

Code Ordinance

By: Mayor, Police Chief, and
Council Members Harris, O'Barr and Sullivan-Leonard

Introduced: March 24, 2014

Amended: April 14, 2014

Public Hearing: April 14, 2014

Adopted: April 14, 2014

Vote: Buswell, Harris, O'Barr, Sullivan-Leonard and Wilson in favor
Wall opposed

**City Of Wasilla
Ordinance Serial No. 14-17 (AM)**

**An ordinance of the Wasilla City Council adopting Wasilla Municipal Code, Chapter 9.28
Illicit Synthetic Drugs, prohibiting drugs such as "Spice" and "Bath Salts" and providing
for a minor offense penalty.**

WHEREAS, chemical mixtures are being marketed and sold in the City of Wasilla which are not necessarily controlled by federal or state law but which are designed and marketed to mimic the effects of controlled substances, as detailed in this ordinance; and

WHEREAS, the Mat-Su Health Foundation's 2013 Mat-Su Community Health Needs Assessment identified alcohol and substance abuse as a top health issue in the valley and found synthetic drugs are being marketed and sold and pose an immediate threat to the public safety due to its addictive nature; and

WHEREAS, Wasilla Police Chief has also advised that the Wasilla Police Department is concerned that the proliferation and availability of these substances presents a threat to public safety, and police officers' attempts to address the provision and marketing of these products through application of current state and municipal laws is inefficient and usually ineffective. The Wasilla Police Department has verified the availability of a significant number of these products in the City. Wasilla Police Department supports the adoption of an ordinance that would allow its officers to identify prohibited products through examination of the packaging and/or statements made at the point of sale or seizure; and

WHEREAS, because the illicit synthetic drugs are an immediate and ever-present threat to the public safety and to the health of young people in particular, and are causing psychological and physical affects to users; and

WHEREAS, the street names for these products include, but are not limited to: N-BOMB, 251-NBOMe, Bliss, Blue Silk, Cloud Nine, Drone, Energy-1, Ivory Wave, Lunar Wave, Meow Meow, Ocean Burst, Pure Ivory, Ivory Soft, Purple Wave, Red 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, 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, 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 Legapl, Sense, 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, 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, Cloud 13, Storm, Good Times, The Bomb, Voodoo Spice, Puff, Ninja, The Hampster, Working Joe, Head Trip, Skyscraper, and Froge.

Section 1. Classification. This ordinance is of a general and permanent nature and shall become part of the city code.

Section 2. Adoption of chapter. WMC 09.28, Illicit Synthetic Drugs, is hereby adopted to read as follows:

CHAPTER 9.28 ILLICIT SYNTHETIC DRUGS

9.28.010 Definitions.

When used in this chapter, the following words and phrases shall have the meanings set forth in this section:

ILLICIT SYNTHETIC DRUGS. Includes spice, synthetic cannabinoids, synthetic marijuana, synthetic chemical, bath salts, synthetic cathinones, synthetic stimulants, and misbranded drugs as defined with more specificity below:

- (1) *Spice, Synthetic Cannabinoids, Synthetic Marijuana.* 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 and 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 except to enhance or create a "high," euphoria, relaxation, mood enhancement.

(2) *Synthetic Chemical*. Any chemical or chemical compound whose molecular makeup is similar to those substances listed as controlled substances in AS 11.71.160(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.

(3) *Bath Salts, Synthetic Cathinones, Synthetic Stimulants*. Any crystalline, liquid or powder product in crystalline, loose powder, block, tablet, tabs, paper, blotter paper or capsule form, or any stimulant-type.

(4) *Misbranded Drug*. Any drug for which label is in any way false or misleading:

(a) The label does not bear the name and place of business of the manufacturer and repackager, or distributor of the finished form of the drug;

(b) The label does not bear adequate directions for customary use; or

(c) The label does not bear adequate warnings against customary use.

Illicit Synthetic Drugs as defined in this chapter are not controlled substances as defined in Alaska Statute Title 11.

9.28.020 Purpose.

The purpose of this chapter is to regulate the availability of products which are 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.

9.28.030 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, 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) Some of the 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 once ingested or consumed;

(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 or compares the effects of the product to any 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.

9.28.040 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.

9.28.050 Defense.

It shall be a defense to the prosecution of a violation of this chapter that a product is specifically accepted by, or regulated within and in compliance with, state or federal law. 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.

9.28.060 Violations, penalties and seizure.

A) Remedies and penalties for violations of this chapter are as provided in Chapter 1.20

B) Each product, package, tube, vial or container possessed, used, provided, sold, produced, manufacturer, distributed, or offered, displayed, marketed, or advertised for sale shall be a separate minor offense.

C) Any products found in violation of this chapter may be seized and held as evidence to be used in any future proceeding and may be disposed of as appropriate after their use for evidentiary purposes is no longer required, including in accordance with Chapter 5.40.

Section 3. Amendment of subsection. WMC 1.20.030(C) Disposition of scheduled offenses – Fine schedule, in the General Penalty section, is hereby amended to add the following fine to the schedule, as follows:

CODE SECTION	DESCRIPTION OF OFFENSE	FINE
<u>WMC 9.28.030</u>	<u>Prohibition of illicit synthetic drugs</u>	<u>\$500</u>
<u>WMC 9.28.040</u>	<u>Sale of certain products for human consumption prohibited</u>	<u>\$500</u>

Section 4. Effective date. This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on April 14, 2014.


VERNE E. RUPRIGHT, Mayor

ATTEST:



KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

CITY OF
WASILLA
 • ALASKA •

CITY COUNCIL LEGISLATION STAFF REPORT

Ordinance Serial No. 14-17: Adopting Wasilla Municipal Code, Chapter 9.28 Illicit Synthetic Drugs, prohibiting drugs such as “Spice” and “Bath Salts” and providing for a minor offense penalty.

Ordinance Sponsors: Council Member Leone Harris *Leone Harris*
 Council Member Gretchen O’Barr *Gretchen O’Barr*
 Council Member Colleen Sullivan-Leonard *Colleen Sullivan-Leonard*
 Mayor Verne Rupright *Verne Rupright*
 Police Chief Gene Belden

Date: March 3, 2014

Agenda of: March 24, 2014

Route to:	Department Head	Signature	Date
X	Chief of Police	<i>Gene Belden</i>	<i>3-5-14</i>
X	Finance Director	<i>[Signature]</i>	<i>3-3-14</i>
X	Deputy Administrator	<i>[Signature]</i>	<i>3/3/14</i>
X	City Attorney	<i>[Signature]</i>	<i>3/5/14</i>
X	City Clerk	<i>[Signature]</i>	<i>3/6/14</i>

Reviewed by Mayor Verne E. Rupright: *[Signature]*

Fiscal Impact: yes or no

Funds Available: yes or no

Attachments: Ordinance Serial No. 14-17 (5 pages)

Summary Statement:

Due to the public outcry and the impact illicit synthetic drugs have on our community, the proposed ordinance is requested to be adopted by the Wasilla City Council.

Illicit synthetic drugs are designed to mimic the effects of controlled substances. The proliferation and availability of these substances presents a threat to public safety, and police officers’ attempts to address the provision and marketing of these products through the application of current state and municipal laws is inefficient and usually ineffective.

Staff Recommendation: Introduce and set for public hearing Ordinance Serial No. 14-17.