

See AO 2010-87(S)

Submitted by: ASSEMBLY CHAIR TRAINI,
MAYOR DAN SULLIVAN, AND
ASSEMBLY MEMBERS
HONEMAN AND GUTIERREZ
Prepared by: Dept. of Law
For reading: November 23, 2010

**ANCHORAGE, ALASKA
AO No. 2010-87**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.35**
2 **TO PROHIBIT THE MANUFACTURE, ASSEMBLY, DISTRIBUTION, MARKETING,**
3 **SALE, USE OR POSSESSION OF SUBSTANCES CONTAINING SYNTHETIC**
4 **CANNABINOIDS, TO PROHIBIT THE SALE OR POSSESSION OF**
5 **PARAPHERNALIA RELATED TO THE USE OF SYNTHETIC CANNABINOIDS, TO**
6 **PROVIDE PENALTIES, AND AMENDING SECTION 14.60.030 TO PROVIDE FOR**
7 **CIVIL PENALTIES.**
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9
10 **WHEREAS**, the Municipality is aware that substances containing synthetic
11 cannabinoids were and are manufactured, or assembled for, or marketed, sold or
12 offered for sale to, residents of the Municipality, including minors; and
13

14 **WHEREAS**, local law enforcement personnel and "first responders" indicate there is
15 an increased use of synthetic cannabinoids, currently marketed and sold under a
16 variety of names, including "K2", "Spice", "Black Mamba", "Blue Pearl", "Genie",
17 "DaScents", "Spike", "Space" and "Zohai"; and
18

19 **WHEREAS**, some users of the synthetic cannabinoids endanger the public by
20 operating vehicles while under the influence and endanger the welfare of first
21 responders; and
22

23 **WHEREAS**, some users experience severe reactions, resulting in unconsciousness,
24 seizures, and hospitalization; and
25

26 **WHEREAS**, users of the drug report the effects are similar to marijuana and LSD
27 usage, including blurred vision, extremely elevated blood pressure, irregular heart
28 rates, hallucinations, delusions, vomiting, euphoria, "highs", and disturbing side
29 effects including feelings of excruciating pain, agitation and loss of control; and
30

31 **WHEREAS**, representatives of businesses selling the substance indicate it is
32 available to minors as well as adults; and
33

34 **WHEREAS**, products containing synthetic cannabinoids are not tested by the Food
35 and Drug Administration (U.S. Department of Agriculture) or other governmental
36 regulatory agency for human consumption and may contain chemicals detrimental to
37 the health and welfare of those ingesting them; and
38

1 **WHEREAS**, medical studies and treatises note deleterious health risks and adverse
2 effects associated with the use of synthetic cannabinoids and products containing the
3 synthetic cannabinoids; and

4
5 **WHEREAS**, despite packaging warning purchasers the products are not for human
6 consumption, the warnings are not being heeded; and

7
8 **WHEREAS**, synthetic cannabinoids are banned in many states and municipalities
9 throughout the United States as a danger to public health and welfare; and

10
11 **WHEREAS**, the smoke emanating from the burning or incineration of synthetic
12 cannabinoids may cause adverse effects on bystanders or those in the vicinity of
13 such activity; and

14
15 **WHEREAS**, it is in the best interest of the Municipality to prohibit the manufacture,
16 assembly, possession, use, sale, marketing, or offering for sale of synthetic
17 cannabinoids within the boundaries of the Municipality to protect the health, safety
18 and welfare of its citizens; now, therefore,

19
20 **THE ANCHORAGE ASSEMBLY ORDAINS:**

21
22 **Section 1.** Anchorage Municipal Code chapter 8.35 is amended by adding a new
23 section to read as follows:

24
25 **8.35.100 Sale of synthetic cannabinoids.**

26
27 A. It shall be unlawful for any person or organization to knowingly
28 manufacture, assemble, distribute, dispense, sell, attempt to sell, give,
29 trade, barter, transfer, or to otherwise furnish in a single transaction any
30 product or combination of products containing synthetic cannabinoids,
31 such as products commonly known as "K2", "Spice", "Genie",
32 "DaScents", "Zohai" or similar products, containing one or more of the
33 following chemical compounds:

- 34
35 1. HU-210: (6aR, 10aR)-9-(hydroxymethyl)-6,6 dimethyl-3-
36 (2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
37 ol, or 6aR-trans-3-(1,1-Dimethylheptyl)-6a,7,10,10a-tetrahydro-
38 1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pran-9-methanol;
- 39
40 2. HU-211: (6aS, 10aS)-9- (hydroxymethyl)-6,6-dimethyl-3-(2-
41 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
42 ol)(also known as Dexanabinol);
- 43
44 3. CP47,497 and homologues: 2-[(1R,3S)-3-hydroxycyclohexyl]-5-
45 (2-methyloctan-2-yl)phenol;
- 46
47 4. JWH-018: 1-Pentyl-3-(1-naphthoyl)indole;
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49 5. JWH-019: 1-Hexyl-1-(1-naphthoyl)indole;

