

ORDINANCE NO. 75-2011

**TITLE: AMENDING BARBERTON CODIFIED ORDINANCES
BANNING THE SALE OF "BATH SALTS"**

AN ORDINANCE AMENDING CHAPTER 624 OF THE BARBERTON CODIFIED ORDINANCES, ENTITLED "DRUGS," BY ADDING A SECTION BANNING THE SALE OF METHYLENEDIOXYPYROVALERONE (MDPV) AND MEPHADRONES, COMMONLY REFERRED TO AS "BATH SALTS" AND/OR ANY DERIVATIVES THEREOF; AND PROVIDING FOR ENFORCEMENT OF THESE PROVISIONS, INCLUDING PENALTIES FOR VIOLATIONS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Barberton has experienced an increase in crimes due to the human ingestion of "bath salts"; and

WHEREAS, it has been reported by multiple public health and safety providers and first responders that products being marketed as "bath salts," among other things, and containing the chemicals MDPV(3,4-Methylenedioxypropylvalerone), Methylone(3,4-methylenedioxypropylmethcathinone), Mephedrone(4-methylmethcathinone), 4-Methoxymethcathinone, 4-Fluoromethcathinone, and 3-Fluoromethcathinone have been linked to serious physical effects resulting in hospitalization and death when ingested, inhaled, or otherwise introduced into the human body; and

WHEREAS, it has been determined that "bath salts" are dangerous, mind-altering substances when introduced into the human body. These substances are known to cause severe physiological and psychological effects on people when used, even in small doses. The use of these products has been shown to cause harm to the person using them, as well as the general public and safety forces personnel when confronted by persons under the influence; and

WHEREAS, to reduce the access to such dangerous substances in an effort to protect the health, safety and welfare of the citizens of the City of Barberton, this Council hereby prohibits the sale of these "Bath Salts" in the City of Barberton.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Chapter 624 of the Barberton Codified Ordinances, "Drugs," shall hereby be amended by adding the following sections in **bold print**:

624.01 DEFINITIONS

The following words, terms and phrases when used in this Ordinance shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; words in the singular shall include the plural; and words in the masculine shall include the feminine and neuter.

a. **"Bath Salts."** Products containing synthetic derivatives of cathinone which include:

1. **MDPV(3,4-Methylenedioxypropylvalerone);**
2. **Methylone (3,4-methylenedioxypropylmethcathinone);**
3. **Mephedrone (4-methylmethcathinone);**
4. **4-methoxymethcathinone;**
5. **4-fluoromethcathinone;**
6. **3-fluoromethcathinone;**

all commonly referred to as "bath salts." Compounds or psychoactive drugs with stimulant properties which act as a norepinephrine-dopamine reuptake inhibitor (NOR) or that work on the same receptors as the chemical compounds in Methamphetamines and/or any derivatives used for human consumption or ingestion thereof, including but not limited to the following street or brand names: Vanilla Sky, Ivory Wave, White Rush, White Lightning, Hurricane Charlie, Bliss, Zoom2, Cloud Nine and Cloud Nine derivatives, Aura, Bounce, Plant Food, Meph, Mad Cow, Shake 'N'Vac, Drone, Bubbles, Meow Meow, MCAAT, and 4MMC (hereinafter at all times collectively referred to as "MDPV").

- b. **Knowledge:** A person acts knowingly with respect to a material element of the Ordinance, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.

SECTION 2. That Chapter 624 of the Barberton Codified Ordinances be amended by adding the following section in order to ban the sale of “Bath Salts” in the City of Barberton, and which shall be shown in **bold print** as follows:

ILLEGAL SALE OF “BATH SALTS.”

- 1. No person shall knowingly**
 - a. Sell, exchange, deliver, give, distribute, or otherwise provide to any person any product containing MDPV and/ or “bath salts” and/or its derivatives;**
 - b. Display for sale or possess with intent to distribute any product containing MDPV and/ or “bath salts” and/or its derivatives.**
- 2. All products containing any synthetic derivatives of cathinone, as defined herein as “bath salts,” and/or packaged as such, shall be considered an illegal Bath Salt for the purpose of this Ordinance and shall not be sold within the city limits.**
- 3. Whoever violates any provision of this ordinance shall, upon conviction thereof, be guilty of a misdemeanor of the second degree.**
- 4. Whoever violates any provision of this ordinance by providing bath salts to a juvenile shall, upon conviction thereof, be guilty of a misdemeanor of the first degree.**

SECTION 3. If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 4. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, in order for this section to be added to the Barberton Codified Ordinances as soon as possible in order to take effect immediately, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed _____ 2011

Clerk of Council

President of Council

Approved _____ 2011

Mayor