ORDINANCE NO. 2010-04

AN ORDINANCE PROHIBITING THE PURCHASE, POSSESSION, SALE AND OFFERING FOR SALE OF THE SYNTHETIC CANNABINOID, KNOWN AS "SPICE" OR "K-2", PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

WHEREAS, the City Council of the City of Atkins, Arkansas, has determined that certain businesses within the City of Atkins, Arkansas, are susceptible to the selling of certain substances commonly known as "Spice" or "K-2", when ingested or inhaled, produce intoxicating effects similar to THC or marijuana; and

WHEREAS, the substances which are described below are often used or ingested as an alternative to marijuana, and are potentially dangerous to users, and further, the long term effects are not well known; and

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

WHEREAS, A.C.A. §14-55-102 authorizes the City of Atkins to enact an ordinance to provide for the safety, health and welfare of its citizens;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Atkins, Arkansas, as follows:

SECTION 1: It is hereby declared to be unlawful for any person, corporation, partnership, wholesaler or retailer to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give or barter any one or more of the following chemicals within the city limits of the City of Atkins, Arkansas:

1. Salviadivinorum or salvinorum A: all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof and extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;

2. (6aR, 10aR)-9(hydroxymethyl)-6, 6dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-o1 some trade or other names: HU-210;

3. 1-Pentyl-3-(I-naphthoyl)indole-some trade or other names: JWH-018/spice;

4. 1-Butyl-3-(1 naphthoyl) indole-some trade or other names: JWH-073;

5. 1-(3-[trifluoromethylpheny1]) piperazine-some trade names or other names: TFMPP;

6. N-benzylpiperazine-some other trade names: BZP;

7. Or any similar substances;

which products are sometimes known as "K2" or "Spice".

SECTION 2: If any of the aforementioned substances are found in the possession of any person, corporation, partnership, wholesaler or retailer, the substances may be confiscated and destroyed by law enforcement officials.

SECTION 3: It is not an offense under Section 1 above of this Ordinance if the person was acting at the direction of an authorized agent of the City of Atkins to enforce or ensure compliance with this law prohibiting the sale, use, possession or ingestion of the aforementioned substances.

SECTION 4: This Ordinance does not apply to any person who commits any act described in this Ordinance pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This Ordinance likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

SECTION 5: Any person found to be in violation of this Ordinance will be guilty of a misdemeanor and subject to a fine of not less than One Hundred and 00/100 Dollars ($100.00) nor more than Five Hundred and 00/100 Dollars ($500.00), or by imprisonment not exceeding one (1) month, or both. Each day of a continuing violation shall constitute a separate offense.

SECTION 6: If the Arkansas General Assembly adopts a statute enacting criminal penalties for the possession, sale or delivery of any illegal product, as defined in this Ordinance,

then upon the effective date of such statute, this Ordinance shall be superseded by said statute. However, any violation of this Ordinance occurring prior to the effective date of such a state statute may be prosecuted after the effective date of such a state statute.

SECTION 7: Emergency Clause. It is hereby declared that an emergency exists and this Ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Atkins, Arkansas, shall be effective immediately upon its passage and approval.

PASSED this 13th day of July, 2010.

JERRY DON BARRETT, Mayor

ATTEST:

BRENDA GRAVES, City Clerk