

TITLE 20**MISCELLANEOUS****CHAPTER**

1. MUTUAL AID AGREEMENTS.
2. SYNTHETIC DRUGS.
3. EPHEDRINE AND PSEUDOEPHEDRINE REGULATIONS.

CHAPTER 1**MUTUAL AID AGREEMENTS¹****SECTION**

20-101. Rules and regulations for mutual aid agreements.

20-101. Rules and regulations for mutual agreements. The following information shall be added to each of the mutual aid agreements for each department within the City of Decherd.

(1) When the City of Decherd personnel are sent to another jurisdiction pursuant to a mutual aid agreement, the jurisdiction, authority, rights, privileges, and immunities, including coverage under the worker's compensation laws, which they have in the sending personnel shall be extended to and include the area in which like benefits and authorities are or could be extended to any geographic area necessary as a result of the request when said personnel are acting within the scope of the authority conferred by this agreement.

(2) The party who requests mutual aid shall in no way be deemed liable or responsible for the personal property of the members of the City of Decherd personnel which may be lost, stolen, or damaged while performing their duties in responding under the terms of this agreement.

(3) The City of Decherd shall assume all liability and responsibility for damage to its own apparatus and/or equipment. The City of Decherd shall also assume all liability and responsibility for any damage caused by its own equipment or negligence of its personnel while en route to or returning from a specific location.

(4) The City of Decherd, under the terms of a mutual aid agreement, shall assume no responsibility or liability for property damaged or destroyed or bodily injury at the actual scene of any emergency due to actions which are required in responding under this agreement; said liability and responsibility

¹Municipal code reference

Mutual aid agreements: §§ 6-109, 16-114, and 18-107.

shall rest solely with the requesting agency/government such assistance and within whose boundaries the property exists or the incident occurs.

(5) The City of Decherd agrees that no claim for compensation will be made by either against the other for loss, damage, or personal injury occurring in consequence of mutual aid assistance rendered under this agreement, and all such rights or claims are hereby expressly waived.

(6) The senior officer/employee in whose community the emergency exists, and who places the request for assistance, shall in all instances be in command of the emergency as to strategy, tactics, and overall direction of the operations. All orders or directions regarding the operations of the responding party shall be relayed to the senior officer/employee in command of the City of Decherd.

(7) The program shall be administered by the respective department commissioner with the assistance of the city recorder who shall have the responsibility of carrying out the powers designated herein.

(8) No property, real or personal, tangible or intangible, shall be acquired or held by or through this agreement, it being the intent of the agreement that each political jurisdiction shall use and employ its own properties in carrying out the functions and responsibilities designated herein.

(9) This agreement shall continue from year to year from passage unless notice of termination is given by either party hereto at least sixty (60) days prior to July 1 of each year. No further obligations or liability shall be imposed after such termination.

(10) Any mutual aid agreement with other local governments shall be valid only:

(a) When it is executed by the mayor/county executive of the respective political jurisdictions pursuant to the ordinance/resolution of each jurisdiction authorizing the mayor/county executive to execute it; and

(b) This agreement is subject to the approval or disapproval of any officer or agency of the state government having constitutional or statutory powers of control as to all matters within his or its jurisdiction, pursuant to *Tennessee Code Annotated*, § 12-9-106, if a state agency is party hereto. (1993 Code, § 20-101)

CHAPTER 2

SYNTHETIC DRUGS

SECTION

- 20-201. Definitions.
- 20-202. Prohibited conduct.
- 20-203. Exception.
- 20-204. Violations and penalty.

20-201. Definitions. (1) "Administer." As used in this section, shall mean the direct application of a synthetic drug as defined herein, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (a) A practitioner or by the practitioner's authorized agent in the practitioner's presence; or
- (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent." As used in this section shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. "Agent" does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(3) "Deliver" or "Delivery." As used in this section, shall mean the actual, constructive, or attempted transfer from one person to another of a synthetic drug as defined herein, with or without any consideration, and whether or not there is an agency relationship.

(4) "Dispense." As used in this section, shall mean to deliver a synthetic drug as defined herein to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(5) "Distribute." As used in this section, shall mean to deliver other than by administering or dispensing a synthetic drug as defined herein.

