

ZAPATA COUNTY
Mary Jayne Villarreal-Bonoan
ZAPATA COUNTY CLERK
Zapata, Tx 78076

00168947



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MARY JAYNE VILLARREAL-BONOAN
ZAPATA TX 78076



State of Texas |
County of Zapata

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Zapata County, Texas.

Mary Jayne Villarreal Bonoan
Mary Jayne Villarreal-Bonoan, County Clerk

ORDINANCE NUMBER 2014-2-10

AN ORDINANCE REGULATING CERTAIN COMMERCIAL ESTABLISHMENTS THAT SELL SALTS, INCENSE, OR PARAPHERNALIA DESIGNED FOR INHALATION OR INGESTION OF TOBACCO AND DRUGS, FINDINGS, DEFINITIONS, CREATION OF HEALTH AND SAFETY DEPARTMENT, REQUIRING REGISTRATION OF PREMISES, REQUIRING THAT THE INGREDIENTS OF ALL PRODUCTS CAPABLE OF BEING INHALED OR INGESTED BE SPECIFIED ON THE PACKAGE, PROOF OF OWNERSHIP OF BUSINESS, PROOF OF INSURANCE FOR OPERATION, DECLARATION THAT PRODUCTS LACKING INGREDIENTS ON LABEL ARE AN ATTRACTIVE NUISANCE, PROHIBITING THE ADMISSION OF MINORS TO CERTAIN COMMERCIAL ESTABLISHMENTS, VOLUNTARY COMPLIANCE, ABATEMENT OF NUISANCE, RECOVERY OF COSTS FOR ENFORCEMENT.

AUTHORITY TO ENACT ORDINANCE

WHEREAS, The Commissioners Court of the County of Zapata is authorized to exercise "Type A" general law ordinance making powers pursuant to Section 81.033 of the Texas Local Government Code and by virtue of the approval at an election held for that purpose; and,

WHEREAS, Section 51.012 of the Texas Local Government Code authorizes the adoption by a "Type A" general law city of any ordinance or regulation not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality and,

WHEREAS, the Commissioners Court of the County of Zapata has made findings as follows:

FINDINGS

1. The Commissioners Court of the County of Zapata finds that it has incurred great financial expense providing medical care and emergency services treatment and transportation to individuals, many who are minors and young adults, who have inhaled or otherwise ingested substances contained in products sold under a variety of names but lacking a label or packaging specifying the chemical ingredients of the substances purchased at certain commercial establishments commonly known as "head shops" or "smoke shops" and other commercial establishments.

2. The Commissioners Court of the County of Zapata finds that law enforcement officials have encountered within Zapata's corporate boundaries, products being sold containing compounds originally designed as synthetic alternatives to marijuana, prohibited controlled substances such as marijuana, tetrahydrocannabinol (THC), cathinone, MDMA and MDEA (i.e., synthetic cannabinoids, methcathinone, synthetic stimulants and/or synthetic hallucinogens in packaging that does not specify the chemical ingredients of the product.

3. The Commissioners Court of the County of Zapata finds that products sold as salts and incense and contained in packages that fail to specify the ingredients of the contents may be purchased at certain commercial establishments located in the County of Zapata and the substances within the packages are being inhaled and ingested and abused by minors.

4. The Commissioners Court of the County of Zapata finds these products are often contained in packaging that insufficiently describes the chemical ingredients and their potential harmful consequences if inhaled or otherwise ingested.

5. The Commissioners Court of the County of Zapata finds some of the products being sold or distributed at these commercial establishments have been treated with and contain synthetic cannabinoids, synthetic stimulants and synthetic hallucinogens or other harmful substances.

6. The Commissioners Court of the County of Zapata finds that the brand names given to these substances are intended to appeal to children, minors and young adults.

7. The Commissioners Court of the County of Zapata finds that while these products are contained in packaging that indicate they are harmful if ingested or "not safe for human consumption," the packages not only fail to state the

chemical ingredients, but also fail to state the potential harmful effects of those ingredients if inhaled or ingested, and further fail to state the appropriate treatment or remedies for medical professionals to diagnose and appropriately treat someone during an emergency.

