



AGENDA MEMORANDUM
for the City Council Meeting of May 8, 2012

DATE: 04/20/2012
TO: Ronald L. Olson, City Manager
FROM: Floyd Simpson, Chief of Police
floyds@cctexas.com
361-886-2603

Amending Chapter 33, Code of Ordinances that regulates illegal smoking products and related paraphernalia

CAPTION:

Ordinance amending Chapter 33, Code of Ordinances, City of Corpus Christi, by adding a new Article (IX) to regulate illegal smoking products and related paraphernalia and by specifically negating a requirement of a culpable mental state; providing for penalties; providing for severance; and providing for publication.

BACKGROUND AND FINDINGS:

The original ordinance was approved by the Council on February 15, 2011. A lawsuit was filed stating the ordinance was illegal because it was unconstitutionally vague. A temporary injunction was granted by the trial court on March 30, 2011. The City appealed and won. The Plaintiffs' temporary injunction against the City's enforcement of this ordinance was dissolved. The lawsuit was remanded back to the trial judge who suggested that, if the word "primarily" was added to the ordinance to track the Federal Paraphernalia Act, the City's ordinance would be enforceable.

In Sec.33-124 (b) the word "primarily" was added in 3 separate places and a clause repealing ordinance number 028948 and ordinance number 028967 was added in Section 4.

ALTERNATIVES: None

OTHER CONSIDERATIONS: None

CONFORMITY TO CITY POLICY: Conforms to all city policies.

EMERGENCY / NON-EMERGENCY:
Non-Emergency

DEPARTMENTAL CLEARANCES:
Legal

FINANCIAL IMPACT: None

Fiscal Year: 2011-2012	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s): General, Police

Comments: None

RECOMMENDATION: Approval of the ordinance.

.

LIST OF SUPPORTING DOCUMENTS:

Ordinance