City of Fall River Massachusetts
Office of the City Clerk

ALISON M. BOUCHARD
CITY CLERK

INÊS LEITE
ASSISTANT CITY CLERK

August 21, 2012

Dear Councilor:

A Special Meeting of the City Council has been scheduled for Thursday, August 23, 2012 at 5:15 P.M. in the Council Chamber, Government Center to consider a proposed ordinance regulating the possession, distribution and display of certain substances.

The President respectfully requests your attendance at this meeting.

Very truly yours,

Alison M. Bouchard

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City Clerk

One Government Center • Fall River, MA 02722
TEL 508-324-2220 • FAX 508-324-2211 • EMAIL city_clerks@fallriverma.org

City of Fall River

Office of the Corporation Counsel

WILLIAM A. FLANAGAN
Mayor

ELIZABETH SOUSA
Corporation Counsel

GARY P. HOWAYECK
Assistant Corporation Counsel

CHRISTY M. DIORIO
Assistant Corporation Counsel

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CITY CLERK
FALL RIVER, MA

August 16, 2012

Council President Linda Pereira
Fall River City Council
One Government Center
Fall River, MA 02722

Re: Proposed Ordinance Regulating the Possession, Distribution and Display of Certain Substances

Dear Council President:

It has been brought to the attention of this administration that there are controlled substances being sold in businesses throughout the City that contain synthetic cannabinoids, synthetic stimulants and/or synthetic psychedelic/hallucinogens. These substances are being purchased for recreational use and are particularly attractive to children and young adults due to their availability in small packages at neighborhood stores at minimal costs, as well as due to the names being given to these substances which are intended to appeal to children and young adults. The Drug Enforcement Administration ("DEA") has determined that the consumption of synthetic cannabinoids can have adverse health effects such as agitation, anxiety, nausea, vomiting, tachycardia, elevated blood pressure, tremors, seizures, hallucinations, paranoid behavior and non-responsiveness. The DEA has determined that consumption of synthetic stimulants affect alertness, and have been linked to severe psychotic episodes, increased heart rates, panic attacks, and hallucinations.

On July 9, 2012, President Obama signed federal legislation banning synthetic substances. At least 42 states have legislatively banned forms of synthetic stimulants. On August 9, 2012, the legislature, during an informal session passed a bill banning synthetic stimulants known as "bath salts." The proposed state ban is not inclusive of all of the known synthetic controlled substances.

The power of cities to adopt ordinances for the preservation and promotion of the health of their inhabitants has often been upheld as an exercise of police power, and is one of their most necessary and salutary powers. *Commonwealth v. Cutter*, 156 Mass.

52, 54 (1892); *Tri-Nel Mgmt., Inc. v. Bd. of Health of Barnstable*, 433 Mass. 217, 225-26 (2001). This administration deems it necessary and desirable, in an effort to ensure the health, safety and welfare of its residents to prohibit the sale, delivery, possession, and use of products containing synthetic stimulants in order to protect the public health, safety, and welfare of the Citizens of the City of Fall River. Therefore, I have enclosed a proposed ordinance regulating the possession, distribution and display of synthetic stimulants. I will also be proposing a Board of Health Regulation to the Board of Health for their consideration that gives the Board of Health the authority, after a hearing, to take whatever action the Board deems necessary on licenses that may be issued to business owners who are in violation of the proposed ordinance. I respectfully request that you submit the proposed ordinance to full council to then be referred to the Committee on Ordinances.

Thank you for your consideration to this matter. If you have any questions, concerns, or suggestions please do not hesitate to contact me.

Very truly yours,

William A. Flanagan
Mayor

cc: City Clerk

BE IT ORDAINED by the City Council of the City of Fall River, as follows:

By inserting Chapter , a new Article , Regulating the Possession, Distribution and Display of Certain Substances and inserting under said article, the following new sections to read as follows:

Section Findings and Intent

WHEREAS, it has been reported by various agencies that synthetic cannabinoids, synthetic cathinones and synthetic hallucinogens have been linked to serious physical effects resulting in hospitalization and death when ingested, inhaled or otherwise introduced into the human body. These synthetic cannabinoids, synthetic cathinones and synthetic hallucinogens pose health, safety, and welfare issues to the residents of the City of Fall River.

Section Definitions.

As used in this Article, the following terms shall have the meaning ascribed to them below:

Cannabimimetic Agents: Unless specifically exempted by law, any material, compound, mixture or preparation which contains any quantity of cannabimimetic agents, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation. As used in this Article, cannabimimetic agents mean:

1. Any substance that is a cannabinoid receptor type 1 (CB 1 receptor) as demonstrated by binding studies and functional assays within the following structural classes:

    a. 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the penolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

    b. 3-(1-naphthoyl)indole or 3-(1-naphthyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or napthtyl ring to any extent;

    c. 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

    d. 1-(1-napththylmethyl)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent; or

c. 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

d. 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

e. 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

f. 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

g. 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

h. 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine(2C-N); and

i. 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)

Illegal Chemical Product: Any substance which includes any one (1) or more of the following chemicals:

1. 3,4 – methylenedioxymethcathinone, MDMC;

2. Medphradone (4-methylmethcathinone);

3. 4 – methylmethcathinone, 4 – MMC;

4. 4 – methoxymethcathinone, bk – PMMA, PMMC;

5. 3, 4 – fluoromethcathinone, FMC;

6. Napthylpyrovalerone, NRG -1;

7. Beta-keto-N-methylbenzodioxolylpropylamine;

8. 2-(methylamino)-propiophenone; OR alpha-(methylamino) propiophenone;

9. 3-methoxymethcathinone;

10. 2-(methylamino)-1-phenylpropan-1-one;

11. 4-ethylmethcathinone;

12. 3,4-dimethylmethcathinone;

13. Alpha-Pyrrolidinopentiophenone;

14. Beto-Keto-Ethylbenzodioxolybutanamine;

15. 3,4-methylenedioxy-N-ethylcathinone;

16. 4-methyl-alpha-pyrrolidinobutyrophenone;

17. Methylenedioxypyrovalerone or [(MDPV) (1-(1,3-Benzodioxol-5-ul)-2-(1-pyrrolidinyl)-1-pentanone]; and

18. MDAI; 5,6-methylenedioxy-2-aminoinadame.

Person: An individual, corporation, partnership, wholesaler, retailer, or any licenced or unlicensed business.

Section Scope of Requirement

A. No person shall sell, offer to sell, gift, or publicly display for sale any cannabimimetic agent, illegal chemical product, or like products that shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual, or mental processes, that is similar to a controlled substance or imitation controlled substance.

B. No person shall knowingly possess, inhale, or ingest any cannabimimetic agent or illegal chemical product or like products that shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefactaion, or dulling of the senses or nervous system, distortion of audio, visual, or mental processes, that is similar to a controlled substance or imitation controlled substance.

C. This Article shall apply whether the cannabimimetic agents or illegal chemical products, as herein defined, are desired as tobacco, herbs, incense, spice, bath salts, plant food or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked or ingested.

Section Enforcement and Penalties.

This Article shall be enforced by the Fall River Police Department through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c. 40, § 21, or by noncriminal disposition pursuant to M.G.L c. 40, § 21D. The fine for violation of this Article shall be three hundred dollars ($300) for each offense. A separate offense shall be deemed committed for each sale, offer to sell, gift, or public display for sale.

Section Reporting Requirement

The Fall River Police Department shall report any violation from a licensed establishment to the local licensing authorities.

Section Seizure of controlled substances.

All substances, found in plain view, being used in violation of this Article may be seized and held until final adjudication whereupon they will be destroyed by the Fall River Police Department.