

ORDINANCE # 1-2011

AN ORDINANCE PROHIBITING THE SALE AND OFFERING FOR SALE AND POSSESSION IN PUBLIC PLACES OF SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS AND PROVIDING PENALTIES FOR VIOLATIONS

WHEREAS, Substances containing synthetic cannabinoids, which include substances containing one or more of the following chemical compounds:

- (1) 2[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and its C6, C7, C8 and C9 homologues}
- (2) (6aR, 10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c] chromen-1-ol {also known as HU-210}
- (3) Naphthalen-1-yl-(1-pentylindol-3-yl) methanone {also known as 1-Pentyl-3-(1-naphthoyl) indole or JWH-018}
- (4) Naphthalen-1-yl-(1-butylindol-3-yl) methanone {also known as 1-Butyl-3(1-naphthoyl) indole or JWH-073}

("Products") have been marketed, sold, and offered for sale to the residents of the City of Batesville, Indiana, including minors; and

WHEREAS, The Products containing synthetic cannabinoids have not been tested by the U.S. Food and Drug Administration or other governmental agency for human consumption and may contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS, medical studies and treatises note deleterious health risks and adverse effects associated with synthetic cannabinoids and the Products; and

WHEREAS, several States and municipalities throughout the United States have banned the Products and synthetic cannabinoids as a danger to public health and welfare; and

WHEREAS, the smoke emanating from the burning or incineration of the Products may cause adverse effects on bystanders or those in the vicinity of such activity;

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Batesville, , Indiana:

Section 1. It is unlawful for any individual or business to purchase, attempt to purchase, sell publicly, display for sale or attempt to sell, give, or barter any Products containing synthetic cannabinoids ("Products") within the City of Batesville, Indiana which contain one or more of the following chemical compounds:

- (1) 2[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and its C6, C7, C8 and C9 homologues};
- (2) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c] chromen-1-ol {also known as HU-210};
- (3) Naphthalen-1-yl-(1-pentylindol-3-yl) methanone {also known as 1-Pentyl-3-(1-naphthoyl) indole or JWH-018};
- (4) Naphthalen-1-yl-(1-butylindol-3-yl) methanone {also known as 1-Butyl-3(1-naphthoyl) indole or JWH-073}; or
- (5) Any other equivalent compound or derivative.

Section 2. It is unlawful for any individual to possess, burn, incinerate or ignite in any public place or on any property owned, leased or controlled by the City of Batesville, Indiana any Products containing synthetic cannabinoids ("Products").

Section 3. If any of the substances listed in Section (1) herein are found in the possession of any individual or business in violation of this ordinance, they may be confiscated and destroyed by law enforcement officials.

Section 4. This ordinance does not apply to any individual or business who commits any act described in this ordinance pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This ordinance does not apply to the inhalation of anesthesia for medical or dental purposes.

Section 5. Violations of this ordinance for the sale, attempted sale, public display, or barter or substances listed in Section (1) will be subject to a civil fine up to \$2,500.00 for each offense. Violations for purchasing or possessing any substance listed in Section (1) in violation of this ordinance will be subject to a civil fine up to \$1,000.00. Any person or entity found in violation of this ordinance shall be responsible for payment of reasonable costs and attorneys fees associated with the enforcement of this ordinance.

Section 6. The City Attorney shall have the authority to seek and injunction to prevent the selling or offering to sell in violation of this ordinance by any person or business which refuses or fails to comply with this ordinance.

Section 7. This ordinance shall remain in effect until such time as a section of the Indiana Code addressing these or similar substances becomes effective at which time this ordinance shall automatically be revoked. All violations occurring prior to the date of revocation shall be subject to the penalties herein regardless whether legal proceedings related thereto have been filed or concluded prior to the date of revocation.

Section 8. Should any section, paragraph, sentence, clause or any other portion of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Board in adopting this Ordinance.

Section 9. This Ordinance shall be in full force and effect upon adoption and publication.

Passed under suspension of the rules this 10th day of January, 2011.

Ayes: Struewing, Lambert, Hunter, Narwold, Dreyer

Nays: None

WHEREUPON, the Mayor declared such ordinance finally and legally adopted.

Richard C. Fledderman, Mayor

Attest:

Ronald C. Weigel, Clerk-Treasurer