

ORDINANCE NO. 2010-18

AN ORDINANCE OF IVINS CITY, UTAH, AMENDING TITLE 8, CHAPTER 3 OF THE IVINS CITY CODE REGARDING CONTROLLED SUBSTANCES BY ADDING A SECTION PERTAINING TO THE PURCHASE, POSSESSION, SALE AND OFFERING FOR SALE OF CERTAIN INTOXICATING CHEMICAL COMPOUNDS

WHEREAS, Ivins City has a duty to preserve the health, safety and welfare of its inhabitants; and

WHEREAS, the Ivins City Council finds and determines that the chemical compounds described hereunder are intoxicating and/or hallucinogenic to humans upon ingestion and are often used as alternatives to marijuana; that these chemical compounds are potentially dangerous to users; and that their long term health effects are unknown; thus, the use of these intoxicating chemical compounds create a significant health and safety risk to the citizens of Ivins City; and

WHEREAS, certain businesses within Ivins City limits may be selling some of the intoxicating chemical compounds described hereunder as incense or aromatics, but which are typically used for human ingestion; such substances sold at local convenience stores as Spice, Black Mamba, K-2, Puff, Sugar Sticks and other brand names, are gaining in popularity at an alarming rate among high school and college age individuals, as well as among probationers and parolees;

WHEREAS, while having similar or stronger physiological effects as high potency marijuana, these intoxicating chemical compounds do not show a positive reading in traditional law enforcement drug testing, which adds to the desirability and increased use among drug abusers and increases the threat to public health and safety by avoiding detection, and

WHEREAS, the intoxicating chemical compounds described hereunder are not yet categorized as controlled substances under state or federal law; and

WHEREAS, in the interest of the health, safety and welfare of its citizens, Ivins City deems it appropriate and necessary to prohibit the possession, use, sale, manufacture or distribution of the intoxicating chemical compounds described hereunder; and

WHEREAS, the Ivins City Council desires to amend Title 8, Chapter 3 of the Ivins City Code regarding controlled substances to add a section prohibiting certain intoxicating chemical compounds not yet categorized as controlled substances under state or federal law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF IVINS CITY, STATE OF UTAH:

SECTION 1. Title 8, Chapter 3 of the Ivins City Code is hereby amended to add the following section:

**TITLE 8
PUBLIC PEACE, MORALS AND WELFARE**

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**CHAPTER 3
CONTROLLED SUBSTANCES**

8.03.102 Unlawful intoxicating chemical compounds.

- (1) It shall be unlawful for any person, including a corporation or other entity, to manufacture, distribute, use, possess, purchase, attempt to purchase, sell, publicly display for sale, attempt to sell, give, trade or barter any one or more of the following chemical compounds and/or substances or their salts, isomers, homologues, and salts of their isomers and homologues:
 - (a) *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 such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts.
 - (b) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, some trade or other name: HU-210.
 - (c) Naphthalen-1-yl-(1-pentylindol-3-yl)methanone (also known as 1 Pentyl-3-(1-naphthoyl) indole, some trade or other name: JWH-018.
 - (d) Naphthalen-1-yl-(1-butylindol-3-yl)methanone (also known as 1-Butyl-3-(1-naphthoyl) indole, some trade or other name: JWH-073.
 - (e) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, some trade or other name: CP 47,497 and its C6, C7, C8, and C9 homologues.
 - (f) 1-(3-[trifluoromethylphenyl]) piperazine, some trade or other name: TFMPP.
 - (g) (R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone, some trade or other name: WIN 55,2-212.
 - (h) 2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-5-(2-methyloctan-2-yl)phenol, some trade or other name: CP 55,940.
 - (i) 6,6,9-trimethyl-3-(3-methyloctan-2-yl)-7,8,9,10-tetrahydrobenzo [c]chromen-1-ol, some trade or other name: Dimethylheptylpyran 1, 2-dimethylheptyl- Δ^3 THC, or DMHP, or A-40824, or EA-1476.
 - (j) [(6S,6aR,9R,10aR)- 9-hydroxy- 6-methyl- 3-[(2R)-5-phenylpentan- 2-yl]oxy- 5,6,6a,7,8,9,10,10a-octahydrophenanthridin- 1-yl] acetate, some trade or other name: Levonantradol, or CP 50,556-1.
 - (k) -1-(4-methylphenyl)-2-methylaminopropan-1-one, some trade or other name: Mephedrone, 4-methylmethcathinone, 4-MMC or 4-methylephedrone.
 - (l) Or any similar structural analogs.
- (2) It is not an offense under this section if the person was acting at the direction of an authorized agent of Ivins City to enforce or ensure compliance with this law prohibiting the sale of the aforementioned intoxicating chemical compound.
- (3) If any of the aforementioned intoxicating chemical compounds are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

- (4) This section does not apply to any person who commits any act described in this section pursuant to the lawful direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.
- (5) Any person found to be in violation of this section will be guilty of a Class B misdemeanor subject to a term of imprisonment not to exceed six months and/or a fine not to exceed \$1,000.00 or both. Each day during which violation of subsection A occurs shall constitute a separate offense.
- (6) Ivins City shall have the authority to seek an injunction to compel compliance of any business which fails or refuses comply with this Section.

SECTION 2. Severability. If any section, clause or portion of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Effective Date: This Ordinance shall become effective immediately upon passage and publication.

PASSED AND ADOPTED BY THE IVINS CITY COUNCIL, STATE OF UTAH, ON THE 2nd DAY OF DECEMBER, 2010, BY A UNANIMOUS VOTE. ALL COUNCIL MEMBERS WERE PRESENT AT THE MEETING AND VOTED IN FAVOR.