structure and effect that is substantially similar to

those listed. The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration and are dispensed in accordance with state and federal law.

SECTION II. If any section, subsection, 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 as a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION III. That all ordinances or parts of ordinances, the Code of the City of Flat Rock, or parts of the Code of the City of Flat Rock, not consistent herewith are hereby repealed.

SECTION IV. This ordinance shall be published in the News Herald newspaper as required by Charter on the 11th day of July, 2012, but in no event shall be effective earlier than ten (10) days after enactment.

Jonathan D. Dropiewski, Mayor

Lorene Butski, City Clerk

I hereby certify that the foregoing is a true copy of the ordinance adopted by the Council of the City of Flat Rock at a meeting thereof on July 2, 2012, the original of which proceedings is on file in my office.

Lorene Butski, City Clerk