

CITY OF RIVERVIEW
ORDINANCE NO. 656

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF RIVERVIEW BY THE ADDITION OF SUBDIVISION III, "SYNTHETIC MARIJUANA" AND SECTIONS 38-270 THROUGH 38-273 TO DIVISION 3, "CONTROLLED SUBSTANCES" OF ARTICLE VI, "OFFENSES INVOLVING PUBLIC MORALS" UNDER CHAPTER 38, "OFFENSES" TO PROHIBIT THE POSSESSION, USE AND SALE OF SYNTHETIC MARIJUANA

THE CITY OF RIVERVIEW ORDAINS:

ARTICLE I. Adoption: That Subdivision III "Synthetic Marijuana" and Sections 38-270 through 38-273 be added to Division 3 "Controlled Substances" of Article VI "Offenses Involving Public Morals" Under Chapter 38 "Offenses" to hereafter read as follows:

Chapter 38 Offenses
Article VI Offenses Involving Public Morals
Division 3 Controlled Substances
Subdivision III Synthetic Marijuana

Section 38-270. Possession or Use.

- (a) It is unlawful for any person knowingly or intentionally to possess or use any substance consisting of synthetic marijuana, commonly known as K2, Spice, or any other common usage name. For purposes of this subdivision synthetic marijuana shall be defined as any substance whose chemical structure is substantially similar to that of a controlled substance under the Public Health Code (MCL 333.7201 et seq.) and that has a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of an individual. Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or by a fine of not more than \$100.00 or both.
- (b) When any person who has not previously been convicted under subsection (a) or under any statute of the United States, or state law, or municipal ordinance relating to possession or use of the substances as defined above, pleads guilty to or is found guilty of violating subsection (a), the court, without entering a judgment of guilt and with the consent of the accused person, may place the accused person on probation upon certain terms and conditions, including therein such requirement that the accused person attend courses of instruction or rehabilitation on medical, psychological and social effects of the misuse of drugs and/or the substances defined above. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as the court determines. Upon fulfillment of the terms and conditions, the court shall discharge the person

and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for the purposes of disqualifications or disabilities imposed by law upon the conviction of a crime. There may be only one discharge and dismissal under this section as to an individual.

Sec. 38-271. Sale.

- (a) Subject to subsection (b) of this section, a person shall not sell or offer for sale synthetic marijuana as defined in this subdivision.
- (b) Before a person is arrested for a violation of subsection (a) of this section, the city attorney shall notify the person in writing, not less than two business days before the person is to be arrested, that the person is in possession of specific, defined material that has been determined by the attorney general or prosecuting attorney to be synthetic marijuana. The notice also shall request that the person refrain from selling or offering for sale the material and shall state that if the person complies with the notice, no arrest will be made for a violation of subsection (a) of this section.
- (c) If a person complies with a notice sent under subsection (b) of this section, the compliance is a complete defense for the person against a prosecution under this section, as long as the compliance continues.

Section 38-272. Declaratory Judgments.

- (a) A person who has received a notice under subsection 38-271 (b) may commence an action in circuit court for a declaratory judgment to obtain an adjudication of the legality of the intended sale or offer to sell. The city attorney who shall be made the defendant to an action commenced under this subsection.
- (b) If a declaratory judgment has been issued pursuant to this section stating that sale or offer to sell specified material does not violate section 38-271, the declaratory judgment is a complete defense for the person obtaining such a judgment against a prosecution under section 38-271.

ARTICLE II. Penalty: A person violating this ordinance shall be deemed guilty of a misdemeanor and punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any Court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the Ordinance held to be invalid and shall not be

construed as affecting the validity of any remaining words, sentences, phrases or portions of the Ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Riverview inconsistent or in conflict with the provisions of this Ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Reading and Publication: This Ordinance shall be given a first reading on July 2, 2012, shall be given a second reading on July 16, 2012, shall be adopted on July 16, 2012 and shall be published and become effective upon publication. The Clerk shall publish a summary of this ordinance and include in the publication notice that a true copy of the Ordinance can be inspected or obtained at the Clerk's office.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview this
The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on July 16, 2012.

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Cindy Hutchison, City Clerk