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6. JWH-073: 1-Butyl-3-(1-naphthoyl)indole;
 7. JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, (also known as 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanon);
 8. JWH-200: 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole;
 9. JWH-250: 1-pentyl-3-(2-methoxyphenylacetyl)indole, (also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone);
 10. JWH-398: 1-Pentyl-3-(4-chloro-1-naphthoyl)indole)
 11. 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 the plant, and every compound, manufacture, salts, derivative, mixture or preparation of the plant, its seeds or extracts;
 12. TEMPP: 1-(3-trifluoromethylphenyl) piperazine;
 13. BZP: N-benzylpiperazine; or
 14. Any other synthetic cannabinoids or derivatives, salts, isomers, or salts of isomers with similar chemical structure and pharmacological activity as the substances described above.

This prohibition shall also apply to any other equivalent compound, substance, or derivative, whether described as tobacco, herbs, incense, food, nutrient, spice or any blend thereof which, when smoked or ingested, mimics the effects of a controlled substance, regardless of whether the substance is marketed for the purpose of being smoked or ingested.

- B. It shall be unlawful to manufacture synthetic cannabinoids described in subsection A. within the Municipality.
- C. It shall be unlawful for any person or organization to recklessly manufacture, assemble, distribute, sell, market, display for sale, or offer for sale within the Municipality products containing synthetic cannabinoids described in subsection A.
- D. Products containing synthetic cannabinoids may not be possessed, ingested, burned, incinerated or ignited in any public place or on any property owned, leased or controlled by the Municipality. For purposes of this section, "public place" includes any public transit vehicle, any public street or other right of way, and any public school building or grounds.

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- E. A person or organization violating the provisions of subsections A. or B. shall be guilty of a misdemeanor and shall be punishable by:
 - 1. A fine of not more than \$5,000 or imprisonment of not more than one year, or both.

- F. A person or organization violating the provisions of subsection C. shall be guilty of a misdemeanor and shall be punishable by:
 - 1. A fine of not more than \$5,000 or imprisonment of not more than 6 months, or both.

- G. A person or organization violating the provisions of subsection D. shall be guilty of a misdemeanor and shall be punishable by:
 - 1. A fine of not more than \$5,000 or imprisonment of not more than 6 months, or both.

- H. As an alternative to the remedies, procedures and penalties provided in this title and section 1.45.010, a violation of subsection C. may be charged as a civil violation subject to and prosecuted in accordance with title 14, and in such case shall be punishable by a civil penalty in accordance with chapter 14.60.

- I. If, after multiple violations by the same person or entity, the Municipal Attorney and the Anchorage Police Department determine the imposition of criminal penalties or civil fines will not be effective in enforcing this section, the Municipal Attorney may seek any other remedies provided by law, including injunctive relief.

- J. It is not an offense under this section if the person was acting at the direction of an authorized agent of the municipality to enforce or ensure compliance with this section.

- K. Any product described in subsection A. found in the illegal possession of any person may be confiscated and destroyed by the municipality.

- L. This section does not apply to drugs or substances lawfully prescribed or drugs or substances approved by the federal Food and Drug Administration or drugs or substances specifically permitted by state law.

Section 2. Anchorage Municipal Code section 8.35.010 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

- A. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*** *** ***

Drug paraphernalia means any items whose objective characteristics or objective manufacturer's design indicate that it is intended for use in the consumption, ingestion, inhalation, injection or other method of introduction of:

1. A controlled substance into the human body or to facilitate a violation of AS 11.71; or [.]
2. a product containing illegal synthetic cannabinoids under section 8.35.100.

Section 3. Anchorage Municipal Code section 14.60.030 is hereby amended to add to the fine schedule (*the remainder of the schedule is not affected and therefore not set out*):

14.60.030 Fine schedule.

Code Section	Offense	Penalty/Fine
***	***	***
8.36.100B	Possession or use of synthetic cannabinoid	\$150 for the first violation; \$300 for the second violation; \$600 for subsequent violations
***	***	***

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07; AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No. 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), § 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-09)

Section 4. The sections, paragraphs, sentences, clauses, phrases and words of this ordinance are separable, and if any word, phrase, clause, sentence, paragraph

1 or section of this ordinance shall be declared unconstitutional, invalid or
2 unenforceable by the valid judgment or decree of a Court of competent jurisdiction,
3 such unconstitutionality, invalidity or unenforceability shall not affect any of the
4 remaining words, phrases, clauses, sentences, paragraphs and sections of this
5 ordinance.

