

**Passed 9-27-10 by a vote of 7-0 under a suspension of rules**

**ORDINANCE # 33-2010**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO PROHIBITING THE SALE OF SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS OR THEIR USE IN PUBLIC FACILITIES**

WHEREAS, the Common Council of the City of Valparaiso is desirous of maximizing the public health, welfare and safety of the citizens of Valparaiso; and

WHEREAS, Indiana law provides that the Common Council of the City of Valparaiso may enact ordinances to promote and protect the safety, health and welfare of the citizens of Valparaiso; and

WHEREAS, the Common Council of the City of Valparaiso has been made aware that substances containing synthetic cannabinoids, which includes substances containing one or more of the following chemical compounds:

- 1) (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10,10a-tetrahydrobenzo[*c*]chromen-1-ol, also known as HU-210;
- 2) 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018;
- 3) 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; or
- 4) Any other equivalent compound or derivative

(“Products”) have been marketed, sold, and offered for sale to the residents of the City of Valparaiso, including minors; and

WHEREAS, the citizens of Valparaiso and various elected and law enforcement officials have noticed an increase use of such products, currently marketed and sold under the name of K2 and Spice; and

WHEREAS, the products containing synthetic cannabinoids have not been tested by the Food and Drug Administration (US Department of Agriculture) or other governmental agencies for human consumption and may contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS, medical studies and treatises note deleterious health risks and adverse effects associated with synthetic cannabinoids and the products; and

WHEREAS, several states and municipalities throughout the United States have banned the product and synthetic cannabinoids as a danger to public health and welfare; and

WHEREAS, the smoke emanating from the burning or incineration of the products may cause adverse effects on bystanders or those in the vicinity of such activity; and

WHEREAS, the Common Council of the City Valparaiso believes it to be in the best interest of its citizens to prohibit the sale, marketing, or offering for sale of the products within the City of Valparaiso so as to protect and preserve the public health, safety and welfare of the citizens of the City of Valparaiso.

BE IT ORDAINED by the Common Council of the City of Valparaiso that a new Chapter 99 should be added to Title IX of the Municipal Code of the City of Valparaiso and should read as follows:

99.1 PROHIBITED ACTIVITY. For purposes of this Section, the following conduct shall be prohibited within the City of Valparaiso:

- A. Products containing synthetic cannabinoids (“Products”), such as K2/Spice, or similar products which contain one of more of the following chemical compounds:
  - 1. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-methyloctan-2-yl)-6a, 7, 10,10a-tetrahydrobenzo[c] chromem-1-ol, also known as HU-210;
  - 2. 1-Pentyl-3-(1-naphthoy)indole, also known as JWH-018;
  - 3. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073; or
  - 4. Any other equivalent compound or derivativeShall not be sold, marketed or offered for sale with the City of Valparaiso, Indiana; and
- B. Products containing synthetic cannabinoids (“Products”) may not be burned, incinerated or ignited in any public place or on any property owned, leased or controlled by the City of Valparaiso.

99.2 ENFORCEMENT.

- A. Enforcement of this chapter shall be by the City of Valparaiso Police Department.
- B. It shall be the duty of the Valparaiso City Attorney, to whom the City of Valparaiso Police Department shall report any violation of the provision of this chapter, to cause proceedings to commence against the person violating the provision of this chapter and to prosecute to final termination.

99.3 VIOLATIONS AND PENALTIES.

- A. Persons or entities violating the provisions of this ordinance shall be subject to the penalty imposed for a Class B Infraction, as set forth in I.C. 34-28-5-4. Accordingly, this ordinance shall be in force by the provisions of I.C. 34-28-5.

- B. Violations of this ordinance within the City of Valparaiso shall be a Class B Infraction and upon conviction shall be punishable as follows:

Punishable by a judgment of up to \$1,000.00

- C. The Valparaiso City Attorney is authorized to bring a civil action pursuant to I.C. 36-1-6-4 to enjoin any person or business from violating this ordinance.

PASSED BY THE Common Council of the City of Valparaiso, Indiana, by a \_\_\_\_\_ vote of all Members present in voting this \_\_\_\_\_ day of September, 2010.

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Jon Costas, Mayor

ATTEST:

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Sharon E. Swihart  
Clerk Treasurer