8. The Commissioners Court of the County of Zapata finds that psychoactive salts and incense sold by these commercial establishments are particularly appealing and an attractive nuisance to children, minors and young adults because of their availability in small packages at local stores at minimal costs, under trade or "street" names that are particularly attractive to children, minors and young adults including but not limited to: Bliss, Blizzard, Blue Silk, Banzai Grow, Charge Plus, Charlie, Cloud Nine, Euphoria, Hurricane, Ivory Snow, Ivory Wave, Lunar Wave, Ocean, Ocean Burst, Pixie Dust, Posh, Pure Ivory, Purple Wave, Red Dove, Scarface, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Night, and White Lightning, and that incense is marketed as K2, K3, Spice, Genie, Smoke, Pot-Pourri, Buzz, Spice99, Voodoo, Pulse, Hush, Mystery, Earthquake, Black Mamba, Stinger, Ocean Blue, Serenity, and Fake Weed.

10. The Commissioners Court of the County of Zapata finds that some packages containing salts and incense being sold

in the County of Zapata do not contain normal, standard bath salts and normal, standard incense that do not contain synthetic chemical compounds such as those listed above that produce psychoactive or psychotropic stimulant effects, and that the warnings on packages are insufficient to deter children, minors and young adults from inhaling, ingesting or otherwise abusing these products.

11. The Commissioners Court of the County of Zapata finds that 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.

12. The Commissioners Court of the County of Zapata finds that 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; and,

13. The Commissioners Court of the County of Zapata finds that the American Association of Poison Control Centers has reported 2,700 synthetic cannabis-related calls to poison control centers in 49 different states.

14. The Commissioners Court of the County of Zapata finds that the Texas Poison Center Network reported 555 "K2" (a brand name for synthetic marijuana) related calls in 2010.

15. The Commissioners Court of the County of Zapata finds that it is aware of reported fatal overdoses at Northern Texas University and in other Texas communities and in other States, which are believed to have resulted from the users' consumption of synthetic stimulants, cannabinoids or hallucinogens.

16. The Commissioners Court of the County of Zapata finds that the Texas Legislature criminalized the manufacture, sale, and possession of certain unregulated compounds by broadly defining subclasses of synthetic cannabinoids, explicitly listing compounds that have been identified in products currently on the market.

17. The Commissioners Court of the County of Zapata finds that the penalties for possession of these newly regulated substances where the compound has been sprayed onto an organic substance track those of marijuana.

18. The Commissioners Court of the County of Zapata finds that the penalties for manufacture and sale of synthetic marijuana track those of Penalty Group 2.

19. The Commissioners Court of the County of Zapata finds it necessary and desirable to support state and federal

efforts prohibiting the sale, delivery, possession and use of misbranded drugs, or unidentified ingredients and products containing synthetic cannabinoids, synthetic stimulants and synthetic psychedelic or hallucinogens in order to protect the public health, safety and welfare of the citizens of Zapata and that it is necessary for the government interest, welfare, or good order of the municipality, and

20. The Commissioners Court of the County of Zapata finds that the packaging on both salts and incense contain a common disclaimer that these products are, "Not safe for human consumption" and that the warnings are insufficient to deter children, minors and young adults from purchasing and abusing the contents of packages containing salts and incense.

21. The Commissioners Court of the County of Zapata finds that in order to protect the health, safety and welfare of children, minors, young adults, and residents of the County of Zapata, and to contain costs and expense to the taxpayers of the County of Zapata incidental to overdoses and associated emergency treatments for those who have ingested salts and incense purchased at certain local, commercial establishments, it is necessary to regulate commercial establishments that sell products contained in

packages that fail to describe their chemical ingredients.

Therefore, the Zapata County Commissioners Court hereby orders that the following ordinance be, and is hereby, adopted.

SECTION 1. SHORT TITLE

This ordinance shall be known as the Salts, Incense and Paraphernalia (SIP) Establishment Ordinance of the County of Zapata.

