



Committee on Legislation

~AGENDA~

Monday, February, 13, 2017

1:00 PM

Committee Chair: Virginia Perez

Committee Room, 148 Martine Avenue, 8th Floor, White Plains, NY 10601

www.westchesterlegislators.com

CALL TO ORDER

MINUTES APPROVAL

I. ITEMS FOR DISCUSSION

The Committee will continue its discussion of the 2017 Joint State Legislative Package.

1. **(ID # 9614) Local Law – LEGISLATORS TUBIOLO AND TESTA: Proposed-Prohibiting the sale and possession of synthetic drugs:**

A proposed "LOCAL LAW" amending the Laws of Westchester County to prohibit the sale and possession of synthetic drugs.

2. **(ID # 9849) Resolution – PH-Proposed-Prohibiting the sale and possession of synthetic drugs:**

A Resolution to set a Public Hearing on "A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to the Consumer Protection Code banning the same and possession of synthetic drugs." [Public Hearing set for _____, 2017 at _____ .m.]

II. OTHER BUSINESS

Unfinished Business and any other agenda items to come before the Committee.

III. RECEIVE & FILE

ADJOURNMENT

SPONSORS MEMORANDUM

SPONSOR: Tubiolo

CO-SPONSOR: Testa

TITLE OF BILL: A Local Law amending Chapter 863 of Part VII of the Administrative Code of Westchester County entitled “Consumer Protection Code” by adding a new Article XXIV entitled “Synthetic Cannabinoids” in relation to restricting the sale and possession of synthetic drugs.

PURPOSE: Prohibits the sale and possession of synthetic cannabinoids.

SUMMARY OF PROVISIONS: Section 1 of the bill provides definitions for synthetic drugs, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, or any combination thereof, and whether marketed for the purpose of being smoked or otherwise, which includes, but is not limited to, various chemical substances which the bill lists, as well as any other non-prescription substance or compound that has a chemical structure and/or pharmacological effect substantially similar to or which otherwise mimics the effects of marijuana, cocaine, heroin or any other controlled substance. It prohibits their use, possession and sale and provides that a violation of the Article shall be a Class I offense.

Section 2 of the bill contains the effective date.

JUSTIFICATION: Westchester County has led the way in combatting dangerous substances such as bath salts and salvia without waiting for the State to act. According to many downtown business owners, further action is needed to directly address the significant problems of Synthetic Marijuana, also known as “K2” or “Spice” in our community.

These substances are currently sold (legally) in bodegas throughout Westchester County. Due to the complex chemical nature of the substances, they pose very significant health dangers. The substances are extremely addictive and can cause violence, blindness, seizures, and other serious problems.

K2 and other similarly branded products are extremely cheap to buy and are targeted at teens and even pre-teens. Bans on the substance are being adopted nationwide and it is time for the County to act.

LEGISLATIVE HISTORY: New bill.

FISCAL IMPLICATIONS: None to the County.

CRIMINAL SANCTION IMPACT: A violation of this section shall be a class I offense.

EFFECTIVE DATE: This act shall take effect immediately.

LOCAL LAW NO. – 2016

A LOCAL LAW AMENDING CHAPTER 863 OF PART VII OF THE ADMINISTRATIVE CODE OF WESTCHESTER COUNTY ENTITLED "CONSUMER PROTECTION CODE" BY ADDING A NEW ARTICLE XXIX IN RELATION TO RESTRICTING THE SALE AND POSSESSION OF SYNTHETIC DRUGS

BY: Tubiolo

The Board of Legislators of Westchester County does hereby ordain and enact as follows:

Section 1. Chapter 863 of the Administrative Code of Westchester County, as amended by Local Law No. ___ of ___, is amended by adding a new Article XXIX entitled "Restrictions on the Sale of Synthetic Drugs" to read as follows:

"ARTICLE XXIX.

