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Aldermen cite need for ordinance in taking steps to ban possession, use of chemical

Fake marijuana — aka K2, Spice, Genie, Yucatan Fire, Blaze and any number of other names — has just started to make inroads in Port Washington, but aldermen on Tuesday took steps to make possession, use, purchase, sale and delivery of the substance illegal.

The Common Council had its initial hearing on an ordinance outlawing the chemical, which is often sold as incense, following in the footsteps of communities such as Waukesha, Eau Claire and Cedarburg.

Police Officer Kurt Knowski told officials that the substance was unheard of in the city until last September. Since then, he said, it has played a role in three incidents.

In one, he said, the driver of a vehicle involved in a traffic accident was under the influence of fake marijuana.

On April 20, he said, officers investigating a complaint at the Country Inn & Suites confiscated 26 grams of fake marijuana from a group of seven teens, five of them 15-year-olds. Two of the seven were cited for possessing paraphernalia.

Officers confiscated the fake marijuana but could not ticket the teens for possessing it because there is no law against it, Knowski said — a fact that's likely to spread quickly among youths

"It's a grey area," he said. "It's starting to get more prevalent."

The substance is most popular among young people, Knowski said.

"They feel it's not illegal so it's safe," he said. "They'll tell us, 'It's not marijuana, it's K2.'"

The substances look similar, Knowski said, but often smell different.

Fake marijuana has no THC — the active ingredient in marijuana, but it does have a more intense effect, City Attorney Eric Eberhardt said.

"You can smoke a lot less of this substance and still get the same high (as marijuana)," he said. "This substance has a tenfold greater kick."

Knowski agreed, saying fellow officer Jerry Nye has said that while marijuana makes a person mellow, fake marijuana has the opposite effect on users.

"He finds them more aggressive, more belligerent and much more hard to control," he said.

There is no test currently available to detect K2, Knowski said.

Police are hampered in trying to deal with the substance because it is not considered a drug, Knowski said.

“We’re asking the city to give us a tool to handle this appropriately,” he said, noting that the state has not yet enacted legislation outlawing the substance.

The proposed ordinance would call for a fine of between $100 and $500 for possession of fake marijuana and a fine of $500 to $1,000 for the sale, display, delivery or distribution of fake marijuana.

Police would also be authorized to seize the substance.

The fine for possession of fake marijuana is the same as the municipal fine for possession of marijuana, said Eberhardt, who noted that a three-gram bag of fake marijuana can sell for $30 to $40.

If fake marijuana is approved for medicinal use, the ordinance would make an exception for that purpose, he added.

“I think it’s very important to get ahead of this,” Ald. Dave Larson said.

Ald. Dan Becker, who asked the city to come up with the ordinance last year, said he would like to make Port’s legislation a model for other communities.

“It’s important we do something here and on the county level,” he said. Aldermen are expected to act on the proposed ordinance when the Common Council meets Wednesday, May 4.