

**CITY OF KAUKAUNA
ORDINANCE 1871-2022**

**ORDINANCE REPEALING AND RECREATING SECTION 9.32 RESTRICTIONS
ON SALE AND POSSESSION OF HEMP-DERIVED CANNABINOIDS AND
SYNTHETIC CANNABINOID PROHIBITED**

WHEREAS, in 2019 the State of Wisconsin amended Wis. Stat. Section 94.55 with respect to the sale and possession of Hemp-derived Cannabinoids (CBD); and

WHEREAS, the Common Council of the City of Kaukauna has determined that herbal preparations powdered or sprayed with a chemical synthetic cannabinoid, that are claimed to produce intoxicating effects similar to THC or marijuana, are available for sale within the City of Kaukauna; and

WHEREAS, while such substances are not yet listed as illegal controlled substances under Wisconsin or federal law, several other countries, states and municipalities have acted to prohibit such substances due to increasing numbers of overdoses and other negative health concerns arising from their use; and

WHEREAS, while these synthetic cannabinoid substances are often marketed as benign and legal alternatives to marijuana, they are potentially dangerous to users as the substances can have a potency up to 100 times greater than marijuana, produce severe adverse health conditions such as hallucinations, paranoia, seizures and vomiting, based on reported emergency room experiences in areas of the country where use is more prevalent and , further, that long term health effects of using these substances are not yet known; and

WHEREAS, it has been determined that the effects of these substances are a health, safety and welfare concern to the citizens of the City of Kaukauna;

NOW THEREFORE, be it ordained by the Common Council of the City of Kaukauna, in the State of Wisconsin, as follows:

SECTION 1: **AMENDMENT** “9.32 Synthetic Cannabinoid Prohibited” of the City of Kaukauna Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

9.32 Synthetic Cannabinoid Prohibited

1. *Possession, use, and sale are illegal.* It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals, whether under the common street or trade names of "Spice," "K2," "Genie," Yucatan Fire," "fake" or "new" marijuana,

or by any other name, label, or description:

- a. *Salvia divinorum* or *salvinorum* A: All parts of the plant presently classified botanically as *salvia divinorum*, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts.
 - b. 1-(2-(4-(morpholinyl) ethyl))-3-(1-naphthoyl) indole: Common or other names: JWH-200.
 - c. 1-Butyl-3-(1-naphthoyl) indole: Common or other names: JWH-073.
 - d. 1-hexyl-3-(1-naphthoyl) indole: Common or other names: JWH-019.
 - e. 1-pentyl-3-(1-naphthoyl) indole: Common or other names: JWH-018.
 - f. 1-pentyl-3-(2-methoxyphenylacetyl) indole: Common or other names: JWH-250.
 - g. 1-pentyl-3-(4-chloro-1-naphthoyl) indole: Common or other names: JWH-398.
 - h. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol): Common or other names: CP 47, 497 and homologues.
 - i. (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone: Common or other names: JWH-015.
 - j. (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c] chromen-1-ol): Common or other names: HU-210.
 - k. Dexanabinol: Common or other names: HU-211.
 - l. Dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c] chromen-1-ol: Common or other names: HU-211.
 - m. Any similar structural analogs to any of the above.
2. *Medical or dental use allowed.* Acts otherwise prohibited under subsection (1) of this section shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.
 3. *Penalties.* Any adult person violating this section shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs.

(Code 2011, § 9.32)

AFTER AMENDMENT

9.32 Restrictions On Sale And Possession Of Hemp-derived Cannabinoids and Synthetic Cannabinoid Prohibited

- ~~1. *Possession, use, and sale are illegal.* It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals, whether under the common street or trade names of "Spice," "K2," "Genie," "Yucatan Fire," "fake" or "new" marijuana, or by any other name, label, or description: *Medical or dental use allowed.* Acts otherwise prohibited under subsection (1) of this section shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other~~

~~medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws. Salvia divinorum or salvinorum A: All parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts. 1-(2-(4-(morpholinyl) ethyl))-3-(1-naphthoyl) indole: Common or other names: JWH-200. 1-Butyl-3-(1-naphthoyl) indole: Common or other names: JWH-073. 1-hexyl-3-(1-naphthoyl) indole: Common or other names: JWH-019. 1-pentyl-3-(1-naphthoyl) indole: Common or other names: JWH-018. 1-pentyl-3-(2-methoxyphenylacetyl) indole: Common or other names: JWH-250. 1-pentyl-3-(4-chloro-1-naphthoyl) indole: Common or other names: JWH-398. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol: Common or other names: CP 47, 497 and homologues. (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone: Common or other names: JWH-015. (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[e] chromen-1-ol: Common or other names: HU-210. Dexanabinol: Common or other names: HU-211. Dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [e] chromen-1-ol: Common or other names: HU-211. Any similar structural analogs to any of the above. *Penalties.* Any adult person violating this section shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs. 1. *Definitions.*~~

a. In this subsection, hemp-derived cannabinoid constitutes one of the many intoxicating compounds found in the Cannabis sativa plant, or any current or future synthetic version thereof, referred to as hemp:

- (1) Any part of the Cannabis sativa L plant, including the seeds thereof; and
- (2) All derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not;
- (3) Containing a delta-9 [THC] concentration of not more than 0.3 percent; but
- (4) Does not include non-intoxicating cannabinoids, including cannabidiol (CBD).

b. In this subsection, synthetic cannabinoid constitutes those human-made or manufactured chemicals that mimic tetrahydrocannabinol (THC) and are referred to by many common street or trade names such as but not limited to: "Spice," "K2," "Genie," Yucatan Fire," "fake" or "new" marijuana:

- (1) Salvia divinorum or salvinorum A: All parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts.
- (2) 1-(2-(4-(morpholinyl) ethyl))-3-(1-naphthoyl) indole: Common or other names: JWH-200.
- (3) 1-Butyl-3-(1-naphthoyl) indole: Common or other names: JWH-073.
- (4) 1-hexyl-3-(1-naphthoyl) indole: Common or other names: JWH-019.

- (5) 1-pentyl-3-(1-naphthoyl) indole: Common or other names: JWH-018.
- (6) 1-pentyl-3-(2-methoxyphenylacetyl) indole: Common or other names: JWH-250.
- (7) 1-pentyl-3-(4-chloro-1-naphthoyl) indole: Common or other names: JWH-398.
- (8) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol): Common or other names: CP 47, 497 and homologues.
- (9) 2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone: Common or other names: JWH-015.
- (10) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)- 6a, 7, 10, 10a-tetrahydrobenzo[c] chromen-1-ol): Common or other names: HU-210.
- (11) Dexanabinol: Common or other names: HU-211.
- (12) Dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c] chromen-1-ol: Common or other names: HU-211.
- (13) Any similar structural analogs to any of the above.

2. Restrictions.

- a. It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the chemicals, whether under the common street or trade names of "Spice," "K2," "Genie," Yucatan Fire," "fake" or "new" marijuana, or by any other name, label, or description, listed under 9.32(1)(b) above.
- b. It shall be illegal for a person under the age of twenty-one (21) to possess or use any amount of any hemp-derived cannabinoid including delta-8 THC, delta-10 THC, HHC, HHC-O, THCA, THC-O, THCP, or THCv except as specifically allowed by Wisconsin law.
- c. It shall be illegal to sell or deliver any hemp-derived cannabinoid product containing delta-8 THC, delta-10 THC, HHC, HHC-O, THCA, THC-O, THCP, or THCv to a person under the age of twenty-one years, except as specifically allowed by Wisconsin law.
- d. It shall be illegal to sell or deliver any hemp-derived cannabinoid product containing delta-8 THC, delta-10 THC, HHC, HHC-O, THCA, THC-O, THCP, or THCv to a person without having first verified their age by having the purchaser present a valid photo identification.
- e. No individual may provide hemp-derived cannabinoid products to any person under the age of 21 unless the individual is the person's parent or guardian or spouse who has attained the age of 21 years.
- f. Hemp-derived cannabinoids shall not be sold within 750 feet of a hospital, church, or youth-serving organization such as, but not limited to: childcare centers, pre-schools, public or parochial schools, tribal schools, playgrounds, city or county parks, sporting arenas, or organizations with specific interest to serve children (Boys & Girls Club, YMCA, Head Start, etc.) The distance shall be measured by the shortest route along a designated roadway or walking path from the main entrance of the youth-serving

business/organization to the premises selling hemp-derived cannabinoid products.

- (1) The prohibition in this section does not apply to businesses selling hemp-derived cannabinoids prior to December 6, 2022.

g. Signs and notices.

- (1) A retailer must post a sign in areas within their premises where any hemp-derived cannabinoid is sold to consumers stating that the sale of any such to any person under the age of twenty-one (21) is unlawful under this section.
- (2) A vending machine operator must attach a notice in a conspicuous place on the front of their vending machines stating that the purchase of any hemp-derived cannabinoid by any person under the age of twenty-one (21) is prohibited.

h. Vending machines.

- (1) A retailer or vending machine operator may not sell hemp-derived cannabinoid from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than twenty-one (21) years of age is present or permitted to enter unless accompanied by his or her parent or guardian.
- (2) A retailer or vending machine operator may not sell hemp-derived cannabinoid from a vending machine unless the vending machine is able to first verify that the purchaser is twenty-one (21) years of age or older.

3. *Medical or dental use allowed.* Acts otherwise prohibited under subsection (1) of this section shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

4. Penalties.

- a. The penalty for any person under the age of 18 in violation of provision 9.32(2) (b) of this ordinance shall be limited to forfeiture of hemp-derived cannabinoid products to law enforcement and may include another reasonable non-monetary penalty.
- b. Except as stated in 9.32 (4) (a), any person who violates any provision of this ordinance shall, upon conviction, be subject to a forfeiture of not less than \$100, nor more than \$500, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than thirty days.
- c. This ordinance will supersede any ordinance in conflict therewith and must take effect upon passage and publication, as required by law.

(Code 2011, § 9.32)

PASSED AND ADOPTED BY THE CITY OF KAUKAUNA COMMON COUNCIL

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Presiding Officer

Attest

Anthony J. Penterman, Mayor, City of
Kaukauna

Sally Kenney, Clerk, City of
Kaukauna