

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ADDING ARTICLE VI TO CHAPTER 20 OF THE OCEANSIDE CITY CODE PROHIBITING THE DISPLAY, SALES, DISTRIBUTION, POSSESSION, AND USE OF SYNTHETIC DRUGS AND MISLABELED/MISBRANDED PRODUCTS CONTAINING PSYCHOACTIVE SUBSTANCES WITHIN THE CITY OF OCEANSIDE

The City Council of the City of Oceanside finds as follows:

SECTION 1. Findings.

WHEREAS, according to the Drug Enforcement Administration (“DEA”), synthetic cannabinoids, also known as “Spice” or “K2,” are mixtures of herbs and spices that are typically sprayed with a synthetic compound chemically similar to THC, the psychoactive ingredient in marijuana. The Controlled Substance Analogue Enforcement Act of 1986 allows many synthetic drugs to be treated as controlled substances if they are proven to be chemically similar to a Schedule I or Schedule II substance. In 2011, DEA exercised its emergency scheduling authority to control five types of synthetic cannabinoids, and three of the synthetic substances used to manufacture cathinones also known as bath salts; and

WHEREAS, synthetic drugs are extremely dangerous and are gaining popularity at an alarming rate among high school and college-aged individuals, as well as among parolees, probationers, and the homeless population. These drugs are widely available in stores, despite the State’s attempt to ban such drugs under Health and Safety Code sections 11375.5 (banning synthetic stimulant compounds and derivatives) and 11401 (banning “analogs” of controlled substances) (collectively “state synthetic drug laws”), and the federal government’s attempt to ban, by way of the Synthetic Drug Abuse Prevention Act and FDA Safety and Innovation Act of 2012, which permanently placed 26 types of synthetic cannabinoids and cathinones into Schedule I of the Controlled Substances Act (“CSA”) (21 U.S.C. 81, *et seq.*); and

WHEREAS, recreational use of synthetic cannabinoids, cathinones, psychoactive bath salts, psychoactive herbal incense, and similar products commonly known as “synthetic drugs”

1 has been documented to produce psychological effects similar to those of marijuana,
2 methamphetamine, MDMA (Molly), and cocaine, including paranoia, panic attacks, psychosis,
3 aggression, suicidal and homicidal ideations, cannibalism; the physiological effects include
4 increased heart rate, increased blood pressure, agitation, anxiety, nausea, vomiting, tachycardia,
5 tremors, seizures, hallucinations, paranoid behavior, catatonia, and death; and

6 WHEREAS, at least forty-seven (47) states and the District of Columbia have outlawed
7 specific versions of synthetic marijuana, synthetic cathinones, or other psychoactive substances.
8 In response to the efforts by federal and state legislators to outlaw the chemicals in synthetic
9 cannabinoids, synthetic cathinones, and other psychoactive substances, chemists continually
10 reconfigure and alter the composition of the specific substances that are prohibited to produce
11 “novel” versions of these synthetic drugs so as to escape the scope of those laws and
12 regulations. This is accomplished by altering the molecular architecture of the chemicals used
13 in the products to produce a series of different compounds which are closely structurally related
14 to the prohibited substances, but which are not listed in the state or federal schedules of
15 controlled substances laws; and

16 WHEREAS, while the state synthetic drug laws and the CSA prohibit certain compounds
17 that are used to create synthetic drugs, they are not comprehensive enough to eliminate the
18 distribution, sale or possession of all synthetic drugs or their derivatives in the City. New herbal
19 and/or chemical mixtures are being marketed and sold in they City of Oceanside which are not
20 controlled by federal or state law but which are designed and marketed to mimic the effects of
21 illegal scheduled synthetic substances. In fact, products which plainly are being marketed for
22 use as synthetic drugs are now being packaged with advertisements stating that the product does
23 not contain compounds specifically banned by the state and federal synthetic drug laws. Thus,
24 the City Council finds that the dangers of synthetic drugs require local regulation, and that in
25 order to implement an effective measure prohibiting the distribution, sale, and possession of
26 synthetic drugs, it is necessary to look at all factors related to the sales and marketing of
27 synthetic drugs. These factors will help City officials determine whether a product that does not

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1 come under the purview of state synthetic drug laws or the CSA is nevertheless a synthetic drug
2 or a derivative thereof.