RESTRICTIONS ON THE SALE OF SYNTHETIC DRUGS

§863.1507. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

"SYNTHETIC DRUG"

ANY PRODUCT, WHETHER DESCRIBED AS TOBACCO, POTPOURRI, HERBS, INCENSE, SPICE, AROMATIC, OR ANY COMBINATION THEREOF, AND WHETHER MARKETED FOR THE PURPOSE OF BEING SMOKED OR OTHERWISE MARKETED, WHICH INCLUDES, BUT IS NOT LIMITED TO, ONE OR MORE OF THE FOLLOWING HALLUCINOGENIC SUBSTANCES:

(1) 1-PENTY1-3-(1-NAPHTHOYL) INDOLE; SOME TRADE OR OTHER NAMES: JWH-018; OR

(2) 1-BUTY1-3-(1-NAPHTHOYL) INDOLE; SOME TRADE OR OTHER NAMES: JWH-073; OR

(3) 1-[2-(4-MORPHOLINYL) ETHYL]-3-(1-NAPHTHOYL) INDOLE; SOME TRADE OR OTHER NAMES: JWH-200;

OR (4) 5-(1, 1-DIMETHYLOCTYL)-2-[(1R, 3S)-3-HYDROXYCYCLOHEXYL]-PHENOL; SOME TRADE OR OTHER NAMES: CP-47, 497;

OR (5) 5-(1, 1-DIMETHYLOCTYL)-2-[(1R, 3S)-3-HYDROXYCYCLOHEXYL]-PHENOL; SOME TRADE OR OTHER NAMES: CANNABICYCLOHEXANOL; CP-47, 497 C8 HOMOLOGUE;

OR (6) A MATERIAL, COMPOUND, MIXTURE OR PREPARATION IN ANY FORM THAT CONTAINS THE COMPONENT SALVINORIN A, OR AS A CONCENTRATED EXTRACT OF THE CHEMICAL SALVINORIN A.

OR (7) ANY OTHER NON-PRESCRIPTION SUBSTANCE OR COMPOUND DEVELOPED PRIOR TO OR SUBSEQUENT TO THE ADOPTION OF THIS SECTION THAT HAS A CHEMICAL STRUCTURE AND/OR PHARMACOLOGICAL EFFECT SUBSTANTIALLY SIMILAR TO, OR WHICH OTHERWISE MIMICS, THE ACTIVE INGREDIENT OF:

A. MARIJUANA, OR TETRAHYDROCANNABINOL (THC);

B. COCAINE, OPIUM, HEROIN OR ANY OTHER CONTROLLED SUBSTANCE OR ANY OTHER NON-PRESCRIBED MEDICATION OR SUBSTANCE.

§863.1508. SALE RESTRICTED. NO PERSON SHALL SELL, OFFER FOR SALE, GIVE AWAY, BARTER, EXCHANGE OR OTHERWISE FURNISH OR PROVIDE ANY SYNTHETIC DRUG IN THE COUNTY OF WESTCHESTER.

§863.1509. POSSESSION RESTRICTED. NO PERSON SHALL BE IN THE POSSESSION OF ANY SYNTHETIC DRUG WITHIN THE COUNTY OF WESTCHESTER UNLESS SAID SYNTHETIC DRUG IS EXPRESSLY PRESCRIBED TO SAID PERSON BY A PHYSICIAN, PSYCHIATRIST OR PERSON OTHERWISE DULY LICENSED AND AUTHORIZED TO PRESCRIBED MEDICATION WITHIN THE STATE OF NEW YORK AND, AT THE TIME OF THE ALLEGED VIOLATION, THE PERSON IN POSSESSION OF THE SYNTHETIC DRUG IS ABLE TO PROVIDE WRITTEN PROOF TO THE LAW ENFORCEMENT OFFICER(S) THAT THE SYNTHETIC DRUG WAS SO PRESCRIBED.

§863.1510. REVERSE PREEMPTION. THIS ARTICLE SHALL BE NULL AND VOID WHEN STATEWIDE OR FEDERAL LEGISLATION GOES INTO EFFECT, INCORPORATING EITHER THE SAME OR SUBSTANTIALLY SIMILAR PROVISIONS AS ARE CONTAINED IN THIS ARTICLE, OR IN THE EVENT THAT A PERTINENT STATE OR FEDERAL ADMINISTRATIVE AGENCY ISSUES AND PROMULGATES REGULATIONS PREEMPTING SUCH ACTION BY THE COUNTY OF WESTCHESTER. THE COMMISSIONER OF HEALTH SHALL DETERMINE WHETHER OR NOT IDENTICAL OR SUBSTANTIALLY SIMILAR STATEWIDE OR FEDERAL LEGISLATION HAS BEEN ENACTED FOR THE PURPOSES OF TRIGGERING THE PROVISIONS OF THIS SECTION.

