

ORDINANCE NO. -2010-11-08-A

ORDINANCE NO. 2010-11-08-A, AN ORDINANCE OF THE CITY OF RANGER, TEXAS PROHIBITING THE USE, PURCHASE, POSSESSION, AND SALE OF CERTAIN SMOKING PRODUCTS WHICH ARE SYNTHETIC CANNABINOIDS OR SALVIA DIVINORUM AND WHICH MAY BE SOLD UNDER SUCH NAMES AS "K-2", "SPICE", "GENIE", "DASCENTS", "ZOHAI", AND "SAGE" FOR PUBLIC HEALTH PURPOSES TO BE INCLUDED IN THE CODE OF ORDINANCES OF THE CITY OF RANGER AS ILLEGAL SMOKING PRODUCTS; PROVIDING FOR A PENALTY OR FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000); PROVIDING A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AND AN OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Ranger, Texas has determined that certain businesses or individuals within the City may be selling certain substances that when ingested produce intoxicating effects similar to THC or marijuana but which are not yet categorized as illegal controlled substances under state or federal law;

WHEREAS, the substances identified above are considered to be generally described as synthetic cannabinoids or salvia divinorum and are being distributed, sold and marketed under such names as "K-2," "K-2 Summett," "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 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, 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 synthetic cannabinoid substances identified above may be presented under a variety of street names but share common ingredients, including JWH-018 and JWH-073;

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

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, and, further, that 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 type of commodities in its upcoming legislative session but 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 Ranger, Texas; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF Eastland, TEXAS THAT:

1. **Enactment.** The following provisions are adopted as the Illegal Smoking Ordinance of the City of Ranger to read follows:

ILLEGAL SMOKING PRODUCTS

Purpose.

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

Definitions.

“Person” shall mean an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

“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) *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) 2-(1R, 3S)-3-hydroxycyclohexyl)-5-(2-methyloctan-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-1-01) (also known as HU-211 or Dexanabinol):

- (d) 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018); or
- (e) Butyl-3-(1-naphthoyl) indole (also known as JWH-073).

“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.

Sell, Offer, Gift, Display or Possession of Illegal Smoking Product.

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

Use or 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.

Defense.

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

Violation and Penalty.

Any person, as defined herein, violating any of the provisions of this ordinance shall be guilty of a Class C misdemeanor upon conviction and shall be subject to a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. An offense committed before the effective

date of this ordinance is governed by prior law.”

2. **Conflict and Repeal.** All ordinances of the City of Ranger, Texas 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 Substance Act, or any other state and/or federal law governing the same.

3. **Severability.** The provisions of this ordinance are declared to be severable. If any section, sentence, clause or phrase of the ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance, but they shall remain in full force and effect; it being the legislative intent that this ordinance shall remain in effect notwithstanding the validity of any part.

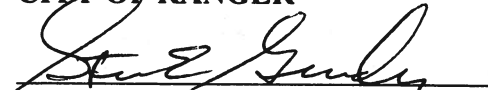
3. **Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Local Government Code.

4. **Effective Date.** This Ordinance shall take effect immediately upon its adoption and enactment by the City Commission and publication as required by the Texas Local Government Code.


Passed and approved on First Reading this 25th day of October, 2010

Passed and approved on Second Reading this 8th day of November, 2010

CITY OF RANGER


Steve Gerdes, Mayor

ATTEST:


Troy E. Emery, City Secretary