

ORDINANCE #10-10-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JEWETT, TEXAS. PROHIBITING THE USE, PURCHASE, POSSESSION AND SALE OF THE SYNTHETIC CANNABINOID KNOWN OR SOLD UNDER SUCH NAMES AS "K-2," "K-2 SUMMET," "K-2 SEX," "GENIE," "DASCENTS," "ZOHAI," "SAGE," "SPICE," "KO KNOCK-OUT 2," "SPICE GOLD," "SPICE DIAMOND," "YUCATAN FIRE," "SOLAR FLARE," "PEP SPICE," "FIRE N' ICE," AND "SALVIA DIVINORUM"; FOR PUBLIC HEALTH PURPOSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Council of the City of Jewett, Texas, has been provided with documentation from competent, well recognized medical professionals and law enforcement officials of the growing presence of a new and potentially dangerous substance affecting the public health, safety and welfare of the citizens, particularly the youth of the City of Jewett;

WHEREAS, such substances are competently reported to cause hallucinations, vomiting, agitation, panic attacks, tachycardia, elevated blood pressure, pallor, numbness and tingling, disorientation, loss of time awareness and, in some cases, tremors and seizures as documented by the National Drug Intelligence Center of the United States Department of Justice in EWS Report 000006 issued May 18, 2010;

WHEREAS, the medical evidence and treatment response and documentation of these symptoms and events have been confirmed by Doctor Anthony J. Scalzo, the Medical Director of the State of Missouri Poison Control Center in a special newsletter alert to the medical community generated as Volume 4, Issue 1, 2010;

WHEREAS, the substances identified above are considered to be generally described as synthetic cannabinoids of salvia divinorum distributed, sold and marketed under such names as "K-2," "K-2 SUMMET," "K-2 SEX," "GENIE," "DASCENTS," "ZOHAI," "SAGE," "SPICE," "KO KNOCK-OUT 2," "SPICE GOLD," "SPICE DIAMOND," "YUCATAN FIRE," "SOLAR FLARE," "PEP SPICE," "FIRE N' ICE," AND "SALVIA DIVINORUM";

WHEREAS, the substance described above are not yet categorized as illegal controlled substances under state or federal law;

WHEREAS, the substances described above may be marketed as incense but are commonly being used as an alternative to marijuana which is an identified and documented controlled substance, the sale and use of which is prohibited under the laws of the State of Texas and the United States;

WHEREAS, the synthetic cannabinoids substances identified above may be presented under a variety of street names but share common ingredients including JWH-018, JWH-073 and JWH-081;

WHEREAS, salvia divinorum contains the ingredient known as Salvinorin A;

WHEREAS, these unregulated synthetic cannabinoids and salvia divinorum produce a very potent, intoxicating effect which is estimated by the medical community to produce effects ranging from three to one hundred times greater and more potent than THC, the active ingredient in marijuana;

WHEREAS, the substances identified above manifest all of the demonstrated attributes of substances that deprive individuals of judgment, coordination and the ability to conduct themselves in a safe and appropriate manner in modern society;

WHEREAS, the available medical and law enforcement information on these products indicates that individuals under the effects of these substances may be a clear and present danger to themselves and others; further the long term effects of these substances are not yet known;

WHEREAS, it is anticipated that the Texas Legislature will consider appropriate regulation of these types of commodities in its upcoming legislative session but that it is essential for the municipality to impose some type of reasonable restriction on these products until a state wide regulatory system may be properly implemented;

WHEREAS, it has been determined that the effects of these substances are a health concern to the citizens of the City of Jewett;

WHEREAS, the City Council of the City of Jewett, Texas, has determined that it is in the best interest of the public health, safety and welfare to immediately address the health concerns to the citizens of the City of Jewett by adopting a local ordinance prohibiting the substances identified above.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JEWETT, TEXAS:

SECTION 1. The City Council of the City of Jewett adopts the following Ordinance relating to illegal smoking products:

A. Purpose

The purpose of this Ordinance is to prohibit the use, possession, sale, ingestion or smoking of illegal smoking products and ingestion devices hereinafter defined within the city limits of the City of Jewett.

B. Definitions

1. "Person" shall mean an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.
2. "Illegal Smoking Product" shall mean any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following chemicals:

- a. *Salviadinorum* 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. 2-[1R,3S]-3-hydroxycyclohexyl]-5-(2-methylcatan-2-yl) phenol (also known as CP47, 497) and homologues;
 - c. (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c] chromen-1-ol) (also known as HE-211 or Dexanabinol);
 - d. 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018);
 - e. Butyl-3-(1-naphthoyl) indole (also known as JWH-073); or
 - f. 1-Pentyl-3-(4-methoxynaphthoyl) indole (also known as JWH-081).
3. "Ingestion Device" shall mean equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:
- a. a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
 - b. a water pipe;
 - c. a carburetion tube or device;
 - d. a smoking or carburetion mask;
 - e. a chamber pipe;
 - f. a carburetor pipe;
 - g. an electric pipe
 - h. an air-driven pipe;
 - i. a chillum;
 - j. a bong; or
 - k. an ice pipe or chiller.

C. Sell, offer, Gift, Display or Possession

It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.

D. Use of Possession of Ingestion Devices

It shall be unlawful for any person to use or possess with intent to use an ingestion device to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

E. Defense

It shall be a defense to a violation of this article that any act described in this article is under and pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.

SECTION 2. All ordinances of the City of Jewett in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect. Nothing contained herein shall be construed to conflict with the Texas Controlled Substances Act, or any other state and/or federal law governing the same.

SECTION 3. If any provision, section, subsection, sentence, clause of phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Jewett, in adopting this ordinance, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion or provision.

SECTION 4. Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

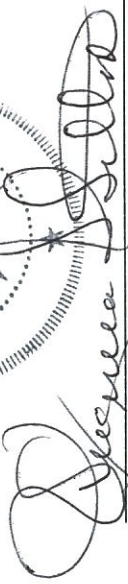
SECTION 5. This Ordinance shall be published according to law and shall be and remain in full force and effect from and after the date of publication.


SECTION 6. That it is officially found and determined that the meeting at which this ordinance was introduced and passed was open to the public and that public notice of the time, place and purpose of said meeting was given all as required by law.

PASSED AND APPROVED THIS THE 18th DAY OF OCTOBER 2010.



ATTEST:


Virginia S. Sifton, Acting City Secretary


JUDI KIRKPATRICK, Mayor, City of Jewett