(6) "Manufacture." As used in this section, shall mean the production, preparation, propagation, compounding, conversion, or processing of any synthetic drug as defined herein, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that the term "manufacture" shall not include the preparation, compounding, packaging, or labeling of any synthetic drug as defined herein by:

- (a) A practitioner as an incident to administering or dispensing any synthetic drug as defined herein in the course of professional practice; and

(b) A practitioner, or an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(7) "Person." As used in this section, shall mean any individual, corporation, partnership, trust, estate, association, organization, business, or any other legal entity.

(8) "Possess" or "possession." As used in this section, shall mean either actual possession or constructive possession.

(a) "Actual possession." As used in this section shall mean the exercise of direct physical control or dominion over an object.

(b) "Constructive possession," As used in this section, shall mean the power and intent to exercise control over an object although not in actual physical possession of an object. Possession may be sole or joint and may be inferred from all relevant facts surrounding the circumstances.

(9) "Practitioner." As used in this section, shall mean:

(a) A physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator, or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

(10) "Production." As used in this section, shall mean the planting, cultivating, tending, growing, or harvesting of a synthetic drug as defined in this section.

(11) "Sell" or "sale." As used in this section, shall mean a bargained for or agreed upon offer and acceptance and an actual or constructive transfer or delivery of a synthetic drug as defined herein.

(12) "Synthetic drug." As used in this section, shall mean:

(a) Any substance, however denominated, and no matter the common street, brand, or trade name of such substance, containing one or more of the following chemicals:

(i) Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia dininorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;

(ii) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3(2methyloctan-2yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol (some trade or other names being: HU-210);

- (iii) 1-Pentyl-3-(1naphthoyl) indole (some trade or other names being: JWH-018);
- (iv) 1-Butyl-3-(1naphthoyl) indole (some trade or other names being: JWH-073);
- (v) 1-(3{trifluoromethylphenyl}) piperazine (some trade or other names being: TFMPP);
- (vi) 3, 4-methylenedioxyprovalerone (MDPV), (some trade or other names being: MDPK);
- (vii) 4 - methylmethcathinone (Mephedrone);
- (viii) 3, 4 - methylenedioxymemethcathinone (Methylone);
- (ix) 3 - methoxymethcathinone;
- (x) 4 - methoxymethcathinone;
- (xi) 3 - fluoromethcathinone; and/or
- (xii) 4 - fluoromethcathinone.

(b) Any other substance which mimics the effects of any controlled substance (to include, but not limited to, any opiates, opium derivatives, hallucinogenic substances, methamphetamine, MDMA, cocaine, PCP, marijuana, cannabis, cannabinoids, cannabicyclohexanol, and tetrahydrocannabinols), to include, but not limited to, "bath salts," "plant food," "incense," or "insect repellent," but excluding legitimate bath salts containing as the main ingredient the chemicals sodium chloride (sea salt) and/or magnesium sulfate (Epsom salt), or legitimate plant foods or insect repellent not intended for human consumption, or legitimate incense used as an odor elimination product.

(c) Any similar substances to the above which when inhaled, or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts, or disturbs the auditory, visual, or mental process, and the product or substance has no other apparent legitimate purpose for consumers. (Ord. #361, Dec. 2011)

20-202. Prohibited conduct. (1) It shall be unlawful for any person to use, possess, sell, deliver, distribute, transport, transfer, trade, barter, exchange, or purchase any synthetic drug as defined herein, or to attempt to use, possess, sale, deliver, distribute, transport, transfer, trade, barter, exchange, or purchase any synthetic drug as defined herein, within the city corporate limits.

(2) It shall be unlawful for any person to publicly display for sale any synthetic drug as defined herein, within the city corporate limits. (Ord. #361, Dec. 2011)

20-203. Exception. An act otherwise prohibited and unlawful under this section shall not be unlawful if done by or under the direction of a "practitioner" as defined herein, provided such act is otherwise permitted by

general law, or to otherwise prohibit substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, and is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted. (Ord. #361, Dec. 2011)

20-204. Violations and penalty. Any City of Decherd sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if he cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the city court. The city court judge shall determine whether a defendant has committed a violation of this section. The city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the city court judge, the city court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any synthetic drug as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the city court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the city in an amount to recoup the cost incurred by the city law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (Ord. #361, Dec. 2011)

CHAPTER 3

EPHEDRINE AND PSEUDOEPHEDRINE REGULATIONS

SECTION

20-301. Definitions.