§863.1511. SEVERABILITY. IF ANY SECTION, SUBSECTION, CLAUSE PHRASE OR OTHER PORTION OF THIS LOCAL LAW IS, FOR ANY REASON, DECLARED INVALID, IN WHOLE OR PART, BY ANY COURT, AGENCY, COMMISSION, LEGISLATIVE BODY OR OTHER AUTHORITY OF COMPETENT JURISDICTION, SUCH PORTION SHALL BE DEEMED A SEPARATE AND DISTINCT AND INDEPENDENT PORTION. SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS HEREOF, WHICH OTHER PORTIONS SHALL CONTINUE IN FULL FORCE AND EFFECT.

§863.1512. PENALTIES FOR OFFENSES. FOR THE FIRST VIOLATION OF THE PROVISIONS OF THIS ARTICLE, A CIVIL PENALTY NOT EXCEEDING FIVE HUNDRED DOLLARS (\$500.00). FOR THE SECOND AND SUCCEEDING VIOLATIONS, A CIVIL PENALTY NOT EXCEEDING ONE THOUSAND DOLLARS (\$1,000.00) SHALL BE IMPOSED FOR EACH SINGLE VIOLATION. NO CIVIL PENALTY SHALL BE IMPOSED AS PROVIDED FOR HEREIN UNLESS THE ALLEGED VIOLATOR HAS RECEIVED NOTICE OF WITH REGARD TO THE SALE OF SYNTHETIC DRUGS, EACH DAY THAT A VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE AND DISTINCT OFFENCE TO WHICH A SEPARATE FINE SHALL APPLY.”

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, banning the sale and possession of synthetic drugs.”

The purpose of this Local Law is to ban the sale and possession of synthetic drugs which are known to be dangerous and addictive, and which have been chemically composed with the intent to evade current laws.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law does not constitute an action and that, therefore, no environmental review is required. Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: _____, 2017
White Plains, New York

COMMITTEE ON

A/tgg/1-10-17

RESOLUTION NO. ____ – 2017

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2017, entitled “A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to the Consumer Protection Code banning the sale and possession of synthetic drugs.”

The public hearing will be held at __.m. on the ____ day of _____, 2017 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

FISCAL IMPACT STATEMENT

SUBJECT: Article XXIX to Chapter 863 Laws of Westchester. NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) **GENERAL FUND** **AIRPORT** **SPECIAL REVENUE FUND (Districts)**

B) EXPENSES AND REVENUES

Total Current Year Cost \$ TBD

Total Current Year Revenue \$ _____

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: Revenue & Exp. accounts TBD

Potential Related Operating Budget Expenses: Annual Amount \$ TBD

Describe: The purpose of this Local Law is to ban the sale and possession of synthetic drugs

Potential Related Revenues: Annual Amount \$ 0

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four years: _____

Prepared by: Carl Maniscalco

 1-5-19

Title: Senior Budget Director

Reviewed By: 

Budget Director


Department: Budget

If you need more space, please attach additional sheets.



Memorandum
Department of Planning

TO: Robert Meehan
County Attorney

FROM: Edward Buroughs, AICP 
Commissioner

DATE: January 10, 2017

SUBJECT: **SEQR DOCUMENTATION FOR SYNTHETIC DRUG BAN**

Pursuant to your request for an environmental review of the above referenced action, the Planning Department has determined that no environmental review is necessary.

The action involves a local law that would amend the Laws of Westchester County by adding Article XXIX to Chapter 863, the Consumer Protection Code, which would ban the sale and possession of synthetic drugs.

Since the proposed law will not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required.

Please contact my office if you need any additional information on this matter.

EEB/cnm

cc: Robert Alberty, Deputy Chief of Staff
Paula Friedman, Assistant to the County Executive
David Kvinge, Director of Environmental Planning

LOCAL LAW INTRO. NO. -2017

A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, banning the sale and possession of synthetic drugs.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, is hereby amended by the addition of a new Article XXIX to read as follows:

ARTICLE XXIX

Sec. 863.1601. - Definition.

Sec. 863.1602. – Sale prohibition.

Sec. 863.1603. – Possession prohibition.

Sec. 863.1604. – Reverse pre-emption.

Sec. 863.1605. – Severability.

Sec. 863.1606. – Penalties.

