

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

COUNTY OF LEWIS

Local Law No. 2 of the Year 2012

A LOCAL LAW TO BAN THE POSSESSION OR SALE OF CERTAIN CHEMICAL SUBSTANCES OR COMPOUNDS THAT ARE COMMONLY REFERRED TO AS SYNTHETIC COCAINE OR SYNTHETIC MARIJUANA.”

BE IT ENACTED by the Board of Legislators of the County of Lewis as follows:

SECTION 1 TITLE.

This Local Law shall be known as “A LOCAL LAW TO BAN THE POSSESSION, SALE OR USE OF CERTAIN CHEMICAL SUBSTANCES OR COMPOUNDS THAT ARE COMMONLY REFERRED TO AS SYNTHETIC COCAINE OR SYNTHETIC MARIJUANA.”

SECTION 2. LEGISLATIVE FINDINGS.

A. As to synthetic cocaine, sometimes referred to as substituted cathinones:

The Board of Legislators hereby finds and determines that a new type of product has recently become widely available in the United States which is being marketed as “bath salts.”

The Board of Legislators finds and determines that these “bath salts” are actually powdered synthetic cocaine intended for ingestion as a hallucinogen but are marketed specifically to avoid federal regulations.

The Board of Legislators determines that in addition to being marketed as “bath salts”, these chemicals are being marketed as plant food, glass cleaner, insect repellent, and stain remover.

The Board of Legislators finds that these products are readily available throughout storefront retailers, online retailers, and indirectly through other individuals.

The Board of Legislators also finds and determines that these “bath salts” contain certain chemical compounds that are structurally similar to the controlled substance cathinone, and produce effects similar to those caused by cocaine and amphetamines.

The Board of Legislators further finds and determines that substituted cathinones, also commonly referred to as “bath salts” contain one or more of the following synthetic chemicals or a combination thereof:

- i. 3-Methylenedioxy methcathinone, commonly known as Methylone
- ii. 4-Methylenedioxy methcathinone, commonly known as Methylone;
- iii. 3- Methylenedioxy pyrovalerone, commonly known as MDPV
- iv. 4-Methylenedioxy pyrovalerone, commonly known as MDPV;
- v. 4- Methylmethcathinone, commonly known as Mephedrone;
- vi. 3-Methoxymethcathinone;
- vii. 3- Fluoromethcathinone; and
- viii. 4-Fluoromethcathinone.

The Board of Legislators also finds that human consumption of “bath salts” and similar products containing these chemicals can cause hallucinations, psychosis, increased heart rate, chest pain, agitation, anxiety, extreme paranoia, delusions, suicidal thoughts, violent behavior, nausea and vomiting.

The Board of Legislators also determines that the State of Louisiana and Florida, as well as many counties, towns and local municipalities across the United States have banned the sale of these chemicals. Several other states are considering similar action.

The Board of Legislators also finds that a Federal bath salts ban was signed into law in July of 2012.

The Board of Legislators further determines that Lewis County should ban the sale of these chemical and any products containing these chemicals to protect the health, safety and welfare of County Residents.

B. As to synthetic marijuana, sometimes referred to as synthetic cannabinoids:

The Board of Legislators finds and determines that a series of products have become available in the United States and in Lewis County that contain chemicals, called synthetic cannabinoids, that produce effects similar to marijuana when ingested or inhaled.

The Board of Legislators further finds that products containing synthetic cannabinoids are particularly attractive to teenagers and young adults. In addition, the Federal Drug Enforcement

Administration has determined that the consumption of synthetic cannabinoids can have or contribute to adverse health effects such as extreme agitation, anxiety, nausea, vomiting, tachycardia, elevated blood pressure, tremors, seizures, hallucinations, paranoid behavior and loss of consciousness. Studies have also indicated that individuals using synthetic cannabinoids may develop chemical dependencies, demonstrate addictive behavior and suffer withdrawal symptoms when they stop using these chemicals. Due to the imminent threat the use of such synthetic marijuana or synthetic cannabinoids has to public safety, the Federal Drug Enforcement Administration employed its emergency powers in March of 2011 to render five of these substances illegal for sale by designating them as Schedule I controlled substances. This action was for one year, with an extension until August 29, 2012.

