

Charter Township of Orion

Ordinance No. 142

SYNTHETIC MARIJUANA AND DANGEROUS PRODUCTS EMERGENCY ORDINANCE

Adopted June 18, 2012

AN EMERGENCY ORDINANCE 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 THEY COME IN CONTACT WITH, FOR THE CHARTER TOWNSHIP OF ORION, MICHIGAN; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND PORTIONS THEREOF; AND PROVIDING AN EFFECTIVE DATE.

Article I. Title

This Ordinance shall be known and cited as the Orion Township “Synthetic Marijuana and Dangerous Products Emergency Ordinance” and it shall be deemed sufficient, in any actions for the enforcement thereof, to define the same by such short title, or by reference to the number hereof.

Article II. Purpose and Intent

- A. The Township 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 Township 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 Township 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 Township 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 township.

Article III. Definitions and adoption by reference

As used in this Ordinance, 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 Ordinance.

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

“Consumable product or material” means a product or material, that regardless of packaging disclaimers or disclosures that is not for human consumption or use, is in a form that readily allows for human consumption by inhalation, ingestion, injection,

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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/or, (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 township 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 product or material.

“Synthetic cannabinoid” means a chemical compound, substance or agent identified in the Synthetic Cannabinoid Appendix that is part of this Ordinance, as amended from time to time by Resolution of the Township Board.

“Synthetic marijuana” means a consumable product or material that contains a synthetic cannabinoid or other dangerous substance including 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.

Article IV. Trafficking prohibitions

It shall be unlawful for any person to traffic, or knowingly allow trafficking on property owned or controlled by that person, 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 or cannabinoid.

Article V. Possession and use prohibitions

It shall be unlawful for any person to possess or use, or knowingly allow the possession or use on property owned or controlled by that person, 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 or cannabinoid.

Article VI. 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 or material may require laboratory testing that cannot be done at the time a violation of this Ordinance 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.

Article VII. Penalties

The sanction for a violation of this division shall be as a misdemeanor, punishable by a fine of not more than \$ 500.00 and/or imprisonment for not more than 90 days as provided in Section 1-10(a) of this Code.

Article VIII. 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.

Article IX. Severability

Should any section, subdivision, sentence, clause or phrase of, be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Article X. Emergency

This Ordinance is adopted as an Emergency Ordinance to address the imminent danger and threat to the health and lives of persons in the Township from the availability and use of the substances being prohibited, which the Township Board finds to be necessary to provide for the public health, safety, and welfare.

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Article XI. Effective Date

This Ordinance shall take effect immediately upon publication.

Article XII. Adoption

This Ordinance is hereby declared to have been adopted by the Board of Trustees of the Charter Township of Orion at a meeting thereof duly called and held on the 18th day of June, 2012, and ordered to be given publication in the manner prescribed by the Charter of the Township of Orion.

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