SECTION 2 APPLICABILITY

a. The provisions of this ordinance regulating establishments that offer for sale salts, incense or paraphernalia used in the ingestion or combustion of tobacco, drugs, salts, and incense, apply to all commercial establishments operated in the County of Zapata operating or seeking to operate an establishment as defined herein and to all commercial establishments seeking to sell any, or selling any, of the products defined herein.

b. Nothing in the definition of Salts and Incense Paraphernalia Establishment Ordinance is intended to, nor shall be interpreted as legalizing or applying to the delivery, furnishing, transferring, possessing or manufacture of drug paraphernalia or any use otherwise prohibited by state or federal law, including without

limitation, Texas Penal Code and Texas Health and Safety Code and specifically Title 6, Subtitle C. Substance and Abuse Regulation and Crimes, Chapter 481, Texas Controlled Substances Act of the Health and Safety Code or the Comprehensive Drug Abuse Prevention and Control Act of 1970 as amended commonly referred to as the federal Controlled Substances Act.

SECTION 3 - DEFINITIONS

For purposes of this ordinance:

a. **"Salts, Incense and Paraphernalia Establishment"** means any place where salts, incense or paraphernalia used in the inhalation, ingestion or the combustion of drugs, tobacco, salts, or incense are stored, displayed for sale, offered for sale or sold.

b. **"Device designed for the smoking or ingestion"** means a device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine, slats or incense or any "controlled substance," and is peculiarly adapted to that purposes by virtue of a distinctive feature or combination of features associated with tobacco or drug paraphernalia, notwithstanding that it might also be possible to use the

device for some other purpose. Includable items or devices are:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent or otherwise, heads or punctured metal bowls;

(2) A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether the device is known as a "bong," or otherwise;

(3) A pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;

(4) A pipe which contains a heating unit, whether the device is known as an "electric pipe," or otherwise;

(5) A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb," or otherwise;

(6) A canister, container or other device with a tube, nozzle or other similar arrangement attached and

so constructed as to permit the forcing of accumulated smoke into the user's lungs under pressure;

(7) A device for holding burning material, such as a cigarette that has become too small or too short to be held in the hand, whether the device is known as a "roach clip," or otherwise;"

(8) Lighters and matches shall be excluded from the definition of tobacco and drug paraphernalia.

c. **"Director"** means the Director of the Health and Safety Department.

d. **"Health and Safety Department"** means the County of Zapata, Health and Safety Department, the agency created herein and charged with the responsibility of enforcing this ordinance.

e. **"Incense"** means any product labeled or marketed as incense. Such products may be branded or known as, but are not limited to "K2", Fire, Ice, K3, Spice, Genie, Smoke, Pot-Pourri, Buzz, Spice99, Voodoo, Pulse, Hush, Mystery, Earthquake, Black Mamba, Stinger, Ocean Blue, Serenity, Fake Weed. The term "incense" does not include normal, standard herbal incense that is sold as incense sticks, oils or cones that are commonly used for their aromatic qualities and that do not contain any synthetic chemical compounds that elicit psychoactive or psychotropic euphoric

effects or do not contain a psychoactive agent as defined herein below.

f. "**Operate**" includes storing, displaying, exhibiting, or possessing or intending to display, exhibit or possess.

g. "**Operator**" means a person who owns or, if the premises are rented or leased, the person who rents or leases the premises at which an establishment as defined herein is operated.

h. "**Paraphernalia**" means one or more of those items identified in that list set forth above in Section 3, b, and shall mean any device designed primarily for use by individuals for the smoking, inhalation or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine, salts or incense or any "controlled substance," as that term is described in the Health and Safety Code of the State of Texas, Section 481.125.

i. "**Premises**" means the area over a common foundation, or under a common roof, whether mobile or not.

j. "**Psychoactive agent**" means:

(1) Any organic or inorganic product consisting of a material that contains a synthetic chemical compound that elicits psychoactive or psychotropic euphoric effects including but not limited to the following: any synthetic cannabinoid compound that

contains:

1-pentyl -3- (1-naphthoyl) indole (JWH-018),

1-butyl-3-(1-naphthoyl) indole (JWH-073),

1-2-(4-morpholinyl) ethyl -3-(1-naphthoyl) indole

(JWH-200),

5-(1,1-dimethylheptyl)-2(1R,3S)-3-

hydroxycyclohexyl)-phenol,

(CP-47,497),

5-(1,1-dimethyloctyl)-2-(1R,3S)3-

hydroxycyclohexyl)-phenol,

(cannabicyclohexanol:CP-47,497 C8 homologue),

or any derivatives, synthetic substances and their isomers with similar chemical structure or any chemical alteration of these compounds which exhibit the same effects and/or any other substantially similar chemical structure or compound.

