

ENROLLED ORDINANCE 166-40

REPEAL AND RECREATE SECTIONS 13-102(a)-(d) OF THE WAUKESHA COUNTY CODE OF ORDINANCES TO ALLOW COUNTY ENFORCEMENT OF STATE OFFENSES

WHEREAS, on June 24, 2011, Governor Scott Walker signed Act 31, which added synthetic cannabinoids (synthetic marijuana) and analogs of these synthetic cannabinoids (substances that have similar chemical structures and similar physiological effects as synthetic marijuana) as a controlled substance in the Wisconsin Uniform Controlled Substances Act, and

WHEREAS, Chapter 13 of the Waukesha County Code adopts several state statutes in order allow law enforcement to write citations for violations of these statutes but does not include adoption of a state law regarding possession of synthetic marijuana or its analogs, and

WHEREAS, adoption of state statutes in order to allow county ordinance citations to be written allows forfeitures paid to be retained by the county, and

WHEREAS, the Waukesha County District Attorney is in agreement with enforcement of these statutes by citation rather than by charging these offenses as crimes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS:

SECTION 1. That Sections 13-102(a)-(d) be repealed and recreated to read as follows:

(a) For the purpose of this section, the definitions of words and phrases contained in chapters 340, 341, 939 to 947, 961, and section 990.01 of the Wisconsin Statutes are hereby adopted and by reference made a part hereof with the same force and effect as if fully set forth herein.

(b) In the following enumerated sections and subsections of the Wisconsin Statutes and Administrative Code in this section:

1. Whenever the word "crime" is used, it shall be taken to mean "offense";
2. Whenever the phrase "criminal intent" is used, it shall be taken to mean "intent."

(c) The statutory and administrative code provisions describing, defining and prohibiting conduct in the following enumerated sections and subsections of the Wisconsin Statutes and Administrative Code and cross references contained therein to other sections and subsections of the Wisconsin Statutes, and Administrative Code exclusive of any provisions thereof relating to the penalties to be imposed or the punishment for violation of such statutes, are hereby adopted and by reference made a part of this section with the same force and effect as if fully set forth herein. Any acts required to be performed or prohibited by any statute or administrative code incorporated by reference also is required or prohibited by this section. The following specifically enumerated offenses are hereby prohibited in the county, and are incorporated herein by reference, just as though fully set forth herein, but the penalty for violation under this section shall be limited to the forfeiture as hereinafter set forth.

1. 167.10(1): possession, use or distribution of fireworks;
2. 346.935: intoxicants in motor vehicles;
3. 941.35: emergency telephone calls;

4. 943.01: damage to property less than three hundred dollars (\$300.00);
5. 943.13(1), (3): trespass to land;
6. 943.14: trespass to dwelling;
7. 946.41: resisting or obstructing an officer;
8. 947.01: disorderly conduct;
9. 125.09(2): possession of alcohol beverages on school grounds;
10. 943.24: issuance of worthless check;
11. 254.92(2): purchase or possession of tobacco products by persons under 18 prohibited;
12. 943.20: theft;
13. 961.41(3g)(e) possession of marijuana;
14. 961.573.(1) possession of drug paraphernalia;
15. 59.54 (25g) possession of synthetic cannabinoids and analogs which have similar chemical structures and similar physiological effects to synthetic marijuana.

(d) The penalty for violation of subsection (c) shall be limited to the forfeiture as set forth below. The amount of forfeiture shall not exceed the maximum penalty for the offense, including any penalty assessment which would be applicable under section 757.05, Wisconsin Statutes, plus court costs. All references below are to sections or subsections of the Wisconsin Statutes:

1. 167.10(1): possession, use or distribution of fireworks, not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00);
2. 346.935: intoxicants in motor vehicles, not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
3. 941.35: emergency telephone calls, not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
4. 943.01: damage to property of less than three hundred dollars (\$300.00), not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
5. 943.13(1), (3): trespass to land, not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
6. 943.14: trespass to dwelling, not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
7. 946.41: resisting or obstructing an officer, not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
8. 947.01: disorderly conduct, not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00);
9. 125.09(2): possession of alcohol beverages on school grounds, not more than two hundred dollars (\$200.00);
10. 943.24(1): issuance of worthless check, not less than \$200.00 nor more than \$500.00;
11. 254.92(2): purchase or possession of tobacco products by underage individuals (a person under the age of 18), not less than \$10 nor more than \$25 plus costs for each offense;
12. 943.20: theft, not less than two hundred dollars (\$200.00) nor more than five hundred (\$500.00);
13. 961.41(3g)(e) possession of marijuana, not more than one thousand (\$1,000.00);

14. 961.573(1) possession of drug paraphernalia, not more than five hundred (\$500.00); and
15. 59.54 (25g) possession of synthetic cannabinoids and analogs, not more than (\$1,000.00).

(e) Any person between the ages of twelve (12) and seventeen (17), inclusive, violating the provisions of this section shall be subject to a forfeiture of not less than ten dollars (\$10.00) or more than twenty-five dollars (\$25.00), plus costs, for each offense or that person shall be referred to the proper authorities as provided in Chapters 48 or 938, Wisconsin Statutes. Any person under the age of twelve (12) shall be referred to the proper authorities as provided in Chapters 48 or 938, Wisconsin Statutes.

(f) Every person convicted of a violation of this section shall, for each offense, be punished by a forfeiture not to exceed that set forth opposite the particular provision in subsection (d), together with the costs of prosecution. In default of payment of such forfeiture and costs, punishment shall be commitment in the county jail until payment of such forfeiture and costs, but not in excess of the terms hereinafter stated:

1. For a forfeiture not exceeding one hundred dollars (\$100.00), commitment not exceeding thirty (30) days;
2. For a forfeiture in excess of one hundred dollars (\$100.00) but not exceeding two hundred dollars (\$200.00), commitment not exceeding sixty (60) days;
3. For a forfeiture in excess of two hundred dollars (\$200.00), commitment not exceeding ninety (90) days.

