

City of Fall River Massachusetts
Office of the City Clerk

ALISON M. BOUCHARD
CITY CLERK

INÊS LEITE
ASSISTANT CITY CLERK

August 29, 2012

Dear Councilor:

A Special Meeting of the City Council has been scheduled for Friday, August 31, 2012 at 12:00 P.M. in the Council Chamber, Government Center to consider the following:

- **Committee Report:** Committee on Ordinances and Legislation recommending all readings w/Emergency Preamble – 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
City Clerk

CITY OF FALL RIVER

To the City Council

Councillors:

The Committee on Ordinances and Legislation, at a meeting held on August 28, 2012 voted unanimously to recommend the accompanying proposed ordinance, accompanied by an emergency preamble, be passed through first reading, second reading, passed to be enrolled and passed to be ordained, with Councilor Casey absent and not voting.


Clerk of Committees

City of Fall River, *In City Council*

EMERGENCY PREAMBLE

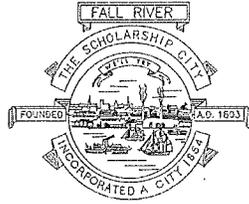
WHEREAS, the immediate passage of the accompanying proposed ordinance is deemed necessary inasmuch as it vitally affects the health and safety of the public, now therefore

BE IT RESOLVED, that said ordinance is hereby deemed an emergency measure in accordance with the provisions of Chapter 43, Section 20 of the Massachusetts General Laws.

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

August 16, 2012

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

RECEIVED
2012 AUG 16 P 12:04
CITY CLERK
FALL RIVER, MA

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.

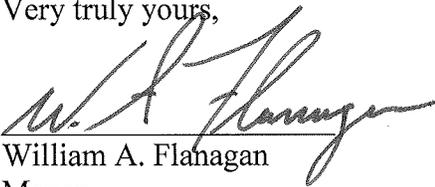
On July 9, 2012, President Obama signed federal legislation banning synthetic substances. At least 42 states have legislatively banned forms of synthetic stimulants. On August 9, 2012, the legislature, during an informal session passed a bill banning synthetic stimulants known as "bath salts." The proposed 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

**CITY OF FALL RIVER
IN CITY COUNCIL
AUG 23 2012**

af + placed on file

City of Fall River, In City Council

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

By inserting Chapter 34, a new Article VIII, Regulating the Possession, Distribution and Display of Certain Substances and inserting under said article, the following new sections to read as follows:

Section 34-361 Possession, Distribution & Display of certain substances

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 34-362 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 naphthyl 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-naphthylmethyl)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

- e. 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

2. Any substance which includes any one (1) or more of the following chemicals:

- a. CP 47,497; 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
- b. Cannabicyclohexanol; 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
- c. JWH-015; (2methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
- d. JWH-018; 1-pentyl-3-(1-naphthoyl) indole;
- e. JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
- f. JWH-073; 1-butyl-3-(1-naphthoyl)indole;
- g. JWH-081; 1-pentyl-3-(1-4-methoxynaphthoyl)indole;
- h. JWH-122; 1-pentyl-3-(4-methyl-1-naphthoyl)indole;
- i. JWH-200; 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole;
- j. JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;
- k. JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;
- l. JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;
- m. AM2201; 1-(5-fluoropentyl)-3-(1-naphthoyl)indole;
- n. AM694; 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole;
- o. SR-19 and RCS-4; 1-pentyl-3-(4-methoxy-benzoyl)indole; and
- p. SR-18 and RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole.

3. Any substance which includes any one (1) or more of the following chemicals:

- a. 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- b. 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
- 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 – methylenedioxy-methcathinone, 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. Methylenedioxypropylone or [(MDPV) (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone)]; and
18. MDAI; 5, 6-methylenedioxy-2-aminoindane.

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

Section 34-363 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, 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.
- 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 34-364 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 34-365 Reporting Requirement

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

Section 34-366 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.