(2). Psychoactive herbal incense does not include normal, standard incense that is sold as incense sticks, oils or cones that are commonly used for their aromatic qualities that do not contain any synthetic chemical compounds listed above that elicit psychoactive or psychotropic euphoric effects.

k. "Salts" means any product labeled or marketed as salt, or salts. The term does not include standard bath salts that primarily contain magnesium sulfate (Epsom salts), sodium chloride (table salt or halite), sodium bicarbonate (baking soda), sodium hexametaphosphate (Calgon, amorphous/glassy sodium metaphosphate), sodium sesquicarbonate and Borax or products that do not contain a psychoactive agent.

l. "Chemical Ingredients" means a form of matter that has constant chemical composition.

SECTION 4

CREATION OF HEALTH AND SAFETY DEPARTMENT, APPOINTMENT OF DIRECTOR AND DUTIES

A Health and Safety Department is created for the County of Zapata. The Department shall be headed by a Director to be named by the County Judge. The implementation and enforcement of this ordinance shall be the responsibility of the Director.

SECTION 5

REGISTRATION OF COMMERCIAL ESTABLISHMENTS THAT SELL SALTS, INCENSE OR DRUG AND TOBACCO PARAPHERNALIA

a. No commercial establishment that sells salts, incense or drug or tobacco paraphernalia may be operated on

a particular premise unless the operator has registered the commercial establishment and holds a location registration receipt issued under this ordinance for the premises.

b. An operator must also hold any other registration receipt or registration certificate the operator is required to hold under state or federal law.

(1) An applicant for a location registration must file with the Director an application that includes:

- (a) the name and address of the applicant;
- (b) the physical address, including the county, of the premises at which the salts and incense or drug and tobacco paraphernalia commercial establishment will be operated;
- (c) the name and address of the owner of the assets of the business;
- (d) the name and address of the person who rents or leases the premises to the applicant, if applicable;
- (e) the amount of rent paid or other consideration given, directly or indirectly, to the owner, lessor, or landlord of the premises, if applicable;
- (f) a list of the types of products to be

sold on the premises;

(g) a statement indicating whether the commercial establishment to be operated on the premises will be owned, leased, or rented by the applicant;

(h) if the commercial establishment will be leased or rented, the name, address, and general business registration receipt number of the person who operates the commercial establishment;

(i) a written certification that the commercial establishment to be operated on the premises will be operated in accordance with all sections of the Texas Controlled Substances Act and of the United States Food and Drug Act;

(j) a financial interest statement that includes the name and residence address of any person, other than a person disclosed under Subdivision (8) of this ordinance, who has a financial interest in the operation of the products on the premises, including the nature, type, and extent of the financial interest; and

(k) a statement that the information contained in the application is true and correct;

(l) a copy of a public liability insurance

policy for the full term of the registration period in the amount of not less than \$100,000.00 for each person, and \$250,000.00 each incident, and \$100,000.00 property damage.

(4) A person who submits an application for a location registration receipt consents to an inspection of the registered premises by the Director, his designee or a peace officer at any time during the location's hours of operation to ensure compliance with this ordinance.

(5) The Director may not issue a location registration receipt to an applicant unless the applicant certifies in writing that the establishment to be operated on the premises will be operated in accordance with all applicable Sections of the Texas Health and Safety Code, the Texas Controlled Substances Act and all applicable Sections of the United States Food and Drug Act and this Ordinance. The issuance of a location registration receipt by the Director does not constitute an official opinion or judgment by the Director that an establishment operated on the premises of a location registration receipt holder is being operated in accordance with all applicable Sections of the Texas Health and Safety Code, the Texas Controlled Substances Act and all applicable Sections of the United

States Food and Drug Act.