SECTION 2. This ordinance shall be effective upon approval and publication.

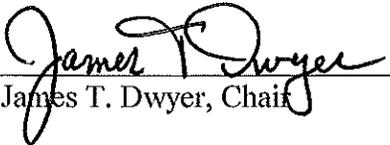
SECTION 3. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Waukesha, Wisconsin, as an addition or amendment thereto and shall be appropriately renumbered to conform to the numbering system contained therein.

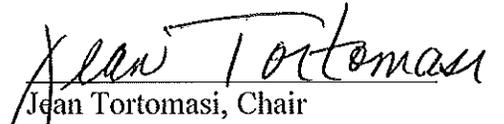
SECTION 4. Any code section or part of a section in conflict with this ordinance is hereby repealed and declared null and void and of no effect.

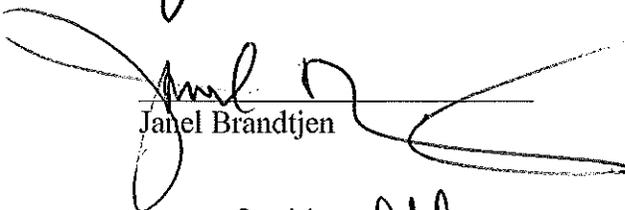
REPEAL AND RECREATE SECTIONS 13-102(a)-(d) OF THE WAUKESHA COUNTY CODE OF ORDINANCES TO ALLOW COUNTY ENFORCEMENT OF STATE OFFENSES

Presented by:
Executive Committee

Approved by:
Judiciary Committee


James T. Dwyer, Chair

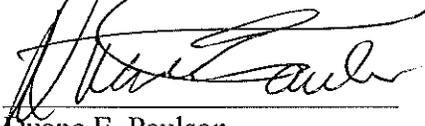

Jean Tortomasi, Chair


Janel Brandtjen


Kathleen M. Cummings

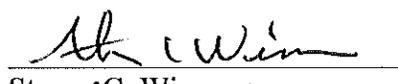

Patricia A. Haukohl

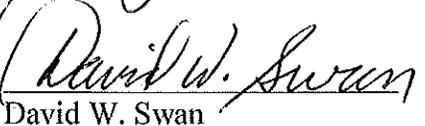

Paul M. Decker

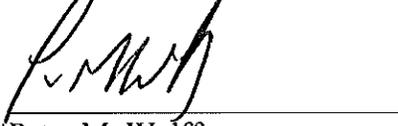

Duane E. Paulson


Dave Falstad

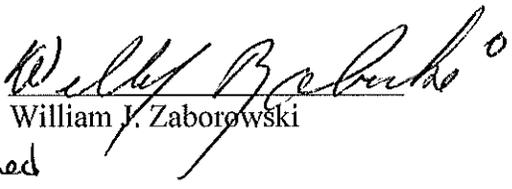

Fritz Ruf


Steven C. Wimmer


David W. Swan


Peter M. Wolff


Jean Tortomasi


William J. Zaborowski

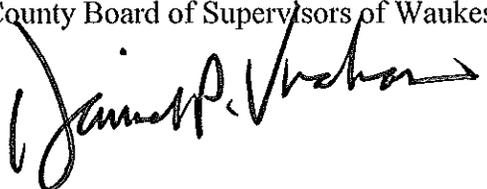
as amended

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 8-26-2011, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved:
Vetoed:

Date: 8-26-11, 
Daniel P. Vrakas, County Executive

Amendment

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/23/11

(ORD) NUMBER-1660040

- 1 D. FALSTAD.....AYE
- 3 R. HUTTON.....AYE
- 5 J. JESKEWITZ.....AYE
- 7 P. HAUKOHL.....AYE
- 9 J. HEINRICH.....AYE
- 11 F. RUF.....AYE
- 13 P. DECKER.....AYE
- 15 P. MEYERS.....AYE
- 17 J. TORTOMASI.....AYE
- 19 S. WIMMER.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 D. DRAEGER.....AYE
- 25 G. YERKE.....AYE

- 2 T. ROLFS.....AYE
- 4 J. DWYER.....AYE
- 6 J. BRANDTJEN.....AYE
- 8 T. SCHELLINGER.....AYE
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 M. INDA.....AYE
- 16 D. PAULSON.....AYE
- 18 K. CUMMINGS.....AYE
- 20 P. JASKE.....AYE
- 22 P. GUNDRUM.....AYE
- 24 W. KOLB.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-25

as amended

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/23/11

(ORD) NUMBER-1660040

1 D. FALSTAD.....AYE
 3 R. HUTTON.....AYE
 5 J. JESKEWITZ.....AYE
 7 P. HAUKOHL.....AYE
 9 J. HEINRICH.....AYE
 11 F. RUF.....AYE
 13 P. DECKER.....AYE
 15 P. MEYERS.....AYE
 17 J. TORTOMASI.....AYE
 19 S. WIMMER.....AYE
 21 W. ZABOROWSKI.....AYE
 23 D. DRAEGER.....AYE
 25 G. YERKE.....AYE

2 T. ROLFS.....AYE
 4 J. DWYER.....AYE
 6 J. BRANDTJEN.....AYE
 8 T. SCHELLINGER.....AYE
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 M. INDA.....AYE
 16 D. PAULSON.....AYE
 18 K. CUMMINGS.....AYE
 20 P. JASKE.....AYE
 22 P. GUNDRUM.....AYE
 24 W. KOLB.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-25