20-302. Restrictions on public access to ephedrine products.

20-303. Exception.

20-304. Reporting theft of ephedrine products.

20-305. Penalty and injunctive relief.

20-306. Violations and penalty.

20-301. Definitions. As used in this section, the following words and/or phrases shall have the following meanings as set forth herein.

(1) "Ephedrine." All forms of ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, phenylpropanolamine, and all other combinations of these chemicals.

(2) "Ephedrine product." Any product that contains ephedrine, its salts, isomers, or salts of isomers, as its sole active ingredient or in combination with less than therapeutically significant quantities of other active ingredients.

(3) "Package." Any number of pills, tablets, capsules, caplets, or individual units of a substance held within a container intended for sale.

(4) "Person." Any individual, corporation, partnership, trust, limited liability company, firm, association, or other entity selling an ephedrine product to customers.

(5) "Sell." To knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not. (Ord. #372, June 2013)

20-302. Restrictions on public access to ephedrine products. It shall be illegal to sell, deliver, or distribute ephedrine, pseudoephedrine, their salts, their optical isomers or salts of their optical isomers, without a valid prescription from a physician or other healthcare professional licensed by the State of Tennessee to write prescriptions and filled by a Tennessee-licensed pharmacist. (Ord. #372, June 2013)

20-303. Exception. The prohibition contained in § 20-402 shall not apply to the sale of animal feed containing ephedrine or dietary supplement products containing natural occurring or herbal ephedra and extract of ephedra. (Ord. #372, June 2013)

20-304. Reporting theft of ephedrine products. (1) Any person who sells ephedrine products and who discovers a theft, disappearance, or other loss of an ephedrine product shall report the theft, disappearance, or loss in writing

to the Decherd Police Department within twenty-four (24) hours of such a discovery.

(2) Any person who sells ephedrine products shall report to the Decherd Police Department any difference between the quantities of ephedrine products shipped and the quantity of ephedrine products received within twenty-four (24) hours of discovery. (Ord. #372, June 2013)

20-305. Penalty and injunctive relief. (1) Each violation of this chapter shall be considered a separate offense.

(2) The city administrator may institute an action for injunctive relief to enforce the provisions of this chapter.

(3) Every act or omission constituting a violation of any of the provisions of this chapter by any agent or employee of any person shall be deemed and held to be the act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him or it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. (Ord. #372, June 2013)

20-306. Violations and penalty. Any City of Decherd sworn law enforcement officer is hereby empowered to issue a citation to any person for any violation of the provisions of this section. Citations so issued may be delivered in person to the violator or they may be delivered by registered mail to the person so charged if the person cannot be readily found. Any citation so delivered or mailed shall direct the alleged violator to appear in city court on a specific day and at a specific hour stated upon the citation; and the time so specified shall be not less than seventy-two (72) hours after its delivery in person to the alleged violator, or less than ten (10) days of mailing of same. Citations issued for a violation of any of the provisions of this section shall be tried in the city court. The city court judge shall determine whether a defendant has committed a violation of this section. The city shall bear the burden of proof by a preponderance of the evidence. If a defendant pleads guilty or "no contest" to the alleged violation, or is found guilty by the city court judge, the city court judge shall assess a civil monetary fine as a penalty against any person found to have violated any of the provisions of this section, said fine to be in an amount of fifty dollars (\$50.00) for each violation. Each day of violation shall be deemed a separate violation. Each separate package containing any substance containing any ephedrine as defined herein shall be deemed a separate violation. In addition to the civil monetary fine, any defendant who pleads guilty or "no contest" to the alleged violation, or who is found guilty by the city court judge, shall be assessed court costs as provided by law, and in addition shall be ordered to pay an administrative fee to the city in an amount to recoup the cost incurred by the city law enforcement agency for any chemical test conducted by or at the request of the law enforcement agency that is used to determine the

chemical content of any substance collected from the defendant which formed the basis for any citation charge. Appeal may be had as provided by law. (Ord. #372, June 2013)