6
7 **Section 5.** This ordinance shall be effective on _____, 2010.
8

9
10 PASSED AND APPROVED by the Anchorage Assembly this _____ day of
11 _____, 2010.
12

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16 _____
17 Chair of the Assembly
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19 ATTEST:
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22 _____
23 Municipal Clerk
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25 G:\mat\open matters\Spice - AO criminalization of synthetic cannabinoids\AO prohibiting cannabinoids v3.doc

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2010-87

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.35 TO PROHIBIT THE MANUFACTURE, ASSEMBLY, DISTRIBUTION, MARKETING, SALE, USE OR POSSESSION OF SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS, TO PROHIBIT THE SALE OR POSSESSION OF PARAPHERNALIA RELATED TO THE USE OF SYNTHETIC CANNABINOIDS, TO PROVIDE PENALTIES, AND AMENDING SECTION 14.60.030 TO PROVIDE FOR CIVIL PENALTIES.

Sponsor: Assembly Chair Traini, Mayor Sullivan, and Assembly Members Honeman & Gutierrez
 Preparing Agency: Department of Law
 Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:					
	(In Thousands of Dollars)				
	FY10	FY11	FY12	FY13	FY14
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:					
CAPITAL:					
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:
 None.

PRIVATE SECTOR ECONOMIC EFFECTS:
 None.

Prepared by: Dept. of Law

Telephone: 343-4545

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 627-2010

Meeting Date: November 23, 2010

1 **From:** ASSEMBLY CHAIR TRAINI, MAYOR SULLIVAN, AND
2 ASSEMBLY MEMBERS HONEMAN AND GUTIERREZ
3

4 **Subject:** AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
5 CHAPTER 8.35 TO PROHIBIT THE MANUFACTURE, ASSEMBLY,
6 DISTRIBUTION, MARKETING, SALE, USE OR POSSESSION OF
7 SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS, TO
8 PROHIBIT THE SALE OR POSSESSION OF PARAPHERNALIA
9 RELATED TO THE USE OF SYNTHETIC CANNABINOIDS, AND
10 AMENDING SECTION 14.60.030 TO PROVIDE FOR PENALTIES.
11

12 The manufacture and use of synthetic cannabinoids is a new threat in the war on
13 drugs. Internationally and nationally, synthetic cannabinoids are a bane to law
14 enforcement and health care providers. Synthetic cannabinoids are banned in at
15 least 14 states, as well as the United States military. Products containing these
16 substances are not currently regulated by the Federal government or by the State of
17 Alaska and are readily available in local stores. Even children may easily access
18 these drugs.
19

20 Given the extreme effects of these products and the high degree of risk of death or
21 serious injury the products pose to users and people who encounter these users,
22 local criminalization is appropriate.
23

24 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
25 **AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.35 TO PROHIBIT**
26 **THE MANUFACTURE, ASSEMBLY, DISTRIBUTION, MARKETING, SALE, USE**
27 **OR POSSESSION OF SUBSTANCES CONTAINING SYNTHETIC**
28 **CANNABINOIDS, TO PROHIBIT THE SALE OR POSSESSION OF**
29 **PARAPHERNALIA RELATED TO THE USE OF SYNTHETIC CANNABINOIDS,**
30 **AND AMENDING SECTION 14.60.030 TO PROVIDE FOR PENALTIES.**
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32
33 Prepared by: Dennis A. Wheeler, Municipal Attorney
34 Concur: George J. Vakalis, Municipal Manager
35

36 Respectfully submitted: Dick Traini, Assembly Chair
37 Daniel A. Sullivan, Mayor
38 Paul Honeman, Assembly Member
39 Mike Gutierrez, Assembly Member
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Content ID: 009644

Type: Ordinance - AO

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.35 TO PROHIBIT THE MANUFACTURE, ASSEMBLY, DISTRIBUTION, MARKETING, SALE, USE OR POSSESSION OF

Title: SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS, TO PROHIBIT THE SALE OR POSSESSION OF PARAPHERNALIA RELATED TO THE USE OF SYNTHETIC CANNABINOIDS, TO PROVIDE PENALTIES, AND AMENDING SECTION 14.60.030 TO PROVIDE FOR CIVIL PENALTIES.

Author: westoverf

Initiating Dept: Legal

Review Depts: MuniManager

Description: AO AMENDING ch 8.35 PROHIBIT MFR, ASSEMBLY, DISTRIBUTN, MARKET, SALE, USE OR POSS OF SUBSTANCES SYNTHETIC CANNABINOIDS, PROHIBIT SALE OR POSS OF PARAPHERNALIA RE USE OF CANNABINOIDS, PROVIDE PENALTIES, & AMEND 14.60.030 FOR CIVIL PENALTIES.

Keywords: chapter 8.35, synthetic cannabinoids

Date Prepared: 11/19/10 11:52 AM

Director Name: Dennis A. Wheeler

Assembly Meeting Date: 11/23/10 1

Public Hearing Date: 12/7/10

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	11/19/10 12:06 PM	Exit	Joy Maglaqui	Public	009644
MuniManager_SubWorkflow	11/19/10 12:06 PM	Approve	Joy Maglaqui	Public	009644
Legal_SubWorkflow	11/19/10 11:59 AM	Approve	Rhonda Westover	Public	009644
AllOrdinanceWorkflow	11/19/10 11:57 AM	Checkin	Rhonda Westover	Public	009644

A. D. Anderson