Section 6

REGISTRATION, PERIOD FOR REGISTRATION, FEES AND ANNUAL RENEWALS.

a. Applicant shall register each commercial establishment annually with the Department of Health and Safety.

b. An application for a location registration receipt must be accompanied by a nonrefundable application fee and location registration receipt fee in the amount of \$25.00, payable to the Zapata County Treasurer, in the form of a cashier's check, money order, personal check, or other method of payment authorized by the Director in an amount equal to the annual location fee and proof of liability insurance.

c. An application must be submitted between March 1, and March 30, of each year.

d. The registration receipt issued shall expire one year after the date on which the registration receipt was issued.

e. A registration receipt or registration certificate holder may renew an unexpired registration receipt or registration by paying to the County of Zapata Department of Health and Safety before the expiration date of the

registration receipt or registration, the required annual registration receipt a registration fee as required by Section 6 of this ordinance. An application for renewal must be made to the Office of the County Judge before February 28 of each year.

f. A renewal application filed on or after February 28, but before the registration receipt or registration expires must be accompanied by a late fee of \$25.00
SECTION 7.

REQUIRED DISPLAY OF REGISTRATION RECEIPT HOLDER AND RECORDS

a. A location registration receipt holder shall, at all times, prominently display the holder's registration receipt at the registrant's premises.

b. A location registrant shall maintain, on the registered premises, a record of each item or product located on the premises to which the location registration receipt applies, including:

(1) the chemical ingredients of the contents of contained in each package on the premises;

(2) the date the product was purchased and placed for sale on the premises to which the location registration receipt applies.

c. The operator must allow the Director, representatives of the office of the County Judge or a

peace officer to enter and inspect the registered premises at any time during hours of operation to ensure compliance with this ordinance.

Section 8

MANDATORY DENIAL OR REVOCATION OF LOCATION REGISTRATION

a. The Director may not issue or re-issue a location registration receipt if the Director finds that the registration applicant or any person required to be listed on the financial interest statement under Section 3(c) and (h) of this ordinance:

(1) is prohibited from holding a general business registration receipt under this ordinance or any state or federal law;

(2) the applicant for registration has been finally convicted of a felony during the five years preceding the date of application; or

(3) the applicant has been placed on community supervision or released on parole for a felony conviction during the two years preceding the date of the application; or

(4) has been convicted of any offense under Title 6, Subtitle C. Substance and Abuse Regulation and Crimes, Chapter 481, Texas Controlled Substances Act of the Health and Safety Code or the Comprehensive Drug Abuse

Prevention and Control Act of 1970 as amended commonly referred to as the federal Controlled Substances Act;

(5) fails to present a current liability insurance policy in the amounts required by this ordinance

b. The Director may not issue or renew a location registration receipt if the applicant fails to comply with any of the provisions of Section 5, 6 and 7 of this ordinance.

c. The Director shall revoke the registration of a registrant who refuses to allow the Director, his representatives or a peace officer to enter or inspect the registered premises as required by this ordinance. The Director may not issue a location registration receipt to a person who has had a location registration revoked under this subsection.

SECTION 9

DISCLOSURES REQUIRED OF APPLICANTS FOR REGISTRATION

At the time of registration, the registrant shall list

a. the names or brands of the products which do not contain a label specifying the chemical ingredients of the contents of the product,

b. the name of the manufacturer of the products which do not bear a label specifying the ingredients in the product, and the address of the manufacturer,

c. a sworn statement that none of their products contain synthetic marijuana or its chemical equivalent or any psychoactive drug, chemical or ingredient,

d. a sworn statement that none of their salt or incense products contain a psychoactive agent.

SECTION 10

PROHIBITION OF MINORS AND SALES TO MINORS

The following acts are prohibited:

a. It shall be unlawful for an operator to permit a minor to enter and remain in a Salts, Incense and Drug Tobacco Paraphernalia Establishment.

b. It shall be unlawful for an operator to sell any product to a minor.

It is the affirmative duty of the operator to inquire as to the age of person entering and it shall not be a defense to a violation of this section that the minor appeared to have reached majority.

