

CHAPTER 450. PUBLIC NUISANCE – DISTRIBUTION OR SALE OF SUBSTANCES AFFECTING HEALTH.

450.01. Findings. The Common Council of the City of Ashland finds as follows:

(a) Synthetic drugs have become a serious public health problem in the City of Ashland. By some reliable accounts, the drug abuse problem represented by synthetic drugs is second only to the problem of alcohol abuse.

(b) The effects of synthetic marijuana use, in particular, are seen by health care providers, mental health care providers, and law enforcement officers, far more frequently than the effect of the abuse of other “legal” substances such as paint, glue, or aerosols.

(c) The use of synthetic marijuana can result in headaches, vomiting, confusion, agitation, anxiety, aggressive behavior, paranoia, inability to speak, dystonia, short-term memory deficits, seizures, hallucination, and loss of consciousness.

(d) For some individuals, the use of synthetic marijuana can be seriously destabilizing to their mental health. The effects of synthetic drug use can sometimes be long-term.

(e) Members of the Ashland community have been incarcerated as a result of their behaviors stemming from synthetic drug use, causing expense to them, their families, and the criminal justice system, and causing heartache to their family members and friends.

(f) In one period of less than a year, the Behavioral Health Services unit of Ashland’s Memorial Medical Center, managed 80 patients who admitted to the use of synthetic drugs.

(g) During the same period, eight patients were seen at Memorial Medical Center whose primary reason for seeking hospital services was synthetic drug use. The cost of hospital care in these eight cases ranged from \$3,652.36 to \$64,458.80. The total hospital cost for the eight cases was \$181,978.92, for an average per-patient average cost of \$22,747.37. The hospital charges represent only a portion of the total costs of care for each of these individuals.

(h) The Ashland Police Department reports that, even though it has only recently started formally tracking synthetic drug cases, it has estimated that during the period from January 1, 2012, to September 12, 2013, no fewer than 26 cases requiring approximately 322 hours of police time were attributable or partly attributable to the use of synthetic drugs. These cases involve emergency (mental health) detentions, theft, operation while intoxicated, drug calls, traffic accidents, fraud, bail jumping, probation hold, sexual assault, and warrants.

(i) At least some of the synthetic drugs used in the City of Ashland have been purchased from local commercial sources.

(j) The Ashland City Council has received numerous oral and written statements, at two separate City Council meetings, from individuals who have been negatively affected by synthetic

drugs, and has received a petition bearing several hundred signatures seeking the control of their sale.

450.02. Public nuisance prohibited. No person shall engage in, contrive, cause, permit, maintain, or continue any public nuisance. Any such activity may be referred to as “creating a public nuisance.”

450.03. Public nuisance declared. It is a public nuisance to maintain a place of business where any substance, legal or illegal, that causes or contributes to causing any immediate, serious, negative health effect, is sold or distributed.

450.04. Exceptions.

(a) Any prescription drug, properly prescribed and distributed by a person lawfully permitted to do so.

(b) Any alcoholic beverage, sold or distributed pursuant to Chapter 125, Wisconsin Statutes, or any ordinance adopted thereunder.

450.05. Definitions.

(a) Causes. A substance causes or contributes to causing an immediate negative health effect if it is a probable contributing factor in the etiology of the health effect, even if it is not the only contributing factor.

(b) Immediate. A negative health effect is immediate if it occurs within 24 hours of the ingestion (by any means) of the substance.

(c) Serious negative health effect. Serious, negative health effects include, but are not limited to, the non-trivial occurrence of headaches, vomiting, confusion, agitation, anxiety, aggressive behavior, paranoia, inability to speak, dystonia, short-term memory deficits, seizures, hallucination, loss of consciousness, and death.

450.06. Procedure.

(a) Any person creating a public nuisance shall be given a written warning, requiring the person to abate the nuisance within fifteen calendar days. Any person receiving a warning under this subsection may appeal the warning to the City Council by filing a written notice of appeal with the City Clerk no later than 4:00 p.m. five business days after the date of receipt of the notice. No specific form of notice of appeal shall be required. Upon the filing of a notice of appeal, the requirement to abate the nuisance shall be stayed until the City Council has conducted a hearing on the appeal.

(b) Any person creating a public nuisance no fewer than fifteen days after receiving a warning under subsection (a), or if the warning has been appealed and upheld by the City Council no sooner than the day after the City Council decision on the appeal, shall be required,

upon service of a citation, to abate the public nuisance immediately. Any person receiving a citation under this subsection may appeal the citation to the City Council by filing a written notice of appeal with the City Clerk no later than 4:00 p.m. two business days after the date of receipt of the citation. No specific form of notice of appeal shall be required. The filing of a notice of appeal shall not stay the requirement to abate the nuisance.

(c) A warning under subsection (a) may be given based upon any activity creating a public nuisance before or after the effective date of this ordinance. No action shall be taken under subsection (b) except upon the creation of a public nuisance after the effective date of this ordinance.

(d) A citation under subsection (b) requiring the immediate abatement of a public nuisance may be enforced by action in circuit court pursuant to sec. 823.02, Wisconsin Statutes.

(e) In addition to action taken under subsection (d), any person creating a public nuisance who has received a citation under subsection (b) shall pay a forfeiture of no less than \$500 and no more than \$1,000 for each day that the nuisance persists, plus court costs and reasonable attorney fees.