



**ORDINANCE NO. 1058**

**AN ORDINANCE OF THE CITY OF REXBURG PROVIDING FOR THE PROHIBITION OF THE USE, MANUFACTURE, POSSESSION, AND/OR DELIVERY OF CERTAIN INTOXICATING CHEMICAL SUBSTANCES; PROVIDING FOR A GENERAL DEFINITIONS SECTION; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.**

**WHEREAS**, City of Rexburg believes it prudent to prohibit the use, manufacture, possessing, and/or the dealing of certain intoxicating chemical substances, namely the substance commonly referred to as “Spice,” which is synthetic cannabis; and,

**WHEREAS**, City of Rexburg desires to provide for a definitions section identifying the intoxicating chemical substances to be prohibited in City of Rexburg; and,

**WHEREAS**, City of Rexburg desires to provide a penalty clause and an effective date of this ordinance.

BE IT ORDAINED BY the Mayor and City Council of the City of Rexburg, Idaho:

**SECTION I:** Intoxicating chemical substances

Definition and application: As used in this ordinance:

- I. “Intoxicating chemical substance” shall only mean one or more of the following chemical compounds or their analogs or homologs, whether isolated or contained in any liquid, fiber, paper, powder, solution, herbal or plant material, aerosol, plasma, incense or other medium:
  - i. 1-pentyl-3-(1-naphthoyl) indole (JWH-018); naphthalen-1-yl-(1-butylyndol-3-yl) methanone (JWH-073); 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (CP 47,497); OR
  - ii. any artificial chemical substance simulating, copying to a significant degree, or emulating any of the compounds listed in section 1(a)(i) of this ordinance, or any substance regulated or governed by Idaho Code Title 37, Chapter 27, which substance itself is not presently regulated by that Chapter, capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the ingestion, injection into the bloodstream, or inhalation of the fumes or vapors of such chemical substance; OR
  - iii. for purposes of sections II(1)(a), II(1)(b) and II(1)(d) only, any substance or product labeled “Not for Human Consumption,” or any other label warning against humans introducing that substance or product into the body.
- II. “Paraphernalia” shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in injecting, ingesting, inhaling, or otherwise introducing into the human body, an “intoxicating chemical substance” (as that term is defined herein).
- III. Application. Nothing in this ordinance shall be construed to include, govern over, or regulate any controlled substance or item of drug paraphernalia regulated by the provisions of Idaho Code Title 37, Chapter 27, the Uniform Controlled Substances Act.

**SECTION II:** Abuse of an intoxicating chemical substance:

- I. A person is guilty of abuse of intoxicating chemical substances if:
  - i. that person intentionally ingests, injects into the bloodstream, inhales the fumes of while being eighteen (18) years of age or older, or otherwise introduces into the body an intoxicating chemical substance, or attempts any of the same; OR
  - ii. that person is under the influence of an intoxicating chemical substance; OR
  - iii. that person possesses, purchases, or attempts to possess or purchase an intoxicating chemical substance; OR
  - iv. that person uses, or possesses with intent to use, paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body, an intoxicating chemical substance.

**SECTION III:** Delivery of an intoxicating chemical substance: A person is guilty of delivery of an intoxicating chemical substance if that person offers, sells, delivers, or provides an intoxicating chemical substance to another person or entity.

**SECTION IV:** Manufacture of an intoxicating chemical substance: A person is guilty of the manufacture of an intoxicating chemical substance if that person creates, manufactures, cultivates, transports, produces, or processes an intoxicating chemical substance.

**SECTION V:** Penalties

- I. Any person who violates this ordinance with respect to:
  - i. hereof is guilty of a misdemeanor and, upon conviction, may be punished by a fine of up to three hundred dollars (\$300), or by up to sixty (60) days in jail, or both;
  - i. section III hereof is guilty of a misdemeanor and, upon conviction, may be punished by a fine of up to three hundred dollars (\$300), or by up to one hundred fifty (150) days in jail, or both;
  - ii. section IV hereof is guilty of a misdemeanor and, upon conviction, may be punished by a fine of up to three hundred dollars (\$300), or by up to one hundred eighty (180) days in jail, or both.

**SECTION VI:** Repealer clause: If any section, paragraph, sentence or provision hereof, or the application thereof to any particular circumstance, shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and be applicable to all circumstances to which it may validly apply.

**SECTION VII:** Effective date: This ordinance shall be in full force and effect upon publication pursuant to Idaho Code.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 6<sup>th</sup> day of October, 2010.

