

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~City~~ of Clinton
~~Town~~
~~Village~~

Local Law No. 3 of the year 2012

A local law to Prohibit the Sale and Possession of Synthetic Cannabinoids and Other Synthetic Drugs Designed, Marketed, or Utilized for Purposes of Simulating the Effect of Illegal Drugs or Controlled Substances

Be it enacted by the Legislature Clinton County Legislature of the
(Name of Legislative Body)

County
~~City~~ of Clinton as follows:
~~Town~~
~~Village~~

Section 1. Legislative Intent

- A. The County Legislature is charged with the protection of the safety, health and well being of the citizens of the County and that from time to time the Legislature must act through Local Law to protect the citizens from dangers to their well being.
- B. The County Legislature recognizes reports from law enforcement, the substance abuse prevention and treatment community, the media and the public that a class of dangerous substances known collectively as “synthetic drugs” have become generally available in the community and are known to replicate the effect of illicit or controlled substances and marijuana, without falling under the legal definitions of such illicit or controlled substances contained in the Penal Law and Public Health Law.
- C. The effect of human ingestion or injection of these synthetic drugs is highly dangerous to the user, bystanders, law enforcement, and the medical community who come into contact with users of these substances due to common symptoms of extreme paranoia, anxiety and compulsive behavior users frequently exhibit. The Legislature considers the possession and sale of such substances within the County a significant threat to the health and safety of the citizens of Clinton County.
- D. The Legislature recognizes that New York State controlled substance laws have not yet been revised to deal with the substances addressed in the local law and therefore

local action is the primary mechanism necessary to enable law enforcement to discourage the sale and possession of these substances within the County.

- E. The Legislature finds that the intended purpose of synthetic drugs is to be ingested and or injected by humans and thereby replicate the physical and or physiological effect of controlled substances and marijuana and that such synthetic drugs are often unlabeled, mislabeled or disguised using innocuous names such as “bath salts,” “glass cleaner,” “spice” or “incense.” The Legislature finds that such products have no legitimate commercial purpose and are sold for the sole purpose of human intoxication.

Section 2. Definitions

- A. Synthetic Drug – As used in this Law, “synthetic drug” includes “synthetic marijuana” and “synthetic controlled substance.”

B. Synthetic Marijuana

1. As used in this Law, “synthetic marijuana” means any chemical or chemical compound which reacts with one or more cannabinoid receptors or has been permanently or temporarily placed on the Federal Schedule of Controlled Substances, Schedule I, as codified at 21 C.F.R. 1208.11.
2. Any other chemical compound which reacts with one or more cannabinoid receptors which has not otherwise been approved or regulated for use by the United States Food and Drug Administration (FDA).
3. 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or aklenyl, whether or not substituted on the cyclohexyl ring to any extent.
4. 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not substituted further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or nahthyl ring to any extent.
5. 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.
6. 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.
7. 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.
8. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);

9. 5-(1,1-dimethyloctyl)-2-[1R,3S]-3-hydroxycyclohexyl]-phenol (Cannabicyclohexanol or CP-47,497 C8-homolg);
10. 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);
11. 1-butyl-3-(1-naphthoyl)indole (JWH-073);
12. 1-hexyl-3-(1-naphthoyl)indole (JWH-019);
13. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
14. 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
15. 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);
16. 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);
17. 1-pentyl-3-(4-cj;prp-1-naphthoyl)indole (JWH-398);
18. 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);
19. 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);
20. 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4);
21. 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8);
22. 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203);

C. Synthetic Controlled Substances

1. As used in this Law, “synthetic controlled substance” means any substance containing any chemical or chemical compound which replicates or simulates the effects of a narcotic drug, controlled substance or cannabinoid as those terms are defined in the New York State Public Health Law, and has the effect of replicating or simulating the effects of such substance upon being ingested or injected in any manner.
2. 4-methylmethcathinone (Mephedrone).
3. 3,4-methylenedioxypropylvalerone (MDPV).
4. 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).
5. 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).
6. 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).