Sec. 863.1601. - Definition.

Whenever used in the Article the term “synthetic drug” shall mean any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, or any combination thereof, and whether marketed for the purpose of being smoked, ingested or injected, or otherwise marketed, which includes, but is not limited to, one or more of the following hallucinogenic substances: (1) 1-Penty1-3-(1-Naphthoyl) Indole; some trade or other names; JWH-018; or (2) 1-Buty1-3-(1 naphthoyl) Indole; some trade or other names; JWH-073; or (3) 1-[2-(4Morpholinyl) Ethyl]-3-(1Naphthoyl) Indole; some trade or other names; JWH-200; or (4) 5-(1, 1-Dimethyloctyl)-2-[1R, 3S)-3-Hydroxycyclohexyl]-Phenol; some trade or other names: CP-47, 497; or (5)5-(1, 1-

Dimethyloctyl)-2-[(1R, 3S)-3-Hydroxycyclohexyl]-Phenol; or some trade or other names; Cannabicyclohexanol; CP447, 497 C8 Homologue; or (6) a material, compound, mixture or preparation in any form that contains the component Salvinorin A, or as a concentrated extract of the chemical Salvinorin A; or (7) any other non-prescription substance or compound developed prior to or subsequent to the adoption of this Article that has a chemical structure and/or pharmacological effect substantially similar to, or which otherwise mimics, the active ingredient of: (a) marijuana, or tetrahydrocannabinol (THC); or (b) cocaine, opium, heroin or any other controlled substance or any other non-prescribed medication or substance.

Sec. 863.1602. – Sale prohibition.

It shall be a violation of this Article for any person to sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any synthetic drug.

Sec. 863.1603. – Possession prohibition.

It shall be a violation of this Article for any person to possess any synthetic drug unless such synthetic drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York and, at the time of the alleged violation, the person in possession of the synthetic drug is able to provide written proof to the law enforcement officer(s) that the synthetic drug was so prescribed.

Sec. 863.1604. – Reverse pre-emption.

This Article shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Article, or in the event that a pertinent state or federal administrative

agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for purposes of triggering the provisions of this Section.

Sec. 863.1605. – Severability.

If any clause, sentence, paragraph, or section of this Article shall be held invalid by any court of competent jurisdiction, or the application of this Article to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this Article directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this Article are hereby declared to be severable.

Sec. 863.1606. – Penalties.

For a first violation of the provisions of this Article, a civil penalty not exceeding five hundred dollars (\$500.00) shall be imposed. For a second and succeeding violation, a civil penalty not exceeding one thousand dollars (\$1,000.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice with regard to the sale of synthetic drugs. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply. In addition to the civil penalty set forth herein, a second and succeeding violation of this Article may be punished as a misdemeanor.

§2. This Local Law shall take effect _____ .

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, banning the sale and possession of synthetic drugs.”

The purpose of this Local Law is to ban the sale and possession of synthetic drugs which are known to be dangerous and addictive, and which have been chemically composed with the intent to evade current laws.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law _____
_____. Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: _____, 2016
White Plains, New York

COMMITTEE ON

RESOLUTION NO. ____ - 2016

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2016, entitled "A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to the Consumer Protection Code banning the sale and possession of synthetic drugs."

The public hearing will be held at __.m. on the ____ day of _____, 2016 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

LOCAL LAW INTRO. NO. -2016

A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, banning the sale and possession of synthetic drugs.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, is hereby amended by the addition of a new Article XXIX to read as follows:

ARTICLE XXIX

- Sec. 863.1601. - Definition.
- Sec. 863.1602. – Sale prohibition.
- Sec. 863.1603. – Possession prohibition.
- Sec. 863.1604. – Reverse pre-emption.
- Sec. 863.1605. – Severability.
- Sec. 863.1606. – Penalties.

Sec. 863.1601. - Definition.