Accordingly, the Board of Legislators finds and determines that for the protection of the safety, health, comfort, and general welfare of Lewis County citizens, the protection of their property, the preservation of peace and good order, and suppression of vice, the County must take action to respond to this threat in the absence of any permanent laws or regulations enacted by the State of New York and/or the United States government.

SECTION 3. ENACTMENT AUTHORITY

This Local Law is adopted pursuant to authority provided in section 10 of the Municipal Home Rule Law of the State of New York.

SECTION 4. DEFINITIONS.

1. "Sell" means to sell, exchange, give, or dispose of to another or offer or agree to do the same by electronic means or otherwise.

2. "Synthetic Cannabinoids"

A. Have common street names including, but not limited to, Blaze, Blueberry Haze, Dank, Demon Passion Smoke, Genie, Hawaiian Hybrid, K2, Magma, Ninja, Nitro, Ono Budz, Panama Red Ball, Posh, Puff, Sativah Herbal Smoke, Skunk, Spice, Ultra Chronic and Voodoo Spice.

These products are a mixture of herbal/spice plant products sprayed with potent psychotropic drugs, often contaminated with unidentified toxic substances which contribute to various adverse health effects, as well as causing hallucinogenic effects similar to the effects of PCP, and

B. Means any chemical compound this is chemically synthesized, such as a substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within the following structural classes:

i. 2-(3-hydroxycyclohexyl) phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

- ii. 3-(1-naphthoyl)indole or 3-(1-naphthyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.
- iii. 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.
- iv. 1-(1-naphthylmethyl) indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring.
- v. 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.; and

includes--

- i. 5-(1, 1-dimethylheptyl)-2-[(1R, 3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);
- ii. 5-(1, 1-dimethyloctyl)-2-[(1R, 3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog);
- iii. 1-pentyl-3-(1-naphthoyl) indole (JWH-018 and AM678);
- iv. 1-butyl-3-(1-naphthoyl) indole (JWH-073);
- v. 1-hexyl-3-(1-naphthoyl) indole (JWH-019);
- vi. 1-[2-(4-morpholinyl) ethyl]-3-(1-naphthoyl) indole (JWH-200);
- vii. 1-pentyl-3-(2-methoxyphenylacetyl) indole (JWH-250);
- viii. 1-pentyl-3-[1-(4-methoxynaphthoyl)] indole (JWH-081);
- ix. 1-pentyl-3-(4-methyl-1-naphthoyl) indole (JWH-122);
- x. 1-pentyl-3-(4-chloro-1-naphthoyl) indole (JWH-398);
- xi. 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201);
- xii. 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694);

- xiii. 1-pentyl-3-[(4-methoxy-benzoyl)] indole (SR-19 and RCS-4);
- xiv. 1-cyclohexylethyl-3-(2-methoxyphenylacetyl) indole (SR-18 and RCS-8); and
- xv. 1-pentyl-3-(2-chlorophenylacetyl) indole (JWH-203), or

Is a chemical isomer, salt, or salt of an isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors.

3. "Person" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint-stock association or other entity or business organization of any kind.

4. "Loose Leaf Incense" includes loose potpourri, loose herbal incense, herbal smoking blends, or similarly dried or compacted, leafy substances sold or marketed, directly or indirectly, as a relaxation, smoking, or herbal enhancement product. Herbal dietary supplements or remedies and United States Food and Drug Administration approved herbal teas or products are not included as loose leaf incense under this section.

SECTION 5. PROHIBITIONS.

