

ORDINANCE NO. 2010-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, PROHIBITING THE POSSESSION, USE, PURCHASE, DISPLAY, SALE, DELIVERY OR DISTRIBUTION OF SYNTHETIC CANNABINOIDS, SYNTHETIC CANNABINOID MIMICKING COMPOUNDS, SALIVA DIVINORUM AND RELATED SUBSTANCES AND PARAPHERNALIA; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council has secured information indicating that a threat to the public health, safety and welfare of the citizens, particularly the youth, of the City of Canton is presented in the form of retail products sold or distributed as a mixture of dried herbs or vegetation that when covered or mixed with certain specific chemicals, produces the physiological and psychological effects of a controlled substance such as marijuana; and

WHEREAS, such substances are competently reported to cause hallucinations, vomiting, agitation, panic attacks, tachycardia, elevated blood pressure, pallor, numbness and tingling, disorientation, loss of time awareness and, in some cases, tremors and seizures as documented by the National Drug Intelligence Center of the United States Department of Justice in EWS Report 000006 issued May 18, 2010; and

WHEREAS, the substances identified above 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", "K2 STANDARD", KO KNOCK-OUT 2", "GENIE", "DASCENTS", "ZOHAI", "SAGE", "SPICE", "SPICE GOLD", "SPICE DIAMOND", "YUCATAN FIRE", "SOLAR FLARE", "PEP SPICE", "FIRE N' ICE", AND "SALVIA DIVINORUM", among others; and

WHEREAS, these Substances may be marketed as incense but share common ingredients including JWH-01 8 and JWH-073, while salvia divinorum contains the ingredient known as Salvinorin A; and

WHEREAS, these Substances produce a very potent, intoxicating effect which is estimated by the medical community to produce effects ranging from three to one hundred times greater and more potent than tetrahydrocannabinol ("THC"), the active ingredient in marijuana; and

WHEREAS, these Substances manifest all of the demonstrated attributes of substances that deprive individuals of judgment, coordination and the ability to conduct themselves in a safe and appropriate manner in modern society; and

WHEREAS, it has been determined that effects of these Substances pose a risk to the public health and safety of the citizens of the City of Canton; and

WHEREAS, these Substances have not yet been categorized as illegal controlled substances under Texas or federal law, but several other countries, states and municipalities have already taken action to prohibit these Substances due to other negative health concerns; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2.

- (A) That it shall be unlawful for any person, firm or corporation to possess, use, consume, smoke, transfer, buy, display, sell, attempt to sell, distribute, or deliver any one or more of the following Substances in the City of Canton, Texas:
- (1) Salvia divinorum 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, salt, derivative, mixture or preparation of such plant, its seeds or extracts;
 - (2) Synthetic cannabinoids, synthetic cannabinoid mimicking compounds, substances containing the HU-210, HU-211, JWH-018, JWH-073, JWH-081, or CP47, 497 compounds, or substances having cannabinoid mimicking effects used to adulterate plant or other materials;
 - (3) Products containing any of the above substances and marketed as "K-2", "K-2 Summit", "K-2 Sex", "Genie", "Dascents", "Zohai", "Sage", "Spice", "KO Knock-Out 2", "Spice Gold", "Spice Diamond", "Spice Silver", "Yucatan Fire", "Solar Flare", "Pep Spice", "Fire 'n Ice", "Diablo", "Spicy Green", "Skunk", "Sence" and "Salvia Divinorum", or products by any other name containing a synthetic cannabinoic, synthetic cannabinoid mimicking compound or substance containing the HU-210 compound, or
 - (4) Any substance similar to those described, which when inhaled or otherwise ingested produces intoxication, stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changes, distorts or disturbs the auditory, visual or mental process and the product or substance has no other apparent legitimate purpose for consumption.
- (B) That it shall be unlawful for any person, knowingly, to breathe, inhale, drink, or otherwise ingest any compound, liquid or chemical listed within this Ordinance or a similar substance, for the purpose of inducing a condition of intoxication,

stupefaction, giddiness, paralysis, irrational behavior, or in any manner, changing, distorting or disturbing the auditory, visual, or mental process.

(C) That it shall be unlawful for any person, firm or corporation, to possess, use, transfer, buy, display, sell, attempt to sell, distribute, or deliver within the City of Canton any paraphernalia, equipment or utensils used for ingesting or inhaling any compound, liquid or chemical listed in this Ordinance or similar substance.

(D) It shall be a defense to a violation of this Ordinance that any act described in this Ordinance is under and pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.

Section 3. All ordinances in the City of Canton 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 effecting. 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 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance which shall remain in full force and effect.

Section 5. Any person, firm or corporation violating any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the city of Canton, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

Section 6. This ordinance shall take effect immediately from and after its passage and publication as required by law.

DULY PASSED AND APPROVED by the City Council of the City of Canton, Texas, on this 21st day of September, 2010.



William R. Wilson, Mayor

ATTEST:



Julie H. Seymore, City Secretary