Whenever used in the in Article the term “synthetic drug” shall mean any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, or any combination thereof, and whether marketed for the purpose of being smoked, ingested or injected, or otherwise marketed, which includes, but is not limited to, one or more of the following hallucinogenic substances: (1) 1-Penty1-3-(1-Naphthoyl) Indole: some trade or other names: JWH-018: or (2) 1-Buty1-3-(1 naphthoyl) Indole: some trade or other names: JWH-073: or (3) 1-[2-(4Morpholinyl) Ethyl]-3-(1Naphthoyl) Indole: some trade or other names: JWH-200; or (4) 5-(1, 1-Dimethyloctyl)-2-[1R, 3S)-3-Hydroxycyclohexyl]-Phenol; some trade or other names: CP-47, 497: or (5)5-(1, 1-

Dimethyloctyl)-2-[(1R, 3S)-3-Hydroxycyclohexyl]-Phenol; or some trade or other names; Cannabicyclohexanol; CP447, 497 C8 Homologue; or (6) a material, compound, mixture or preparation in any form that contains the component Salvinorin A, or as a concentrated extract of the chemical Salvinorin A; or (7) any other non-prescription substance or compound developed prior to or subsequent to the adoption of this Article that has a chemical structure and/or pharmacological effect substantially similar to, or which otherwise mimics, the active ingredient of: (a) marijuana, or tetrahydrocannabinol (THC); or (b) cocaine, opium, heroin or any other controlled substance or any other non-prescribed medication or substance.

Sec. 863.1602. – Sale prohibition.

It shall be a violation of this Article for any person to sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any synthetic drug.

Sec. 863.1603. – Possession prohibition.

It shall be a violation of this Article for any person to possess any synthetic drug unless such synthetic drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York and, at the time of the alleged violation, the person in possession of the synthetic drug is able to provide written proof to the law enforcement officer(s) that the synthetic drug was so prescribed.

Sec. 863.1604. – Reverse pre-emption.

This Article shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Article, or in the event that a pertinent state or federal administrative

agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for purposes of triggering the provisions of this Section.

Sec. 863.1605. – Severability.

If any clause, sentence, paragraph, or section of this Article shall be held invalid by any court of competent jurisdiction, or the application of this Article to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this Article directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this Article are hereby declared to be severable.

Sec. 863.1606. – Penalties.

For a first violation of the provisions of this Article, a civil penalty not exceeding five hundred dollars (\$500.00) shall be imposed. For a second and succeeding violation, a civil penalty not exceeding one thousand dollars (\$1,000.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice with regard to the sale of synthetic drugs. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply. In addition to the civil penalty set forth herein, a second and succeeding violation of this Article may be punished as a misdemeanor.

§2. This Local Law shall take effect _____ .

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, banning the sale and possession of synthetic drugs.”

The purpose of this Local Law is to ban the sale and possession of synthetic drugs which are known to be dangerous and addictive, and which have been chemically composed with the intent to evade current laws.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). Your Committee is advised that the Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law does not constitute an action and that, therefore, no environmental review is required. Your Committee concurs with that conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: _____, 2017
White Plains, New York

COMMITTEE ON

A/tgg/1-10-17

RESOLUTION NO. ____ – 2017

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2017, entitled “A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to the Consumer Protection Code banning the sale and possession of synthetic drugs.”

The public hearing will be held at __.m. on the ____ day of _____, 2017 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

FISCAL IMPACT STATEMENT

1.2.b

Packet Pg. 22

SUBJECT: Article XXIX to Chapter 863 Laws of Westchester. NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

(To be completed by operating department and reviewed by Budget Department)

A) **GENERAL FUND** **AIRPORT** **SPECIAL REVENUE FUND (Districts)**

B) EXPENSES AND REVENUES

Total Current Year Cost \$ TBD

Total Current Year Revenue \$ _____

Source of Funds (check one): Current Appropriations

Transfer of Existing Appropriations Additional Appropriations Other (explain)

Identify Accounts: Revenue & Exp. accounts TBD

Potential Related Operating Budget Expenses: Annual Amount \$ TBD

Describe: The purpose of this Local Law is to ban the sale and possession of synthetic drugs

Potential Related Revenues: Annual Amount \$ 0

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four years: _____

Prepared by: Carl Maniscalco

 1-5-19

Title: Senior Budget Director

Reviewed By: 

Budget Director


Department: Budget

If you need more space, please attach additional sheets.



Memorandum
Department of Planning

TO: Robert Meehan
County Attorney

FROM: Edward Buroughs, AICP 
Commissioner

DATE: January 10, 2017

SUBJECT: **SEQR DOCUMENTATION FOR SYNTHETIC DRUG BAN**

Pursuant to your request for an environmental review of the above referenced action, the Planning Department has determined that no environmental review is necessary.

