

AN ORDINANCE ADOPTING A NEW SECTION 32-106 OF THE NEWTON COUNTY CODE PROHIBITING THE SALE, MANUFACTURE, USE, DELIVERY, PURCHASE, POSSESSION OR DISTRIBUTION OF UNREGULATED MARIJUANA SUBSTITUTES

THE BOARD OF COMMISSIONERS OF NEWTON COUNTY HEREBY ORDAINS THAT:

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions and regulations; and

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph III thereof, that the governing authority of the County has jurisdiction over public health services; and


WHEREAS, the Board of Commissioners finds it is in the best interest of Newton County to prohibit the sale, manufacture, use, delivery, purchase, possession and distribution of unregulated marijuana substitutes within the unincorporated County in order to protect the health, safety, and welfare of the County and its residents;

NOW, THEREFORE:

1. Division II of the Code of Newton County, Georgia, as amended, is hereby amended by adopting as a new Section 32-106 the text contained in Exhibit "A," attached hereto and incorporated herein by reference.
2. All other conflicting ordinances and resolutions are hereby repealed.
3. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

Adopted and approved by the Board of Commissioners this 1st day of May 2018.

NEWTON COUNTY BOARD OF COMMISSIONERS


Marcello Banes, Chairman


Jackie Smith, County Clerk



Sec. 32-106. - Prohibition on the sale, manufacture, use, delivery, purchase, possession or distribution of unregulated marijuana substitutes.

(a) Definitions. The following words as used in this section shall have the prescribed meaning:

(1) “*Unregulated marijuana substitutes*” shall mean and refer to any compounds or substances, whether described as tobacco herbs, incense spice, aromatherapy incense, bath salts, potpourri, herbal smoking blends, plant food, aromatic substance that may cause a sense of euphoria, novelty aromatic, or any blend thereof, regardless of whether the compound or substance is marketed for the purpose of being smoked, injected, inhaled or ingested by humans or for human consumption, that:

a. Is not currently or hereinafter regulated as a Schedule I controlled substance under Georgia law (including the following Georgia law: O.C.G.A. § 16-13-25, any amendments to O.C.G.A. § 16-13-25 including the 2012 Act of the Georgia General Assembly known as “Chase’s Law”, and the emergency rule of the Georgia State Board of Pharmacy enacted on June 12, 2012 declaring five specific additional compounds as “synthetic cannabinoids” that are Schedule I controlled substances under Georgia law);

b. Is privately compounded, with the specific intent to circumvent the criminal penalties for synthetic cannabinoids under Georgia law; and

c. Emulate, simulate or mimic the effects of marijuana or synthetic cannabinoids through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent.

(2) “*Synthetic cannabinoids*” shall mean and refer to those certain compounds or substances (also commonly known or referred to in general as “Spice” or “K2”) that mimic, emulate or simulate the effects of marijuana or the active ingredient in marijuana (Tetrahydrocannabinol (“THC”)) that are specifically listed and identified as Schedule I controlled substances under O.C.G.A. §§ 16-13-25(3) and 16-13-25(12), any amendments thereto, or any other Code Section of the Official Code of Georgia.

(3) “*Substituent*” shall mean an atom or group that replaces another atom or group in a molecule.

(4) “*Radical*” shall mean and refer to a group of atoms that enters into and goes out of chemical combination without change and that forms one of the fundamental constituents of a molecule.

(5) “*Person*” shall mean and refer to any individual, natural person, partnership, firm, corporation, joint venture, proprietorship, business entity, association, agency, group, organization or group of persons or any other entity.

(b) It shall be unlawful for any person to use, sell, give, manufacture with intent to sell, possess, purchase, deliver, transport or distribute any unregulated marijuana substitutes within the limits of Newton County, Georgia.

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(c) Any person violating any of the provisions of this article shall, upon conviction before the county judge, be fined in an amount not to exceed \$1,000.00, by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment, up to the limits of any penalty provided by state law. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the County or to exempt anyone violating this code or any part of said laws from any penalty which may be incurred.

(d) Each act in violation of this ordinance shall constitute a separate offense.

(e) Conviction for a violation of this section may also result in the County revoking any person's privilege of operating a business within the limits of Newton County.