

Bill No. 4718

Ordinance No. _____

Requested by: Steve Ehlmann and Mary Case

Sponsored by: John White

AN ORDINANCE AMENDING SECTION 375.280 OF THE ORDINANCES OF ST. CHARLES COUNTY, MISSOURI (“OSCCMo”) TO PROHIBIT CONSUMPTION AND USE OF KRATOM AND RELATED SUBSTANCES

WHEREAS, Kratom is a substance that affects the same opioid brain receptors as morphine and appears to have properties that expose users to the risks of addiction, abuse, and dependence;

WHEREAS, Kratom that has no FDA-approved uses, is listed by the DEA as a “drug of concern,” and the FDA warns consumers not to use any products labeled as containing the botanical substance kratom or its psychoactive compounds, mitragynine and 7-hydroxymitragynine; and

WHEREAS, Kratom has been linked to a rare strain of salmonella and tied to at least 1,807 calls to poison control centers in the United States, with more than half of those calls being related to serious medical outcomes, including 11 people who died; and

WHEREAS, the St. Charles County Regional Medical Examiner’s Officer has had at least nine deaths with Kratom Intoxication as at least a partial cause of death, including one case in which Kratom Intoxication was the sole cause of death; and

WHEREAS, Article II, Section 2.529 of the Charter of St. Charles County provides that the County Council shall have the power to exercise legislative power pertaining to public health and welfare, Police and traffic, building construction, and planning and zoning, in the part of the County outside incorporated Cities, Towns, and Villages, and on such other subjects as may be authorized by the Constitution or by applicable law; and

WHEREAS, Section 192.300 RSMo. authorizes counties to enact ordinances to enhance the public health in all areas of the county, whether unincorporated or incorporated; and

WHEREAS, the Missouri appellate courts have upheld that power belongs to charter counties as well, in addition to their charter powers; and

WHEREAS, the County Council in this ordinance declares the existence of a public health emergency that constitutes an emergency affecting the immediate preservation of the public peace, health safety and welfare as set out herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 375.280, OSCCMo. is hereby amended as follows (additions in **bold** type and deletions [~~bracketed and stricken~~]):

Section 375.280 Regulation of The Possession, Sale or Offering For Sale Products Containing Synthetic Cannabinoids **or Other Supplements**.

A. Definitions. As used in this Section, the following terms shall have these prescribed meanings:

ILLEGAL SMOKING PRODUCT

Any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one (1) or more of the following chemicals or those chemicals listed in the definition of synthetic cannabinoid or synthetic stimulant:

1. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (also known as CP47,497) and homologues;
2. (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-211 or Dexanabinol);
3. 1-Pentyl-3-(1-naphthoyl)indole (also known as JWH-018); or
4. Butyl-3-(1-naphthoyl)indole (also known as JWH-073).

KRATOM

Any substance, product, material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: 7-Hydroxymitragynine

(7-HMG), Mitragynine, Mitragyna speciose, and Epicatechin.

PERSON

An individual, corporation, partnership, wholesaler, retailer or any license or unlicensed business.

SYNTHETIC CANNABINOID OR SYNTHETIC STIMULANT

Any substance, regardless of whether the substance is marketed for human consumption, which includes any one (1) or more of the following chemicals:

1. Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl) methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkyl ethyl, 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 naphthyl ring to any extent. Including, but not limited to:
 - a. JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole;
 - b. JWH-015, or 1-propyl-2-methyl-3-(1-naphthoyl) indole;
 - c. JWH-018, or 1-pentyl-3-(1-naphthoyl) indole;

- d. JWH-019, or 1-hexyl-3-(1-naphthoyl) indole;
 - e. JWH-073, or 1-butyl-3-(1-naphthoyl) indole;
 - f. JWH-081, or 1-pentyl-3-(4-methoxy-1-naphthoyl) indole;
 - g. JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole;
 - h. JWH-122, or 1-pentyl-3-(4-methyl-1-naphthoyl) indole;
 - i. JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl) indole;
 - j. JWH-200, or 1-(2-(4-(morpholinyl) ethyl))-3-(1-naphthoyl) indole;
 - k. JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl) indole;
 - l. JWH-398, or 1-pentyl-3-(4-chloro-1-naphthoyl)indole;
2. Any compound structurally derived from 3-(1-naphthoyl) pyrrole by substitution at the nitrogen atom of the pyrrole ring by 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;

3. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidiny)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;
4. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with 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, whether or not substituted in the phenyl ring to any extent. Including, but not limited to:
 - a. JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl) indole;
 - b. JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl) indole;
 - c. JWH-250, or 1-pentyl-3-(2-methoxyphenylacetyl) indole;
 - d. JWH-251, or 1-pentyl-3-(2-methylphenylacetyl) indole;
 - e. RCS-8, or 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl) indole;

5. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by 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. Including, but not limited to:
 - a. CP 47, 497 and homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol, where side chain n=5, and homologues where side chain n=4, 6, or 7;
6. Any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by 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. Including, but not limited to:
 - a. AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole;
 - b. RCS-4, or 1-pentyl-3-(4-methoxybenzoyl) indole;
7. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-

- 5,6,6a,7,8,9,10, 10a-octahydrophenanthridin-1-yl] acetate;
8. HU-210, or (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
 9. HU-211, or Dexanabinol, or (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
 10. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;
 11. Dimethylheptylpyran, or DMHP;
 12. Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:
 - a. 3-Fluoromethcathinone;
 - b. 4-Fluoromethcathinone;
 - c. Mephedrone, or 4-Methylmethcathinone;
 - d. 4-Methylethcathinone;
 - e. 4-Methoxymethcathinone;

- f. Methylenedioxypropylvalerone, or MDPV, or (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone;
- g. Methylon, or 3,4-Methylenedioxymethcathinone;
- h. 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP;
- i. 3,4-DMMC, or 3,4-dimethylmethcathinone;
- j. Naphyrone, or naphthylpyrovalerone;
- k. Any analogue or homologue of any of the above materials, compounds or substances.

B. Unlawful To Sell, Offer, Gift Or Display. It shall be unlawful for any person to sell, offer to sell, gift, or publicly display for sale any illegal smoking product, **kratom**, or synthetic cannabinoid or synthetic stimulant.

C. Possession Unlawful. It is unlawful for any person to knowingly possess any illegal smoking product, **kratom**, or synthetic cannabinoid or synthetic stimulant.

D. Injunction. The Police Chief and the Department of [~~Community~~] **Public** Health [~~and Environment~~] shall cooperate to notify any business offering the substances herein set forth for sale of the unlawfulness of such illegal smoking product, **kratom**, or synthetic cannabinoid or synthetic stimulant, and shall report any continued sale to the office of the County Counselor so that the County Counselor may seek any necessary

injunctive relief to remove such product from sale, offer for sale, gift or public display.

E. **Penalty.** Any person violating Subsection (B) or (C) of this Section shall be guilty of a misdemeanor and upon a plea of guilty or a finding of guilt shall be subject to a fine of not more than one thousand dollars (\$1,000.00) or by detention in the jail of the St. Charles County Department of Corrections for a term not to exceed one (1) year, or by both fine and imprisonment. A separate offense shall be deemed committed for each sale, offer to sell, gift, or public display for sale. Any person violating Subsection (B) or (C) a second (2nd) or subsequent time shall be guilty of a misdemeanor offense and upon a plea or guilty or a finding of guilt shall be subject to a sentence of no less than a fine of five hundred dollars (\$500.00).

F. Scope. The provisions of this section shall apply throughout all areas of St. Charles County.

Section 2.

This ordinance is subject to penalty provisions for its violation and therefore, for penal purposes, shall be effective thirty-one (31) days after its posting in six public places, its publication in full on the web site of St. Charles County, and the publication of its title and the location in St. Charles County where it may be viewed in its entirety in a legal publication or a newspaper of general circulation in St. Charles County.

DATE PASSED

DATE APPROVED BY COUNTY EXECUTIVE

CHAIR OF THE COUNCIL

COUNTY EXECUTIVE

ATTEST:

COUNTY REGISTRAR