The action involves a local law that would amend the Laws of Westchester County by adding Article XXIX to Chapter 863, the Consumer Protection Code, which would ban the sale and possession of synthetic drugs.

Since the proposed law will not “change the use, appearance or condition of any natural resource or structure,” or otherwise affect the environment, with respect to the State Environmental Quality Review (SEQR) Act, this does not constitute an action as defined in section 617.2(b) of 6NYCRR Part 617. As such, no environmental review is required.

Please contact my office if you need any additional information on this matter.

EEB/cnm

cc: Robert Alberty, Deputy Chief of Staff
Paula Friedman, Assistant to the County Executive
David Kvinge, Director of Environmental Planning

LOCAL LAW INTRO. NO. -2017

A LOCAL LAW amending the Laws of Westchester County by adding a new Article XXIX to Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, banning the sale and possession of synthetic drugs.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 863 of the Laws of Westchester County, the Consumer Protection Code, is hereby amended by the addition of a new Article XXIX to read as follows:

ARTICLE XXIX

- Sec. 863.1601. - Definition.**
- Sec. 863.1602. – Sale prohibition.**
- Sec. 863.1603. – Possession prohibition.**
- Sec. 863.1604. – Reverse pre-emption.**
- Sec. 863.1605. – Severability.**
- Sec. 863.1606. – Penalties.**

Sec. 863.1601. - Definition.

Whenever used in the Article the term “synthetic drug” shall mean any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, or any combination thereof, and whether marketed for the purpose of being smoked, ingested or injected, or otherwise marketed, which includes, but is not limited to, one or more of the following hallucinogenic substances: (1) 1-Penty1-3-(1-Naphthoyl) Indole; some trade or other names; JWH-018; or (2) 1-Buty1-3-(1 naphthoyl) Indole; some trade or other names; JWH-073; or (3) 1-[2-(4Morpholinyl) Ethyl]-3-(1Naphthoyl) Indole; some trade or other names; JWH-200; or (4) 5-(1, 1-Dimethyloctyl)-2-[1R, 3S)-3-Hydroxycyclohexyl]-Phenol; some trade or other names: CP-47, 497; or (5)5-(1, 1-

Dimethyloctyl)-2-[(1R, 3S)-3-Hydroxycyclohexyl]-Phenol; or some trade or other names; Cannabicyclohexanol; CP447, 497 C8 Homologue; or (6) a material, compound, mixture or preparation in any form that contains the component Salvinorin A, or as a concentrated extract of the chemical Salvinorin A; or (7) any other non-prescription substance or compound developed prior to or subsequent to the adoption of this Article that has a chemical structure and/or pharmacological effect substantially similar to, or which otherwise mimics, the active ingredient of: (a) marijuana, or tetrahydrocannabinol (THC); or (b) cocaine, opium, heroin or any other controlled substance or any other non-prescribed medication or substance.

Sec. 863.1602. – Sale prohibition.

It shall be a violation of this Article for any person to sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any synthetic drug.

Sec. 863.1603. – Possession prohibition.

It shall be a violation of this Article for any person to possess any synthetic drug unless such synthetic drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York and, at the time of the alleged violation, the person in possession of the synthetic drug is able to provide written proof to the law enforcement officer(s) that the synthetic drug was so prescribed.

Sec. 863.1604. – Reverse pre-emption.

This Article shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Article, or in the event that a pertinent state or federal administrative

agency issues and promulgates regulations preempting such action by the County of Westchester. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for purposes of triggering the provisions of this Section.

Sec. 863.1605. – Severability.

If any clause, sentence, paragraph, or section of this Article shall be held invalid by any court of competent jurisdiction, or the application of this Article to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this Article directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this Article are hereby declared to be severable.

Sec. 863.1606. – Penalties.

For a first violation of the provisions of this Article, a civil penalty not exceeding five hundred dollars (\$500.00) shall be imposed. For a second and succeeding violation, a civil penalty not exceeding one thousand dollars (\$1,000.00) shall be imposed for each single violation. No civil penalty shall be imposed as provided for herein unless the alleged violator has received notice with regard to the sale of synthetic drugs. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply. In addition to the civil penalty set forth herein, a second and succeeding violation of this Article may be punished as a misdemeanor.

§2. This Local Law shall take effect _____ .