SECTION 11

CIVIL PENALTY

a. A person commits a violation of this ordinance if the person:

- (1) knowingly operates or allows the operation of a **"Salts, Incense and Paraphernalia Establishment,"** as defined in this ordinance, which has not been

registered in accordance with this ordinance or for which a location registration receipt is not in effect; or

(2) fails to display a location registration receipt or maintain the records as required by Section 2153.505 of the Texas Occupations Code; or

(3) fails to identify on each package the chemical ingredients of the product being sold, or

(4) fails to specify on each package an emergency telephone number for assistance in the event a user of the product has any harmful effects from inhaling or otherwise ingesting a product purchased at the registered location.

(5) fails to eject a minor who has unlawfully entered the registered premises.

b. The Director shall present all complaints to a Zapata County Justice of the Peace who may assess a minimum civil penalty against a person who has been found to have violated this ordinance as follows:

(1) for a first violation, \$250.00; and

(2) for a second or subsequent violation, \$500.00.

c. It is presumed that an operator of a Salts, Incense and Paraphernalia Establishment intended to commit a

violation under this section if the establishment:

(1) is operated on premises for which a location registration receipt is not prominently displayed;

(2) is operated on premises that does not maintain any record required under Section 5(b) of this Ordinance; or

(3) the records required under Section 5(b) are not available for inspection by the Director, his designee or a peace officer during the hours of operation of the premises;

(4) a package fails to identify the chemical ingredients of the product contained within the package.

SECTION 12

UNIFORM NUISANCE ABATEMENT PROCEDURE

Except as otherwise expressly provided, violations of this ordinance shall be subject to the abatement procedure described below:

a. Definitions:

(1) "Director" unless otherwise stated in this ordinance means the Director of the Health and Safety Department, or the Director's designee.

(2) "Person" means any natural person or persons, firm, partnership, association or corporation.

(3) "Responsible Party" means the person responsible for curing or remedying a nuisance and includes:

(a) The operator of the commercial establishment or the owner's manager or agent or other person in control of the property on behalf of the owner;

(b) The person occupying the property including bailee, lessee, tenant or other person having possession;

(c) The person who is alleged to have established, or allowed to continue the nuisance.

b. Abatement Notice

(1) If the Director is satisfied that a nuisance as defined in this or any other ordinance of the County exists, the Director shall cause a notice to be posted on the premises or at the site of the nuisance directing the responsible party to abate the nuisance.

(2) At the time of posting, the Director shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the responsible party at their last known address.

c. Contents of Notice

The notice to abate shall contain:

(1) A description of the commercial establishment on which the nuisance exists identified by street address and/or county tax lot number.

(2) A direction to abate the nuisance within ten (10) calendar days from the date of the notice.

(3) A description of the nuisance.

(4) A statement that, unless the nuisance is removed, the Department may abate the nuisance; and the cost of abatement shall be charged to the responsible party or assessed against the property, or both.

(5) A statement that the responsible party may protest the order to abate by giving written notice to the Director within ten (10) calendar days from the date of the notice.

(6) A statement that failure to abate a nuisance may result in a court action.

(7) Upon completion of the posting and/or mailing, the Director or his representative posting and mailing the abatement notice shall execute and file certificates with the County Clerk of the County of Zapata stating the date and place of the mailing and/or posting respectively.

(8). An error in the name or address of the responsible party shall not make the notice void, and in such a case the posted notice shall be sufficient.

(9) Personal service on the responsible party, proved by certificate of the Director or representative enforcement officer, may be used in lieu of the above process for posting and mailing.

d. Abatement by Responsible Party.

(a) Within ten (10) days after the posting and mailing of the notice as provided in Section 10, c, a responsible party shall remove the nuisance or demonstrate to the Director that no nuisance exists.

(b) A responsible party, protesting that no nuisance exists, shall file with the Department a written statement specifying the basis for protesting.

(c) The statement shall be referred to County Commissioners Court as a part of the Commissioners Court's regular or special agenda at its next succeeding meeting at the discretion of the Commissioners Court. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Commissioners Court; and the Commissioners Court shall determine whether or not a nuisance in fact exists; and the determination shall be

required only in those cases where a written statement has been filed as provided.