3 WHEREAS, while the question of whether a given product is being distributed, sold for
4 use, or represented as a recreational synthetic drug must be determined on a case-by-case basis,
5 the City Council finds that the following evidentiary factors are helpful in determining whether
6 a given product is in fact a synthetic drug:

7 1. Marketing. Synthetic drugs are rarely, if ever, suitable for their marketed uses.
8 For example, a synthetic drug in the form of a powder might be marketed as a “glass
9 cleaner,” even though the powder cannot reasonably be used to clean glass.

10 2. Sales Location. Synthetic drugs are typically sold in liquor stores, smoke shops
11 and gas stations, yet synthetic drugs are marketed as products that are not typically sold by
12 these businesses. For example, synthetic drugs are often marketed as bath salts, spice,
13 incense, potpourri, skin treatments, cleaning products and plant food; however, these types
14 of products are typically not sold in liquor stores, smoke shops or gas stations.

15 3. Warning Labels. Synthetic drugs often use warning labels, such as “not for
16 human consumption” and “not for purchase by minors.” Bona fide bath salts, incense,
17 cleaning products and the like do not typically bear such labels. Of particular relevance are
18 labels that indicate a given product does not contain chemical compounds banned by state
19 or federal synthetic drug laws, which bona fide bath salts, incense, cleaning products and
20 the like would not have any reason to advertise.

21 4. Price. Synthetic drugs are typically much more expensive than products that are
22 used for the synthetic drug’s marketed use. For example, a synthetic drug marketed as
23 “glass cleaner” might be priced at \$50.00 for an eighth of an ounce, while a bona fide
24 glass cleaner is priced at approximately \$5.00 for 26 ounces.

25 5. Similarity to Illicit Street Drugs. Synthetic drugs often resemble illicit street
26 drugs and/or use brand names and packaging that are designed to make the product appear
27 similar to illicit drugs. For example, many synthetic drugs are sold as white powders
28 packaged in vials (resembling cocaine) or dyed green to appear similar to marijuana.

1 Additionally, brand names are often targeted toward youth by utilizing names similar to
2 street slang for illicit drugs that have no relation to the products that are purportedly being
3 sold. These brand names are always changing, but include “Eight Ballz,” “Spice,” “Black
4 Mamba,” “K-2,” “Puff,” “Sugar Sticks,” “Green Buddha,” “Diable Botanical Incense,”
5 “Scooby Snax Potpourri,” “Grape Ape Herbal Incense,” “Three Monkey Incense,” “Mr.
6 and Mrs. Marley,” “Cloud 9 Incense,” and a group of synthetic drugs marketed from “The
7 Spice Guy.”

8 WHEREAS, there is no Constitutional right to use an intoxicating synthetic drug. The
9 proliferation and availability of these substances presents a threat to the public safety of the
10 citizens of Oceanside, and enforcement of current state laws and regulations is not effective due
11 to the ease of manipulation in the chemical compounds and variations of the products and the
12 difficulty in quickly analyzing the specific chemical makeup of the products. The Oceanside
13 Police Department Crime Analysis Unit determined that during the period of January 1, 2010-
14 November 30, 2012 there were 70 spice-related calls for service. Between January 1, 2013 and
15 November 30, 2015 there were 169 spice-related calls, a 141% increase in calls for service; and

16 WHEREAS, manufacturers of these products are unknown to the consumer as the
17 packaging does not reveal the name and location of the manufacturer or distributor as required
18 by federal laws pertaining to the labeling of consumer commodities. Manufacturers and
19 distributors have not obtained FDA approval of these products as a food product, diet drug,
20 dietary supplement, or other approved substance. Consumers suffering a reaction to or injury
21 from these products have little chance of obtaining information concerning the contents of the
22 product, nor the identity and locations of the manufacturers; and

23 WHEREAS, an effective way to prevent and abate the health, safety and welfare
24 concerns that exist as a result of the marketing, distribution, sale, mislabeling and possession of
25 synthetic drugs and their derivatives and analogues in manners that seek to circumvent state and
26 federal law is through the administrative, civil and criminal enforcement procedures set forth in
27 the Oceanside City Code. Laws offering additional protections and/or duplicating state and
28 federal regulations concerning misbranded drugs and mislabeled commodities are not

