

ORDINANCE 2011-43

AN ORDINANCE ENACTING SECTION 624.16 OF THE CODIFIED ORDINANCES OF THE CITY OF WAPAKONETA TO PROHIBIT THE USE, POSSESSION AND/OR SALE OF CERTAIN SYNTHETIC DRUGS AND DECLARING AN EMERGENCY

FIRST READ	SECOND READ	THIRD READ		SUSPEND ADOPT			
				YES	NO	YES	NO
			J NEUMEIER				
			D LEE				
			B WURST				
			D GRAF				
			W WELLS				
			S WALTER				
			T FINKELMEIER				
			TOTAL				

WHEREAS, the City Council of the City of Wapakoneta feels that it is in the best interests of the City to control and prohibit the possession, sale and use of synthetic cannabinoids and other synthetic drugs; and

WHEREAS, the abuse of synthetic cannabinoids and other synthetic drugs, namely substituted cathinones including by not limited to those containing Methylenedoxpyrovalerone (MDPV), has become an epidemic in the City of Wapakoneta; and

WHEREAS, this Ordinance is adopted to promote the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Wapakoneta, County of Auglaize, State of Ohio, to-wit:

SECTION ONE

THAT Section 624.16 of the Codified Ordinances of Wapakoneta which reads as follows, is hereby enacted:

“624.16 PROHIBITION ON THE USE, POSSESSION, AND SALE OF SYNTHETIC CANNABINOIDS AND OTHER SYNTHETIC DRUGES”

- (a) The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
 - (1) “Synthetic Cannabinoids” means any material, compound, mixture, or preparation containing any detectable quantity of synthetically produced cannabinoids, their salts, isomers and salts of isomer, unless specifically excepted elsewhere in this section. Since nomenclature of these synthetically produced cannabinoids are not internationally standardized and may continually evolve, these structures or compounds of these structures shall be included under this subsection, regardless of their specific numerical designation of atomic positions covered, so long as it can be determined through some form of scientific testing or analysis that the substance contains properties that fit within one or more of the following categories:
 - (A) Tetrahydrocannabinols
Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
 - (B) Naphthoylindoles
Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.
 - (C) Naphthylmethyindoles
Any compound containing a 1 H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-((N-methyl-2-piperidiny)methyl or 2-(4-

morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

(D) Naphthoylpyrroles

Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(E) Naphthylmethylenes

Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent.

(F) Phenylacetylindoles

Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent.

(G) Cyclohexylphenols

Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent.

(H) Benzoylindoles

Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent.

(I) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo{1,2,3-de}-1,4-benzoxazin-6-yl}-1-naphthalenylmethanone Some trade or other names: WIN 55,212-2

(J) Tricyclic Benzopyrans

Any compound, except nabilone or compounds listed under a different schedule, structurally derived from 6,6' dimethyl-benzo(c)chromene by substitution at the 3-position with either alkyl (C3 to C8), methyl cycloalkyl, or adamantyl groups, whether or not the compound is further modified in any of the following ways, that is to say-

1. By partial to complete saturation of the C-ring;
2. By substitution at the 1-position with a hydroxyl or methoxy group;
3. By substitution at the 9-position with a hydroxyl, methyl, or methylhydroxyl group; or,
4. By modification of the possible 3-alkyl group with a 1,1' dimethyl moiety, a 1,1' cyclic moiety, an internal methylene group, an internal acetylene group, or a terminal halide, cyano, azido, or dimethylcarboxamido group.

Some trade and other names HU-210, JWH-051, JWH-139, JWH-161, JWH-229 & JWH-359

These products include, but are not limited to being contained in preparations such as incense, potpourri, plant fertilizers, insect repellent and are marketed with brand names including but not limited to K2, K3, K4, Spice and Spike.

(2) "Substituted Cathinones" means any compound (except bupropion), mixture, or preparation structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is modified in any of the following ways, that is to say—

- a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituent's, whether or not further substituted in the ring system by one or more other univalent substituent's;
- b) By substitution at the 3-position with an acyclic alkyl substituent;
- c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure

These include but are not limited to 3,4-Methylenedipxyprovalerone (MDPV), 4-methylmethcathinone (mephedrone, 4-MMC), 4-fluoromethcathinone (flephedrone), 3, 4-

methylenedioxymethcathinone (methyldone), butylone, and naphyrone. These compounds are often found in a class of novelty products commonly sold as “bath salts” these substances are sold with trade names including but not limited to MDPK, Magic, Super Coke, PV, POSH, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanilla Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove and White Dove.

- (3) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of synthetic cannabinoids or synthetic drugs, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabinoids or synthetic drugs as an incident to lawful research, teaching or chemical analysis and not for sale.
- (4) “Person” means any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (5) “Possession” possession may be either actual or constructive:
 - (A) Actual possession means exercising physical dominion.
 - (B) Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabinoids, synthetic drug or drug paraphernalia.
- (6) “Sale” means delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee.
- (b) It shall be unlawful for any person to knowingly or under circumstances where one reasonably should know, to sell, give, exchange, manufacture, or otherwise distribute to any persons any product containing the substances included in the definition of Synthetic Cannabinoids or Substituted Cathinones.
- (c) It shall be unlawful for any person, too knowingly, or under any circumstances where one reasonably should know, to display for sale or possess with intent to distribute any product containing the substances included in the definition of Synthetic Cannabinoids or Substituted Cathinones.
- (d) It shall be unlawful for any person to use, or to possess with intent to use, ingest, inhale, or otherwise introduce into the human body any product containing the substances included in the definition of Synthetic Cannabinoids or substituted Cathinones.
- (e) Whoever violates this section is guilty of using, possessing, or selling Synthetic Cannabinoids or other synthetic drugs, a misdemeanor of the first degree.

SECTION TWO

THAT this Ordinance is in response to an epidemic which threatens the health, safety, and welfare of the citizens of Wapakoneta.

SECTION THREE

THAT this Ordinance is hereby declared to be an emergency measure, it being for the protection, safety, and welfare of the citizens of Wapakoneta, Ohio, and for the further reason that it is to preserve the public peace of the City of Wapakoneta and its habitants.

Attest:

Clerk of Council

President of Council

Approved:

Mayor

Passed this _____ day of
_____, 2011

Approved as to form:

City Law Director

THIS IS TO CERTIFY THAT THE FOREGOING ORDINANCE/RESOLUTION WAS PUBLISHED IN THE WAPAKONETA DAILY NEWS, A
NEWSPAPER OF GENERAL CIRCULATION IN AUGLAIZE COUNTY, OHIO AND APPEARED IN ITS ISSUES OF _____ AND
_____.

CLERK OF COUNCIL