

Introduced by: Mayor Johnson
 Date: April 8, 2014
 Public Hearing: April 22, 2014
 Action: Adopted
 Vote: Unanimous

Yes:	No:
Best Erbey Carrington Combs Hanson Johnson	

CITY OF PALMER, ALASKA

Ordinance No. 14-013

An Ordinance of the Palmer City Council Enacting Palmer Municipal Code Chapter 9.95 Sales of Synthetic Drugs Illegal

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Chapter 9.95 is hereby enacted to read as follows:

**CHAPTER 9.95
SALES OF SYNTHETIC DRUGS ILLEGAL**

9.95.010 Purpose.

The purpose of this chapter is to regulate the availability of products which are outlined in Alaska Law as illegal under Alaska Statute 11.71 or enhanced with synthetic chemicals, which chemicals mimic the effects of controlled substances on users, because these products are a danger to the public health, safety and welfare.

9.95.020 Definitions.

For purposes of this chapter, the terms, phrases, words and their derivatives contained in this chapter shall have the meanings given herein unless the context clearly indicates or requires a different one meaning.

9.95.030 Bath salts, synthetic cathinones, synthetic stimulants, n-bomb and 251-NBOMe - definition.

A. "Bath salts, synthetic cathinones, synthetic stimulants, n-bomb, 251-NBOMe" is any crystalline, liquid or powder product in crystalline, loose powder, block, tablet, tabs, paper, blotter paper or capsule form, or any stimulant-type product, when the label is in any way false or misleading, or which does not contain a label specifying:

1. the identity of the commodity; and
 2. the name and place of business of the manufacturer, packer, or distributor.
- B. Street names for these products include, but are not limited to: Bliss, Blue Silk, Cloud Nine, Drone, Energy-1, Ivory Wave, Lunar Wave, Meow Meow, Ocean Burst, Pure Ivory, Ivory Soft, Purple Wave, Red Dove, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Knight, White Lightning, White Rush, White China, Blizzard, Bonzai Grow, Charge Plus, Charlie, Euphoria, Hurricane, Lunar Wave, Ocean, Pixie Dust, Posh, Scarface, Lovely Dovey, Aura, MDPV, MDPK, MTV, Maddie, Hurricane Charlie, Black Rob, Super Coke, PV, Peeve, Meph, Drone, MCAT, Funky Green Stuff, Reggie's Blend, Hammer Head, Scooby Snax, XXX, Baby Halo, Zombie Matter, El Diablo, Supernova Halo, Dead Man, Smokin' Dragon, Rippler, Twilight Zone, Bloody Mary, Head Stash, Eight Ballz, Bloody Eyes, Mad Hatter, Grape Ape, Smiles, Mr. Happy, Crippler, Diablo, Dragon Blow, Lightning, Caution, Eclipse, Lunar Eclipse, Serenity, Serenity Now, Superman, Synergy, Arctic Synergy, Flight 300, Cotton Cloud, Kush, Kush Blitz, Amp, Space, Dynamite, Sippin Syrup and Dark Night.
- C. This definition shall include any product to which any synthetic chemical or synthetic chemical compound has been added which has no legitimate relation to the advertised use of the product, whether or not the label meets the requirements herein.

9.95.040 Drug - definition.

"Drug" is an article that is intended to affect the function of the body of humans.

9.95.050 Drug paraphernalia – definition.

- A. "Drug paraphernalia" means any item whose objective characteristics or objective manufacturer's design indicates that it is intended for use in the consumption, ingestion, injection, or other method of introduction of a controlled substance into the human body or to facilitate a violation of AS 11.71.
- B. Drug paraphernalia includes but is not limited to:
1. Scales and balances used or intended for use in weighing or measuring controlled substances.
 2. Balloons, envelopes, plastic baggies (Ziploc), and other containers intended for the use in packaging small quantities of controlled substances.
 3. Hypodermic syringes and needles used to inject controlled substances into the human body.
 4. Objects used to ingest, smoke, inhale or introduce controlled substances into the human body, including but not limited to:
 - a. Metal, wooden, ivory, glass, stone, plastic, ceramic, aluminum pipes with or without screens.
 - b. Water pipes/Bongs.
 - c. Roach clips: meaning objects used to hold a marijuana cigarette that has become too short to hold in the hand.
 - d. Crack/Methamphetamine pipes.
 - e. Miniature cocaine spoons or cocaine vials.
 5. Any other item where the police officers training and experience reasonably indicates the intent of the item is to facilitate a violation of AS 11.71.

