

**ORDINANCE NO. 2013-10**

**AN ORDINANCE REGARDING LICENSING OF  
SYNTHETIC DRUG ESTABLISHMENTS**

The Village Board of the Village of Bristol, Kenosha County, Wisconsin, do ordain as follows:

**SECTION I. RENUMBERING OF PROVISIONS; ADOPTION OF PROVISIONS.**

Title 7, Chapter 14 of the Village of Bristol Code of Ordinances is renumbered to Title 7, Chapter 15 and a new Title 7, Chapter 14 is created to read as follows:

**Sec. 7-14-1 Findings of Fact; Statement of Purpose.**

- (a) **Findings of Fact.** The Village Board of the Village of Bristol finds the following facts to exist:
- (1) Law enforcement authorities have advised Village officials that the increased use of synthetic drugs is negatively affecting the health, safety and welfare of the public.
  - (2) Synthetic drugs are commonly marketed as a safe and legal alternative to marijuana or other controlled substances regulated by Chapter 961, Wis. Stats.
  - (3) Ingestion of synthetic drugs has been shown to produce dangerous side effects such as, but not limited to:
    - a. Nausea;
    - b. Vomiting;
    - c. Hallucinations;
    - d. Blurred vision;
    - e. Delusions;
    - f. Headaches;
    - g. Agitation;
    - h. Anxiety;
    - i. Insomnia;
    - j. Convulsions;
    - k. Addiction;
    - l. Psychosis;
    - m. Elevated blood pressure;
    - n. Loss of consciousness;
    - o. Tremors;
    - p. Suicidal thoughts;

- q. Seizures;
  - r. Paranoid behavior;
  - s. Elevated or irregular heart rates; and
  - t. death.
- (4) Due to the manner in which such synthetic substances are marketed, the manufacture and sale of synthetic drugs is purportedly not fully regulated by the federal Food And Drug Administration (FDA) and/or federal drug enforcement authorities.
  - (5) Because slight molecular alterations can be made to chemical compounds, law enforcement authorities have often found it difficult to take enforcement actions against manufacturers and sellers of synthetic drug products. Synthetic drugs are currently being sold without even basic regulation and licensing requirements of the type other businesses in the Village of Bristol must comply with.
  - (6) Like the marketing of synthetic cannabinoids [such as, but not limited to, Spice/K2], as incense, these substances are commercially available and in some instances are marketed as "bath salts" under such names as Bliss, Vanilla Sky, White Lightning, Ivory Snow, Red Dove and Hurricane Charlie, or are packaged or marketed as potpourri, incense, plant food, spice, tobacco, or dietary supplements.
  - (7) The establishment of retail points of sale for synthetic drug products in the Village of Bristol would increase the use of synthetic drugs, and would likely have negative secondary effects on nearby businesses and residences.
- (b) **Statement of Purpose.** This Chapter provides certain minimum licensing standards for establishments making available to the public synthetic drugs. The purpose of this Chapter is not to condone illegal activity nor is it to legitimize activity that may now, or in the future, be considered illegal activity under state or federal laws or local ordinances.

## **Sec. 7-14-2 Definitions.**

For purposes of this Chapter, the following words and phrases shall have the following meanings:

- (a) **Synthetic Drug.** The term "synthetic drug" means one (1) or more of the following:
- (1) A substance that a reasonable person would believe is a synthetic drug;
  - (2) A substance that a reasonable person would believe is being purchased, sold or given away as a synthetic drug;
  - (3) A substance which has been listed as a regular synthetic drug in the Wisconsin Statutes or Village ordinances, and their derivatives, analogues, homologues, salts, optical isomers and salts of optical isomers with substantially similar chemical structure and pharmacological activity as a synthetic drug or other controlled substance; or

- (4) A substance that a person knows or should have known was intended to be consumed by ingestion, inhalation, injection or any other immediate means, and consumption was intended to cause or simulate a depressant, stimulant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the depressant, stimulant or hallucinogenic effect on the central nervous system of a controlled substance on Schedule I through V as defined in Chapter 961, Wis. Stats. "Synthetic drug" does not mean legal food or drug ingredients, prescription drugs, alcohol, tobacco or dietary supplements.
- (b) **Synthetic Drug Establishment.** Any business establishment where a person engages in the sale or giving away of synthetic drugs.

### **Sec. 7-14-3                      Licensing of Synthetic Drug Establishments.**

- (a) **License Required.** No person shall engage in the business of owning and/or operating a synthetic drug establishment, either exclusively or in connection with any other business enterprise, in the Village of Bristol without first obtaining a license for each synthetic drug establishment. Each licensee shall be eighteen (18) years of age or older.
- (b) **License Applications.**
  - (1) An application for a synthetic drug establishment license shall be made to the Village Clerk-Treasurer in letter format or on forms supplied by the Village containing the following information:
    - a. A description of the business, including a general description of the types of merchandise sold;
    - b. A description of the location of the premises to be licensed;
    - c. The full names and addresses of the property owner, business owner, business manager or agent, lessee, and business operator, and the date of birth and contact information (email address; cellphone, landline and fax numbers) of each;
    - d. If the applicant is a partnership, limited liability corporation or corporation, the full names and residence addresses of each of the partners including limited partners, and the address of the business entity if different from the address of the synthetic drug establishment; and
    - e. A statement from each of the above individuals as to whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense, including date, time, place and disposition.
  - (2) An annual license in the amount prescribed in Sec. 1-3-1 shall be paid at the time the application is filed with the Village Clerk-Treasurer. The fee will not be prorated and is non-refundable. A separate license shall be obtained for each place of business. Unless suspended or

revoked, a license shall be effective from January 1 through December 31 annually.