7. 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).
8. 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).
9. 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4).
10. 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).
11. 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N).
12. 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

D. Possession - As used in this Law, possession means to have physical possession or otherwise exercise dominion or control over a synthetic drug.

Section 3. Prohibition against Sale

It shall be unlawful for any person, partnership, firm, association, corporation, limited liability corporation or other entity or agent or employee thereof to knowingly sell, barter, give to another with or without consideration, or openly and publically display for sale or to offer, agree or attempt to sell, barter, or give any synthetic drug set forth in Section 2 above within the territorial limits of the County of Clinton.

Sale of a synthetic drug is a Class A Misdemeanor, punishable as set forth in the New York State Penal Law.

Section 4. Prohibition against Possession

It shall be unlawful for any person, partnership, firm, association, limited liability corporation or other entity, or agent or employee thereof to knowingly possess any synthetic drug as set forth in Section 2 above within the territorial limits of the County of Clinton.

Possession of a synthetic drug is a Class B Misdemeanor, punishable as set forth in the New York State Penal Law.

Section 5. Defenses

A. It shall be deemed an affirmative defense to the violation of Sections 3 or 4 of this Local Law if, under the following circumstances:

1. The possessor is in possession of the substance pursuant to a current valid prescription issued by a physician or psychiatrist licensed to dispense medications in the State of New York by the Federal Drug Enforcement Agency, or

2. The possessor and/or seller of the substance is a duly licensed chemical or pharmaceutical manufacturer and is in possession of the synthetic drug or component in the regular course of its business for use or manufacture of an end product other than those listed in Section 2 above.

Section 6. Additional Penalties

- A. Upon conviction under this Local Law for illegal possession or sale of a synthetic drug by any party, the synthetic drug(s) possessed or sold as described in Section 2 shall be forfeit and destroyed unless the Defendant obtains an order of the Court within ten (10) days of said conviction staying the destruction of such forfeit property pending appellate review of the conviction or for good cause shown.
- B. Persons convicted of sale of synthetic drugs in violation of Section 3 of this Law shall be additionally subject to a fine of up to \$1,000 for each sale.

Section 7. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this Law or the application thereof to any person, individual, corporation, firm, partnership entity, or circumstance shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstances directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. Effective Date

This Local Law shall be effective immediately upon its filing with the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 3 of the (County) ~~(City)~~ ~~(Town)~~ ~~(Village)~~ of Clinton was duly passed by the Clinton County Legislature on September 26, 2012 in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 20__ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____, and was (approved) (not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ (Elective Chief Executive Officer) _____ 20__ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 20__ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20__ and was (approved) (not approved) (repassed after disapproval) by the _____ on _____ 20__. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20__ in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 20__ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20__ and was (approved) (not approved) (repassed after disapproval) by the _____ on _____ 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ in accordance with the applicable provisions of law.

* **Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

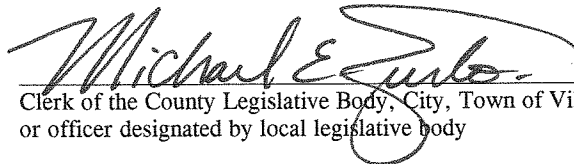
I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20__, pursuant to Subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding Local Law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original Local Law, and was finally adopted in the manner indicated in paragraph 1 above.


Clerk of the County Legislative Body, City, Town or Village Clerk
or officer designated by local legislative body

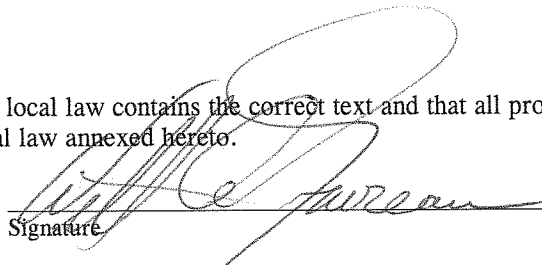
(Seal)

Date: September 26, 2012

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NEW YORK

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

County Attorney
Title

County
City of Clinton
Town
Village

Date: September 26, 2012