9.95.060 Illicit synthetic drugs - definition.

"Illicit synthetic drugs" are spice, synthetic cannabinoids, synthetic marijuana, bath salts, synthetic cathinones, n-bombs, 251-NBOMe, synthetic stimulants, and misbranded drugs, as defined in this chapter.

9.95.070 Misbranded drug - definition.

"Misbranded drug" is any drug for which:

- A. the label is in any way false or misleading;
- B. the label does not bear the name and place of business of the manufacturer, repackager, or distributor of the finished form of the drug; the label does not bear adequate directions for customary use; or the label does not bear adequate warnings against customary use.

9.95.080 Spice, synthetic cannabinoids, synthetic marijuana - definition.

"Spice, synthetic cannabinoids, synthetic marijuana" is any aromatic plant material in granular, loose leaf or powder form, or in liquid or as a food additive, or any herbal-incense-type stimulant or hallucinogen product, when:

- A. the label is in any way false or misleading, or which does not contain a label specifying:
 1. the identity of the commodity; and
 2. the name and place of business of the manufacturer, packer, or distributor.
- B. Street names for these products include, but are not limited to: Bliss, Black Mamba, Bombay Blue, Fake Weed, Genie, Spice, Zohai, K2, K3, Smoke, Pot-Pourri, Buzz, Spice 99, Voodoo, Pulse, Hush, Mystery, Earthquake, Stinger, Ocean Blue, Serenity, Chronic Spice, Spice Gold, Spice Silver, Skunk, Mr. Nice Guy, Mr. Happy, K3 Legal, Sence, Smoke, Chill X, Earth Impact, Galaxy Gold, Space Truckin, Solar Flare, Moon Rocks, Aroma, Scope, Sky High, Atomic, G-20, Guerrilla Warfare, Makes Scents, g-13, Tiger Shark, California Dreams, Dank, Bullet, Mind Trip, Voodoo Child, Jazz, Nightlights, Matrix, Hypnotiq, AK47, Maui Wowie, Cloud 9, Daylights, Joker, Dead Man Walking, Brain Storm, Soul Sence, Kush, Kush Mania, Dragons Fire, Lucid, Mad Hatter, Scooby Snax, D-ZL, OMG, Demon, Barely In, Pineapple Express, Hayze, King Kong, Black Out, Pure Evil, Blue Jay, Honeymoon, Cherry, El Diablo, Scorpion King, Funky Monkey 20X, Funky Green Stuff, Reggie's Blend, Hammer Head, XXX, Baby Halo, Zombie Matter, El Diablo, Supernova Halo, Dead Man, Smokin' Dragon, Rippler, Twilight Zone, Bloody Mary, Head Stash, Eight Ballz, Bloody Eyes, Grape Ape, Crippler, Dr. Feel Good, Mr. Miyagi, Time Out, Warpaint, K6, Black Diamond, Fuego, Green Monster, Matrix, Voodoo, Mojo Extreme, Kush, Cloud 13, Storm, Good Times, The Bomb, Voodoo Spice, Puff, Ninja, The Hampster, Working Joe, Head Trip, Skyscraper, Froge.
- C. This definition shall include any plant material to which any synthetic chemical or synthetic chemical compound has been added which has no legitimate relation to the advertised use of the product, whether or not the label meets the requirements herein.

9.95.090 Synthetic chemical or synthetic chemical compound - definition.

"Synthetic chemical or synthetic chemical compound" is any chemical or chemical compound whose molecular makeup is similar to illicit synthetic drugs, those substances listed as controlled substances in AS 11.71.160(1 f)(7)-(16), (including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of such substances), or to those substances listed in or pursuant to 21 U.S.C. 812(c), 21 U.S.C. 811(h), and 21 U.S.C. 802(32), or those substances listed temporarily subject to emergency scheduling in 21 C.F.R. § 1308.11(h), and whose intended use, when introduced into the human body, is to mimic or simulate the effects of a controlled substance.