(c) **Investigation; Report; Delinquent Taxes.**

- (1) The Village Clerk-Treasurer shall notify, as appropriate, pertinent law enforcement agencies, the Fire Inspector and health inspection officials of each new and renewal application. Such authorities shall investigate whether the applicant and/or premises subject to licensing will be able to comply with all regulations, ordinances and laws applicable thereto, including, but not limited to, requesting information from the State of Wisconsin, other states, municipalities and/or any community where the applicant has previously resided or operated a business concerning the applicant's arrest and conviction record.
- (2) Based upon such investigations, the pertinent law enforcement agencies, Fire Inspector and health inspection officials shall recommend, in writing, to the Village Board approval, conditional approval or denial, with the reasons provided for such recommendation.
- (3) No license shall be renewed without an investigative report as originally required.
- (4) No license shall be issued for operations on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village of Sullivan are delinquent and unpaid.

(d) **License Determination.**

- (1) Opportunity shall be given by the Village Board to any person to be heard for or against the granting of a license.
- (2) If the Village Board, pertinent law enforcement agency, or other Village official finds that they have insufficient information to evaluate the license application, they may request that the applicant or his/her agent file an amended application or appear at a reasonable time and place to give under oath information concerning the application. No license shall be granted to any applicant who refuses to cooperate with the investigation process or who fails to appear, personally or by his/her agent, before the Village Board when the license application is under consideration.
- (3) No license under this Chapter shall be issued unless it is approved by the Village Board, upon the recommendation of law enforcement authorities and other investigating/inspecting authorities, and unless the establishment has passed fire and health inspections. The Village Board shall not approve any new or renewal license application if there are reasonable grounds to believe that:
  - a. The granting of said license would result in a violation(s) of the law;
  - b. The license application contains false or misleading information or statements;
  - c. The location of the proposed licensed premises is not appropriate; and/or
  - d. Other good cause exists for denying the license.

- (4) An application may be denied based upon the applicant's or his/her manager's arrest and conviction record if the applicant or his/her manager has been convicted of a felony (unless duly pardoned) or if the applicant or manager has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and the facts and circumstances of the offense when making its determination to grant, deny or not renew a license. In addition, the Village Board, at its discretion, may, based upon an arrest or conviction of two (2) or more offenses which are substantially related to the licensed activity within five (5) years immediately preceding, act to suspend such license for a period of up to one (1) year or revoke the license.
- (5) If the Village Board denies the license, the applicant shall be notified, in writing, by personal service or certified mail, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Village Board and to provide evidence as to why the denial should be reversed. Written notice of any reconsideration shall be mailed to the applicant a minimum of seven (7) days prior to the Board meeting at which the application is to be reconsidered.
- (e) **Posting of License.** Every person licensed in accordance with the provisions of this Chapter shall post such license and keep the same posted in a conspicuous place on the premises.
- (f) **Suspension or Revocation of Licenses.** The Village Board may suspend or revoke any license issued under this Chapter, if, after giving the licensee the opportunity to be heard on the matter, the Village Board finds:
  - (1) The licensee has violated a provision of this Chapter or any other law relating to the conduct of its operation including, but not limited to, federal, state or local laws;
  - (2) The licensee secured the license through misrepresentation or fraud regarding any material fact in the license application;
  - (3) The failure of the licensee to cooperate with law enforcement, fire or health authorities in any investigation relating to their operations or failure to admit law enforcement officers into the establishment at any time when people are present in the establishment;
  - (4) The establishment is operated in such a way as to endanger public health or safety; or
  - (5) The establishment is operated in such a way as to constitute a public nuisance under Sec. 823.07, Wis. Stats., or Village ordinances.
- (g) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village of Bristol at all reasonable hours for the purpose of inspection

and search, and consents to the removal from said premises of all things and articles that are in violation of Village ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

- (h) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee under this Chapter shall constitute a violation by the licensee.

#### **Sec. 7-14-4 Prohibited Acts and Conduct.**

No synthetic drug establishment shall:

- (a) Remain open for business between the hours of 9:00 p.m. and 8:00 a.m.
- (b) Sell synthetic drug products that do not include the name, address and telephone number of the manufacturer, packer and distributor of the product.
- (c) Sell synthetic drug products that do not identify all commodities within the package, including organic and non-organic, chemically synthesized substances and compounds.
- (d) Sell synthetic products to any individual under the age of eighteen (18).
- (e) Sell synthetic drug products that do not comply with all state and federal laws and regulations, including those related to packaging, labeling and weights and measures.
- (f) Be located within three hundred (300) feet of any park, school, daycare facility or area zoned residential or mixed-use.

#### **SECTION II. SEVERABILITY.**

If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

#### **SECTION III. CONFLICTING PROVISIONS REPEALED.**

All Ordinances in conflict with any provision of this Ordinance are hereby repealed.

#### **SECTION IV. EFFECTIVE DATE.**

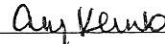
This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 28<sup>th</sup> day of October, 2013.

VILLAGE OF BRISTOL, WISCONSIN



Village President



Village Clerk-Treasurer

INTRODUCED: October 28, 2013

PASSED: October 28, 2013

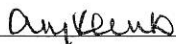
PUBLISHED: November 6, 2013

State of Wisconsin:

County of Kenosha:

I hereby certify that the foregoing ordinance is a true, correct, and complete copy of an ordinance duly and regularly enacted by the Bristol Village Board on the 28<sup>th</sup> day of October, 2013 and that said ordinance has not been repealed or amended and is now in full force and effect.

Dated this 28<sup>th</sup> day of October, 2013



Village Clerk-Treasurer