(d) If the Commissioners Court determine that a nuisance does in fact exist, a responsible party shall, within ten (10) days after the Commissioners Court determination, abate the nuisance.

d Abatement by the County.

a. If, within the time allowed, the nuisance has not been abated by a responsible party, the Director or his designee may cause the nuisance to be abated.

b. The Director of the Department, County employees or contractors assisting the enforcement officer charged with abatement of the nuisance shall have the right at reasonable times to enter into and upon the property in accordance with law to investigate or cause the removal of a nuisance.

c. The enforcement officer shall keep an accurate record of the expense incurred by the County in physically abating the nuisance, and shall include therein a charge of 25 percent (25%) of the expense for administration overhead.

d. If abatement requires removal of personal property with salvage value, the personal property may be sold by

the County and the proceeds applied toward the cost of the abatement.

e. Assessment of Costs.

1. The Director or his representative, by registered or certified mail, postage prepaid, or by personal service, shall forward to a responsible party a notice stating:

(a) The total cost of abatement and inspections, including the administrative overhead.

(b) That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) calendar days from the date of the notice.

(c) That if the responsible party objects to the cost of the abatement as indicated they may file a written notice of objection with the Health Department Director not more than ten (10) calendar days from the date of the notice.

2. The objection shall be referred to Commissioners Court as part of the Commissioners Court's regular agenda at its next succeeding meeting where it shall hear and determine the validity of the objection to the costs to be assessed.

3. If the costs of the abatement are not paid within thirty (30) days of the date of the notice, or a Commissioners Court determination of the validity of any objection to the costs to be assessed, an assessment of the costs as stated or as determined by the Commissioners Court shall be made by resolution and shall thereupon be entered in the docket of County liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

4. The lien shall bear interest at the rate of 8% percent (8%) per annum. The interest shall commence from the date of the entry in the lien docket.

(d) An error in the name of the responsible party shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

f. Abatement; Joint Responsibility.

If there is more than one responsible party, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the County in abating the nuisance.

g. Summary Abatement.

The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances, and the Director of the Health and Safety Department enforcement may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

h. Separate Violations.

1. Each day's violation of any provision of this Chapter of this ordinance constitutes a separate violation; and

2. The requirement to abate a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The decision to declare a civil violation forfeiture of the property does not relieve a person of the duty to abate the nuisance.

i. Non-Exclusive Remedy.

The procedures and remedies contained in this ordinance shall not be read to prohibit in any way any alternative remedies set out in ordinances or state statutes or state law which are intended to alleviate ordinance violations or abate nuisances and the procedures set forth in this ordinance shall not be prerequisite for utilizing any of said alternative remedies.

SECTION 13

Voluntary Compliance

Any establishment may voluntarily comply with this ordinance by having a responsible party remove all salts and incense from their shelves and by signing an affidavit that they will neither sell nor offer to sell any product containing salts or incense as those terms are defined in this ordinance.

SECTION 14

Severability

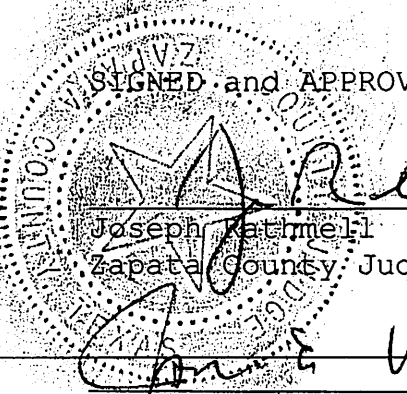
This ordinance and the various parts thereof are hereby declared to be severable. Should any section of part of this ordinance be declared by the courts to be unconstitutional, void or invalid, such decision shall not affect the validity of the Chapter as a whole, or any portion thereof other than the part or section declared to be unconstitutional, void or invalid.

SECTION 15

Effective Date of Ordinance

This Ordinance takes effect immediately.

SIGNED and APPROVED on the 10th day of February, 2014.



Joseph P. Rathmell
Joseph P. Rathmell
Zapata County Judge

Jose E. Vela
Jose E. Vela
County Commissioner, Pct. 1

Gabriel Villarreal
Gabriel Villarreal
County Commissioner, Pct. 2

Eddie Martinez
Eddie Martinez
County Commissioner, Pct. 3

Norberto Garza
Norberto Garza
County Commissioner, Pct. 4

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