9.95.100 Prohibition of illicit synthetic drugs.

- A. It is unlawful for any person to possess, use, provide, sell, produce, manufacture, or distribute, or to offer, display, market, or advertise for sale, any illicit synthetic drug.
- B. In determining whether a product is prohibited by this chapter:
 - 1. Statements on package labeling such as "not for human consumption" may be disregarded when other relevant factors (viewed alone or in totality) indicate that the product is intended to be consumed or ingested by humans or is a product regulated by this chapter.
- C. Other relevant factors that may be used to determine whether a product or sale is prohibited by this chapter include, but are not limited to:
 - 1. Verbal or written representations at the point of sale or seizure regarding the purpose, methods, use, or effect of the product;
 - 2. Aspects of the packaging or labeling suggesting that the user will achieve a "high," euphoria, relaxation, mood enhancement, or that the product has other effects on the body;
 - 3. The cost of the product is disproportionately higher than other products marketed for the same use;
 - 4. The product contains a warning label stating or suggesting that the product is in compliance with state or federal laws regulating controlled substances;
 - 5. The product's name or packaging uses images or slang referencing an illicit street drug;
 - 6. Illicit or underground methods of sale or delivery are employed by the seller or provider; or
 - 7. The product resembles an illicit street drug such as cocaine, methamphetamine, LSD, or marijuana.

9.95.110 Defense.

- A. It shall be a defense to the prosecution of a violation of this chapter that a product is specifically excepted by, or regulated within and in compliance with, state or federal law.
- B. For the purposes of this chapter, it shall not be a defense that a product is not subject to regulation unless the product is specifically exempt from regulation; mere "non-regulation" by these acts without a specific regulatory exemption does not render a product exempt under this chapter.

9.95.120 Sale of certain products for human consumption prohibited.

It is unlawful for any person to provide, sell, or offer for sale a product for human consumption when the product is labeled "not for human consumption" or contains similar warnings.

9.95.130 Violation, penalties, seizure.

- A. Each product, package, tube, vial or container possessed, used, provided, sold, produced, manufactured, distributed, or offered, displayed, marketed, or advertised for sale shall be a separate minor offense. The fine for each minor offense shall be outlined in the City of Palmer Fee Schedule.
- B. Any products found in violation of this chapter may be seized. Items held as evidence to be used in any future proceeding may be disposed of as appropriate after their use for evidentiary purposes is no longer required.

9.95.140 Possession of drug paraphernalia.

- A. It is unlawful for a person to intentionally or knowingly possess drug paraphernalia in public regardless of whether the item of paraphernalia is publicly displayed.
- B. It is unlawful for a person to possess any amount of a Schedule VI drug (as listed under AS 11.71.190). Controlled Substance means a substance listed as controlled on Schedule IA, IIA, IIIA, IVA, VA, VIA in AS 11.71 or in AS 11.71.140-11.71.190.

9.95.150 Sale of drug paraphernalia.

It is unlawful for a person to:

- A. Knowingly sell, give, barter, trade drug paraphernalia except as specifically authorized and permitted to under provisions of AS 17 and by such rules and regulations as are adopted thereto.
- B. Knowingly possess with intent to sell drug paraphernalia except as specifically authorized and permitted to under provisions of AS 17 and by such rules and regulations as are adopted thereto.

9.95.160 Drinking while driving and ingestion of illegal substances.

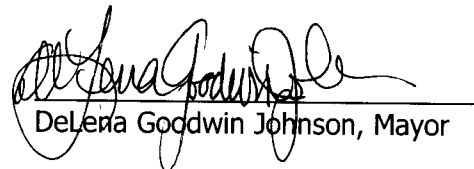
- A. A person may not drink an intoxicating beverage while driving a vehicle.
- B. A person may not smoke or otherwise ingest any illegal substance while operating a motor vehicle.

9.95.170 Unlawful use of an inhalant.

A person may not inhale any substance to become high or intoxicated.

Section 4. Effective Date. Ordinance No. 14-013 shall take effect upon adoption of the City of Palmer City Council.

Passed and approved this twenty-second day of April, 2014.


DeLena Godwin Johnson, Mayor


Janette M. Bower, MMC, City Clerk