

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO. 1528

AN ORDINANCE PROHIBITING THE PURCHASE, POSSESSION, SALE, AND OFFERING FOR SALE OF SUBSTANCES CONTAINING SYNTHETIC CANNABINOID, PROVIDING PENALTIES FOR VIOLATIONS WITHIN THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AND ALL MATTERS RELATED THERETO.

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana (hereinafter "Town Council") is a Municipal Corporation within Lake County, Indiana; and

WHEREAS, the Town Council is aware that Indiana Code 36-1-3, *et seq.*, the Home Rule Statute, authorizes the Town of St. John, Lake County, Indiana, as a Municipality, to adopt Ordinances for the purposes of protecting health, safety, and welfare of its residents, and to preserve the peace, order, and safety of the community; and

WHEREAS, the Town Council has been made aware that substances containing synthetic cannabinoid that include substances containing one (1) or more of the following chemical compounds:

- (1) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;
- (2) 1-Pentyl-3-(1-naphthoyl) indole; also known as JWH-018;
- (3) 1-Butyl-3-(1-naphthoyl) indole, also known as JWH-073;
- (4) All parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or its extracts;
- (5) TFMPP, a substance also known as 1-#[trifluoromethylphenyl] piperazine; or
- (6) Cannabicyclohexanol, a substance also know as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl) phenol; and
- (7) any other relevant compound or derivative.

(hereinafter "Products") exist to be marketed, sold, and offered for sale to Town of St. John residents, including minors; and

WHEREAS, the Products have not been presently tested by the Food and Drug Administration (hereinafter "FDA") (United States Department of Agriculture), or any other governmental agency, for human consumption, although such testing may occur and be completed shortly by the FDA, and may contain or be determined to contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS, after review and consideration of the most current information concerning the above-mentioned synthetic cannabinoid issued by the Food and Drug Administration (United States Department of Agriculture), the Town Council concurs and agrees that said Ordinance is adopted strictly for the purposes of the protecting health, safety, and welfare of its residents, and to preserve the peace, order, and safety of the Town to the extent it can be enforced; and

WHEREAS, the Town Council has been informed and advised that medical studies and treatises note deleterious health risks and adverse effects associated with synthetic cannabinoids and the Products; and

WHEREAS, several states and municipalities throughout the State of Indiana and the United States have banned the Products and synthetic cannabinoids as a danger to the public health, safety, and welfare; and

WHEREAS, the Town Council has been further informed and advised that the smoke emanating from the burning or incinerating of the Products may cause adverse effects on bystanders or those in the vicinity of such activity; and

WHEREAS, the Town Council, having reviewed all available and current information, research, and testing regarding the regulations of the Products and synthetic cannabinoids, now concurs and agrees that the adoption of an Ordinance prohibiting the purchase, possession, sale, and offering for sale of such Products is advisable, necessary, and in the best interests of the residents of the Town of St. John.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, as follows:

SECTION ONE: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, it is unlawful for any person to purchase, possess, sell, and offer for sale within the Town of St. John, Lake County, Indiana, products containing synthetic cannabinoids or similar products which contain one or more of the following chemical compounds:

(a) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;

(b) 1-Pentyl-3-(1-naphthoyl) indole; also known as JWH-018;

(c) 1-Butyl-3-(1-naphthoyl) indole, also known as JWH-073;

(d) All parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or its extracts;

(e) TFMPP, a substance also known as 1-#[trifluoromethylphenyl] piperazine; or

(f) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl) phenol; and

(g) any other relevant compound or derivative.

(hereinafter "Products").

SECTION TWO: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, it is unlawful for any person to burn, incinerate, or ignite in any public place, or on any property owned, leased, or controlled by the Town of St. John, Lake County, Indiana, the Products or any other product containing synthetic cannabinoids.

SECTION THREE: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, it is unlawful for any person, entity or retail/business establishment to sell, publicly display for sale, or attempt to sell, give, or barter the Products or any other synthetic cannabinoids or synthetic equivalents of substances contained in the plant described as "Cannabis" or in the resinous extractives of "Cannabis" or synthetic substances, derivatives, or their isomers with similar chemical structure and pharmacological activity or any substance which claims such properties even if in actuality they do not. Because the nomenclature of these substances and Products are not internationally standardized, compounds of these structures, regardless of the numerical designation of atomic position, are similarly prohibited.

SECTION FOUR: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, persons violating the provisions of this Ordinance shall be subject to a fine of not less than \$250.00 and not more than \$7,500.00 plus court costs and attorney fees, to the extent permitted by applicable law, associated with the enforcement of this Ordinance. Each day of the existence of any violation of this Ordinance shall be considered a separate offense.

SECTION FIVE: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, entities, including businesses and retail establishments, violating the provisions of this Ordinance shall be subject to a fine of not less than \$750.00 and not more than \$7,500.00, plus court costs and attorney fees, to the extent permitted by applicable law, associated with the enforcement of this Ordinance. Each day of the existence of any violation of this Ordinance shall be considered a separate offense. A second conviction under this Ordinance shall result in the business license being revoked, in addition to the above-mentioned civil fees.

SECTION SIX: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, if any of the aforementioned substances or Products is found in the possession of any person or entity, such may be confiscated and destroyed by any law enforcement official as provided by law, and any aforementioned substances or Products reasonably suspected to be described herein may be photographed as evidence pending adjudication of the alleged violation.

SECTION SEVEN: That it is not an offense if an individual or business was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this Ordinance prohibiting the aforementioned substance.

SECTION EIGHT: That to the extent there is no lawful preemption of authority or jurisdiction of the Town of St. John on these matters and products, this Ordinance does not apply to any individual or business who commits any act described in this Ordinance pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This Ordinance likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

SECTION NINE: That the Town Attorney shall have the authority to seek an injunction and all appropriate equitable relief to prevent the selling or offering to sell the products prohibited herein in violation of this Ordinance by any business which refuses or fails to comply with this Ordinance.

SECTION TEN: That after review and consideration of the most current information concerning the above-mentioned synthetic cannabinoid and Products, as defined herein, or similar in nature and type, issued by the FDA (United States Department of Agriculture), the Town Council concurs and agrees that said Ordinance is adopted strictly for the purposes of protecting health, safety, and welfare of its residents, and to preserve the peace, order, and safety of the community to the extent it can be enforced.

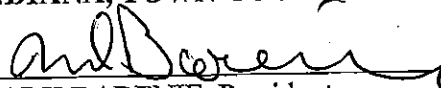
SECTION ELEVEN: That all existing Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.

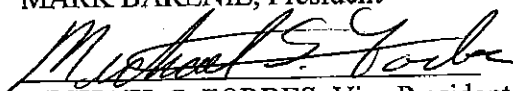
SECTION TWELVE: That if any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance.

SECTION THIRTEEN: That this Ordinance shall take effect, and be in full force and effect, from and after its passage and adoption by the Town Council of the Town of St. John, and publication in conformance with applicable law.


ALL OF WHICH IS PASSED AND ADOPTED THIS 16th DAY OF December, 2010, BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA.

TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, TOWN COUNCIL


MARK BARENIE, President

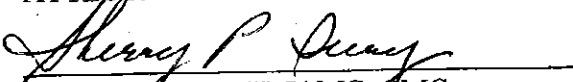

MICHAEL S. FORBES, Vice President

MICHAEL S. FRYZEL, Member


GREGORY D. VOLK, Member


KENNETH D. GEMBALA, Member

ATTEST:


SHERRY P. SURY, IAMC, CMC,
Clerk-Treasurer