



Ordinance 11-03-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAVOY, TEXAS, ADOPTING PROVISIONS RELATED TO ILLEGAL SMOKING PRODUCTS, TO PROHIBIT THE USE, PURCHASE, POSSESSION, AND SALE OF SYNTHETIC CANNABINOIDS FOR PUBLIC HEALTH PURPOSES; PROVIDING FOR DEFINITIONS; PROVIDING DEFENSES TO PROSECUTION; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTY OF A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Savoy, Texas has been informed by law enforcement officials of the growing presence of a new and potentially dangerous substance, affecting the public health, safety and welfare of the citizens, particularly the youth of the City of Savoy and;

WHEREAS, the substances are not yet categorized as illegal controlled substances under state or federal law; and

WHEREAS, the substances, which are described herein below, are often used as an alternative to marijuana and are potentially dangerous to users and further, the long term effects are not yet known; these substances are considered to be generally described as synthetic cannabinoids or salvia divinorum (collectively referred to as "Substances") which may be distributed, sold, and marketed under such names as "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," among others and;

WHEREAS, it has been determined that the effects of these substances are a health concern to the citizens of the City of Savoy; and

WHEREAS, the City Council of the City of Savoy, Texas, has determined that it is in the best interest of the public health, safety and welfare to prohibit the substances;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF SAVOY, TEXAS, THAT:**

SECTION 1 The recitals contained in the preamble of this ordinance are determined to be true and correct and are hereby adopted as a part of this ordinance.

SECTION 2 Definitions. In this ordinance, the following words or terms shall have the meaning as hereinafter described.

“*Person*” shall mean an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

“*Illegal Smoking Product*” shall mean any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following chemicals:

- (a) Salviadinorum or salvinorum 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;
- (b) 2-(1R, 3S)-3-hydroxycyclohexyl}-5-(2-methyloctan-2-yl) phenol (also known as CP47, 497) and homologues;
- (c) (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c] chormen-1-ol) (also known as HU-211 or Dexanabinol);
- (d) 1-[3-(trifluoromethyl)phenyl]piperazine (also known as TFMPP);
- (e) 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018); or
- (f) 1-Butyl-3-(1-naphthoyl) indole (also known as JWH-073).

“*Ingestion Device*” shall mean equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:

- (a) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
- (b) a water pipe;
- (c) a carburetion tube or device;
- (d) a smoking or carburetion mask;
- (e) a chamber pipe;
- (f) a carburetor pipe;
- (g) an electric pipe;
- (h) an air-driven pipe;
- (i) a chillum;
- (j) a bong; or
- (k) an ice pipe or chiller.

SECTION 3 Sell, Offer, Gift, Display or Possession. It shall be unlawful for any person to use, consume, inhale, ingest, possess, purchase, barter, give, publicly display for sale, sell, offer for sale, give, or barter any Illegal Smoking Product.

SECTION 4 Use or Possession of Ingestion Devices. It shall be unlawful for any person to use or possess with intent to use an Ingestion Device to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

SECTION 5 Defense. It shall be a defense to a violation of this ordinance that any act described in this ordinance is:

- (a) under and pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such Illegal Ingestion Product; or
- (b) under the supervision of an authorized law enforcement officer to enforce or ensure compliance with this ordinance.

SECTION 6 All ordinances of the City of Savoy in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect. Nothing contained herein shall be construed to conflict with the *Texas Controlled Substance Act*, or any other state and/or federal law governing the same.

SECTION 7 Severability. It is hereby declared that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, because the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 8 Repealing Conflicting Ordinances. All ordinances and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

SECTION 9 Any person, firm or corporation violating any of the provisions or terms of this ordinance, shall be guilty of a misdemeanor and shall upon conviction be subject to a fine of not more than Five Hundred Dollars (\$500.00). Each incident that violates this ordinance shall be considered a separate offense.

SECTION 10 This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

Approved this 15th day of March, 2011.

John Hill, Mayor Pro-Tem

ATTEST:

Regina Lornson, City Secretary