

**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.**

**WHEREAS**, the City of Corpus Christi is a home rule city having authority to utilize police power to enact ordinances to protect the health, safety, and general welfare of its citizens;

**WHEREAS**, the City of Corpus Christi finds that establishing a policy to regulate illegal smoking products and related paraphernalia will provide for a more safe, secure and aesthetic environment for the citizens and the City;

**WHEREAS**, products containing all or some of the above substances are currently being marketed in the City of Corpus Christi under the following commercial names: "K-2," "K-2 SUMMIT," "K-2 SEX," "GENIE," "DASCENTS," "ZOHAI," "SAGE," "SPICE," "KO KNOCK-OUT 2," "SPICE GOLD," "SPICE DIAMOND," "YUCATAN FIRE," "SOLAR FLARE," "PEP SPICE," "FIRE N' ICE," AND "SALVIA DIVINORUM."

**WHEREAS**, it is anticipated by the council that new products will be marketed under different names which will be subject to this definition if they contain any of the chemical components set forth below.

**WHEREAS**, the City Council has determined that the use of these products is a danger to the public health, safety, and welfare because the adverse side effects from the use of the illegal smoking products hereinafter defined include dizziness, panic attacks, vomiting, tachycardia, elevated blood pressure, pallor, numbness and tingling, tremors, seizures, and death.

**WHEREAS**, the United States Drug Enforcement Administration has temporarily designated the illegal smoking products hereinafter defined as controlled substances. The Council finds, however, that existing law is inadequate to combat the use, possession, sale, ingestion or smoking of illegal smoking products in the City.

**WHEREAS**, the Council finds that, in order to promote the public health, safety and welfare of the citizens of this City, illegal smoking products as defined below should be prohibited in the City of Corpus Christi.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:**

**SECTION 1. Chapter 33, Code of Ordinances, is amended by adding a new article (IX), to read as follows:**

**“Sec. 33. Offenses and miscellaneous provisions.**

\* \* \* \* \*

**“Sec. 33-124. Illegal Smoking Products and Related Paraphernalia Prohibited.**

**“(1) Definitions. For the purposes of this subsection:**

**“a. *Illegal smoking product* means any substance, however marketed, which can reasonably be converted for smoking purposes, whether it is presented as incense, tobacco, herbs, spices or any blend thereof if it includes any of the following chemicals or a comparative chemical:**

**“1. *Salvia divinorum* or salvinorin A; all parts of the plant presently classified botanically as *salvia divinorum*, 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, including Salvinorin A;**

**“2. 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol (also known as CP47, 497) and homologues;**

**“3. (6aS,10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-ol(also known as HU-211 or dexanabinol);**

**“4. 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);**

**“5. 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073);**

**“6. 1-pentyl-3-(4-methoxynaphthoyl)indole (also known as JWH-081);**

**“7. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);**

**“8. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexanol;CP-47, 497; or**

**“9. 5-1, 1-dimethyloctyl)-2-[1R,3S-3-hydroxycyclohexyl]-phenol(cannabicyclohexanol; CP-47, 497 C8 homologue).**

**“b. *Illegal smoking paraphernalia* means any device, equipment, or utensil that is primarily used, intended primarily to be used, or by its design can be primarily used, in ingesting or inhaling illegal smoking materials and may include, but is not limited to:**

**“1. A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;**

**“2. A water pipe, excluding hookahs used only for smoking legal tobacco products;**

“3. A carburetion tube or device;

“4. A smoking or carburetion mask;

“5. A chamber pipe;

“6. A carburetor pipe;

“7. An electric pipe;

“8. An air-driven pipe;

“9. A chillum;

“10. A bong; or

“11. An ice pipe or chiller.

“c. Person means an individual, firm, corporation, partnership, organization, association, wholesaler, retailer, any licensed or unlicensed business, or other legal entity.

“(2). Offense.

“(a). It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, deliver, sell, offer for sale, or transfer any illegal smoking product or illegal smoking paraphernalia.

“(b). It shall be unlawful for any person to cause any illegal smoking product to be sold, delivered or transferred to another person.

“(c). It shall be unlawful for any person to use or possess illegal smoking paraphernalia with the intent to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

“(d). The culpable mental state required by Chapter 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation is a strict liability offense.

**SECTION 2. A person violating any term or provision of this article shall be subject to a fine not to exceed \$500.00. A person commits a separate offense for each day during which a violation is committed, or for possession of each item described under this ordinance.**

**SECTION 3. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.**

**SECTION 4.** Ordinance number 028948 and ordinance number 028967 are expressly repealed by this ordinance.

**SECTION 5.** Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

That the foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

Joe Adame	_____	David Loeb	_____
Chris N. Adler	_____	John E. Marez	_____
Kelley Allen	_____	Nelda Martinez	_____
Larry Elizondo	_____	Mark Scott	_____
Priscilla G. Leal	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

Joe Adame	_____	David Loeb	_____
Chris N. Adler	_____	John E. Marez	_____
Kelley Allen	_____	Nelda Martinez	_____
Larry Elizondo	_____	Mark Scott	_____
Priscilla G. Leal	_____		

PASSED AND APPROVED, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
Armando Chapa  
City Secretary

\_\_\_\_\_  
Joe Adame  
Mayor