CITY OF WENDOVER, UTAH
ORDINANCE NO. 2010 - 05

AN ORDINANCE OF THE CITY OF WENDOVER, UTAH PERTAINING TO THE PURCHASE, POSSESSION, SALE AND OFFERING FOR SALE OF CERTAIN INTOXICATING CHEMICAL COMPOUNDS DESCRIBED HEREUNDER AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AFTER FINAL PASSAGE.

Recitals

A. The City of Wendover has a duty to preserve the health, safety and welfare of its inhabitants;

B. The Wendover 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 creates a significant health and safety risk to the citizens of the City of Wendover, Utah;

C. Certain businesses in the community of Wendover are currently 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 with names such 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 aged individuals, as well as among parolees and probationers;

D. 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 the avoidance of detection, and

E. The intoxicating chemical compounds described hereunder are not yet categorized as controlled substances under State or Federal law; however, several states have enacted legislation placing regulatory controls on Salvia divinorum and/or salvinorin A;

F. The City Council has received a presentation by public health officials relating to the dangers of the chemical substances described below, the effects thereof and the need for the City to enact reasonable regulations control the sale, possession and use of said substances; and

G. In the interest of the health, safety and welfare of its citizens, the governing body of Wendover City deems it appropriate and necessary to prohibit the possession, use, sale, manufacture or distribution of the intoxicating chemical compounds described hereunder.

Ordinance Adopted

BE IT ORDANINED BY THE CITY OF WENDOVER, COUNCIL OF THE CITY OF WENDOVER, TOOELE COUNTY, UTAH THAT:

1. Ordinance Adopted. The Ordinance attached hereto as Exhibit "A" is hereby adopted by the City of Wendover, Utah.

2. Governing Law. It is the intent of the City of Wendover that the regulations adopted hereunder be consistent with the current laws, rules and regulations adopted by the State of Utah. In the event any provision herein conflicts with a provision of State law, the provision of State law shall govern.

3. Superseding State Legislation. In the event that the State of Utah adopts legislation dealing with the chemical compounds described herein, this Ordinance shall, on the effective date of the State Legislation, be superseded thereby and shall have no further effect. Provided, however, that the provisions of this Ordinance shall remain in full effect for the duration of any legal proceeding initiated by the City prior to the effective date of the State legislation, including the duration of any appellate proceedings.

4. Penalties for Violation. Any person who violates this Ordinance shall be guilty of a Class "B" misdemeanor as defined by the law of the State of Utah.

5. Effective Date. This ordinance shall become effective immediately on posting after passing by the governing body of the City.

Passed this 3rd day of November, 2010

Mike Crawford

By: Michael R. Crawford

ATTEST:

Tammera Weyland

Tammera Weyland
Clerk/Recorder

Seal:

EXHIBIT "A"
WENDOVER CITY, UTAH
ORDINANCE NO. 2010 - 05

1-101 UNLAWFUL INTOXICATING CHEMICAL COMPOUNDS

A. It shall be unlawful for any person, including a corporation or other entity, to manufacture, distribute, dispense, ingest, 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, including their salts, isomers, homologues and salts of their isomers and homologues:

1. 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;

2. pentyl-3-(1-naphthoyl)indole (also known as JWH-018);

3. (6ar,10ar)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);

4. 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl) phenol(also known as CP-47,497), and the dimethylhexyl, dimethyloctyl and dimethylnonyl homologues of CP-47,497;

5. 1-Butyl-3-(1-naphthoyl)indole (also known as JWH-073);

6. 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);

7. 1-Pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);

8. 1-Hexyl-3-(1-naphthoyl)indole (also known as JWH-019);

9. 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);

10. N-benzylpiperazine (also known as BZP);

11. 1-(3-trifluoromethylphenyl) piperazine (also known as TFMPP);

12. Any similar structural analogs of the above chemical compounds;

13. Any other synthetic cannabinoids.

B. It is not an offense under subsection A of this section if the person was acting at the direction of an authorized agent of the City of Wendover to enforce or ensure compliance with this law prohibiting the sale of the aforementioned intoxicating chemical compound.

C. 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.

D. This section shall not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the federal Food and Drug Administration or which are specifically permitted by Utah law.

E. Any person found to be in violation of this section will be guilty of a Class B misdemeanor and/or subject to a term of imprisonment not to exceed six months and a fine not to exceed $1,000.00 and/or both. Each day during which a violation of section 1-101. A., occurs shall constitute a separate offense.

F. The City of Wendover shall have the authority to seek an injunction to compel compliance of any business which fails to or refuses to comply with this Section.

G. If any provision of this Ordinance is held invalid, such invalidity shall not affect the remaining provisions of this Ordinance which shall remain effective absent the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

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