

# **REPEALED ON A MOTION ON 10/11/2011**

## **ORDINANCE NUMBER 2011-02**

### **Ordinance of the Borough of Kulpmont regarding the Prohibition of the Sale, Possession, or Delivery of Synthetic Cannabis and other Synthetic Drugs.**

**WHEREAS**, it is the desire of the Borough of Kulpmont to control and minimize the use of synthetic cannabis and other synthetic drugs and

**WHEREAS**, it is desirous for the Borough of Kulpmont to be able to enforce laws with respect to such behavior;

**NOW, BE IT ORDAINED BY THE BOROUGH OF KULPMONT, NORTHUMBERLAND COUNTY, PENNSYLVANIA, THAT THIS LAW SHALL BE IN EFFECT AND WILL BE STRICTLY ENFORCED:**

**WHEREAS**, the U.S. Drug Enforcement Agency has issued an order directing that chemicals JWH-018, JWH-073, JWH-200, CP-47, 497, CP 55, 940, WIN 55, 212-2, HU-210 and Cannabicyclohexanol contained in products marketed as potpourri and increase are classified as Schedule I controlled substance.

**WHEREAS**, the Pennsylvania Poison Control Center reported that products containing Methylenedioxypropylvalerone and marketed as bath salts have been linked to serious physical effects to persons resulting in hospitalization and death.

**WHEREAS**, the above chemicals pose health, safety and welfare issues for the residents of the Borough of Kulpmont, Northumberland County, Pennsylvania.

#### **DEFINITIONS:**

The following terms shall have the following meanings, unless the context clearly indicated that a different meaning is intended:

**SYNTHETIC CANNABIS:** Includes the brand names K2 and Spice. It is a herbal and chemical product which mimics the effects of Cannabis including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073, JWH-200, HU-210, CP-47, 497, CP 55 and 212-2.

Methylenedioxypropylvalerone (MDPV): is a psychoactive drug with stimulant properties which acts as a norepinephrine-dopamine reuptake inhibitor (NDRI). Reportedly, it has been sold since around 2004 as a research chemical. It is also known as MDPK, Magic, Super Coke and PV. In 2010 it was reportedly sold as a legal drug alternative and marketed in the United States as "bath salts" (under such names as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanilla Sky, Bonzai

Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoira, Aura, Red Dove and White Dove.

**DELIVER OR DELIVERY:** Actual, constructive or attempted transfer of possession of synthetic cannabis and synthetic drugs, with or without consideration, whether or not there is an agency relationship.

**KNOWLEDGE:** Knows, acts knowingly or with knowledge:

- A. The nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
- B. The results of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
- C. Knowledge may be inferred from the surrounding circumstances.

**MANUFACTURE:** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis or synthetic drugs, wither directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or synthetic drugs as an incident to lawful research, teaching or chemical analysis and not for sale.

**PERSON:** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

**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 cannabis, synthetic drug or drug paraphernalia.

**PRODUCE OR PRODUCTION:** Planting, cultivating, tending or harvesting.

**SECTION 1:**

It is unlawful for any persons or corporation knowing, or under circumstances where one reasonably should know to sell, lend, rent, lease, give, exchange, or otherwise distribute to any persons or corporation any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Cannabicyclohexanol, CP 55, 490, HU-210 or Methylenedioxypropylone and marketed as, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurrican Charlie, Red Dove and White Dove, Spice, K-

2, Blaze and Red X Dawn, but not limited to incense, potpourri, plant fertilizers, insect repellent or bath salts.

**SECTION 2:**

It is unlawful for any person or corporation, knowing, or under any circumstances where one reasonably should know, to display for sale or possess with intent to distribute any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Canabicyclohexanol, or Methylenedioxypropylone and marketed as, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, Spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts.

**SECTION 3:**

It is 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 following chemicals: JWH-018, JWH-073, JWH-200, CP-47, Canabicyclohexanol, or Methylenedioxypropylone and marketed as, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, Spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts.

**SECTION 4: PENALTIES**

- A. Violation: No person shall possess any substance containing synthetic cannabis or synthetic drugs, or violate any other portion of this ordinance.
- B. Penalty: Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than one hundred dollars (\$100.00) and no more than six hundred dollars (\$600.00) and/or undergo imprisonment for not more than thirty (30) days.
- C. Administrative Fee: In addition, any person who violates any provision of this section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee to the law enforcement agency for testing of the substance(s) collected.
- D. Forfeiture: Any items which may be seized or forfeited pursuant to statutes or guidelines for the Commonwealth of Pennsylvania, may be forfeited in the same manner as described therein for a violation of this section.

**SECTION 5: SEVERABILITY**

If any provision, paragraph, word, section or article is invalidated by any court or competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

**SECTION 6: CONFLICT**

All other Ordinances and parts of other Ordinances inconsistent of conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 7: EFFECTIVE DATE**

This Ordinance shall be in full force and effect on the 12<sup>th</sup> day of April, 2011, after its passage and approval as provided by law.

**ADOPTED THIS 12<sup>th</sup> DAY OF APRIL, 2011**

**ATTEST:**

\_\_\_\_\_  
Bruno Varano

President of Council

\_\_\_\_\_  
Myron Turlis

Mayor

\_\_\_\_\_  
Rhonda Wilk, Secretary