- A. No person shall sell, offer for sale, deliver, knowingly possess, smoke, inhale, ingest, consume or be under the influence of any product containing any material, compound, mixture, or preparation which contains any quantity of synthetic cannabinoids as that term is defined herein within the County of Lewis.
- B. No person shall sell, offer for sale, deliver, knowingly possess, smoke, inhale, ingest, consume or be under the influence of any product containing any material, compound, mixture, or preparation which contains any quantity of the following chemicals or any combination or re-combination thereof within the County of Lewis:
 - i. 3, 4-Methylenedioxymethcathinone, commonly known as Methylone;
 - ii. 3, 4-Methylenedioxypyrovalerone, commonly known as MDPV;
 - iii. 4-Methylmethcathinone, commonly known as Mephedrone;
 - iv. 3-Methoxymethcathinone;
 - v. 3-Fluoromethcathinone; or
 - vi. 4-Fluoromethcathinone.
- C. No person shall sell or offer for sale loose leaf incense, as that term is defined herein, in the County of Lewis except as follows:
 - i. Every package of loose leaf incense sold shall contain the warning label that reads as follows: "This product is not meant to be inhaled or ingested. The side effects of ingestion or inhalation are unknown."

- ii. All packages of loose leaf incense shall be labeled with each ingredient present in the product, including but not limited to all chemicals and additives contained therein.

SECTION 6. EXCEPTIONS.

The provisions of this law shall not apply to nonprescription over-the-counter drugs approved or regulated by the Federal Food and Drug Administration.

SECTION 7. PENALTIES.

Any person who knowingly violates the provisions of this article shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 and/or up to one year's imprisonment.

SECTION 8. APPLICABILITY.

This law shall apply to all action occurring on or after the effective date of this law.

SECTION 9. REVERSE PREEMPTION.

This law shall be null and void on the date that statewide or federal legislation goes into effect incorporating either the same or substantially similar provision as are contained in this article, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Lewis. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provisions of this section.

SECTION 10. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 11. EFFECTIVE DATE.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this Local Law and strike out that which is not applicable)

1. (Final Adoption by Local Legislative Body Only.)

I hereby certify that the Local Law annexed hereto, designated as Local Law No. 2 of 2012, of the County of Lewis was duly passed by the Lewis County Board of Legislators on August 7, 2012, in accordance with the applicable provisions of law.

~~2. (Passage by Local Legislative Body with Approval, No Disapproval or Repassage After Disapproval by the Elective Chief Executive Officer*).~~

~~I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20____, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, 20____, and was approved, not disapproved, repassed after disapproval, by the _____, and was deemed duly adopted on _____, 20____, in accordance with the applicable provisions of law.~~

~~3. (Final Adoption by Referendum.)~~

~~I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20____, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, 20____, and was approved, not disapproved, repassed after disapproval, by the _____ on _____, 20____. Such Local Law was submitted to the people by reason of a mandatory/permissive referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the general/special/annual election held on _____, 20____, in accordance with the applicable provisions of law.~~

~~4. (Subject to a Permissive Referendum and Final Adoption Because No Valid Petition was Filed Requesting Referendum.)~~

~~I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20____, of the County of Lewis was duly passed by the Lewis County Board of Legislators on _____, 20____. Such Local Law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis, or if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto Local Laws or Ordinances.

5. (City Local Law Concerning Charter Revision Proposed by Petition.)

I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20 __, of the City of _____ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special/general election held on _____, 20 __, became operative.

6. (County Local Law Concerning Adoption of Charter.)

I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 20 __, of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20 __, pursuant to the subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification).

I further certify that I have compared the preceding Local Law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original Local Law, and was finally adopted in the manner indicated in Paragraph 1, above.


TERESA K. CLARK, CLERK
LEWIS COUNTY BOARD OF LEGISLATORS

(Seal)

Dated: August 7, 2012.

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK)
COUNTY OF LEWIS) ss:

I, the undersigned, hereby certify that the foregoing Local Law contains the correct text and that all proper proceedings have been had or taken for the enactment of the Local Law annexed hereto.


RICHARD J. GRAHAM, ESQ.
LEWIS COUNTY ATTORNEY

Dated: August 7, 2012.