1 preempted; and this Ordinance is enacted under the home rule powers of the City, and in
2 accordance with the allowance of certain local regulation under the Fair Packaging and
3 Labeling Act, 15 U.S.C. §§ 1461, 1548; and

4 WHEREAS, the City Council finds that Synthetic Drugs are distributed, labeled, and
5 marketed in a way that poses dangerous consequences to the consumer, and the City Council
6 deems it to be in the best interests of the citizens and residents to prohibit the possession, sale,
7 use, and distribution of Synthetic Drugs and mislabeled/misbranded drugs; and

8 WHEREAS, it is the intent of the City Council, in enacting this ordinance, to provide for
9 the public health, safety, and welfare by discouraging the inherently dangerous behavior of
10 ingesting intoxicating synthetic compounds in public; by protecting the public from exposure to
11 crime and violence often associated with ingesting such substances; by reducing the potential
12 for children to obtain such substances; by promoting fair business practices in the identification
13 and labeling of products, by ensuring the sale of lawful products; and by affirming and
14 promoting a healthy environment in the City; and

15 WHEREAS, the purpose and intent of this Article is to provide the City with measures to
16 address the dangers to the community posed by synthetic drugs that are not otherwise regulated
17 by state or federal law. Thus, this Article shall not apply to any activity already regulated by the
18 state synthetic drug laws, the CSA, or any other applicable state or federal law or regulation.

19 **NOW, THEREFORE,** the City Council of the City of Oceanside does ordain as
20 follows:

21 SECTION 1. Article VI of Chapter 20 of the Oceanside City Code, to be entitled
22 SYNTHETIC DRUGS AND MISLABELED/MISBRANDED PRODUCTS CONTAINING
23 PSYCHOACTIVE SUBSTANCES – DISPLAY, SALE, DISTRIBUTION, POSSESSION,
24 AND USE PROHIBITED, is hereby enacted as follows:

25 20.55.1 – Legislative Findings of Fact

26 20.55.2 – Purpose and Intent.

27 20.55.3 – Definitions

28 20.55.4 – Provision, Display for sale, Sale, or Distribution of Synthetic Drugs or

1 Mislabeled/Misbranded Products Prohibited

2 20.55.5 – Provision, Display for Sale, Sale, or Distribution of Substances Claimed or
3 Represented to be Synthetic Drugs Prohibited.

4 20.55.6 – Possession and Use of Synthetic Drugs or Mislabeled/Misbranded Drugs
5 Prohibited.

6 20.55.7 – Public Nuisance.

7 20.55.8 – Seizure of evidence.

8 20.55.9 - Suspension/Revocation of Business License.

9 20.55.10 - Criminal Penalties.

10 20.55.11 - Civil Penalties

11 20.55.12 - Penalties Cumulative

12 20.55.13 - Attorneys' Fees

13 20.55.14 - Exclusions/Exemptions.

14 **20.55.1 - Legislative Findings of Fact.**

15 The foregoing WHEREAS clauses are hereby adopted as legislative findings of the
16 Oceanside City Council and are ratified and confirmed as being true and correct and are hereby
17 made a specific part of this Ordinance upon adoption hereof.

18 **20.55.2 - Purpose and intent.**

19 Recreational use of Synthetic Cannabanoids, Cathinones, and other Novel Psychoactive
20 Substances commonly known as “Synthetic Drugs” has been documented to cause
21 hallucinations, agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism
22 and death, which also leads to an increase in associated criminal activity and medical aid
23 emergencies. While state and federal laws and regulations prohibit some synthetic drugs, the
24 makers of these drugs continually alter the composition of the compounds in their products so
25 as to escape the purview of these laws and regulations. The purpose and intent of this Article is
26 to provide the City with reasonable measures to address the dangers to the community posed by
27 such Synthetic Drugs and Mislabeled/Misbranded products containing psychoactive substances
28 that are not otherwise regulated by state or federal law.

1 **20.55.3 – Definitions**

2 The following words, terms and phrases, when used in this Article, shall have the
3 meanings ascribed to them in this section, except where the context clearly indicates a different
4 meaning:

5 **Business** shall have the same meaning as the term is defined in Article 15, section 15.1.2
6 of this Code.

7 **Consume, consuming or consumption** shall mean to ingest, inhale, inject, smoke, snort
8 (insufflate), or take by anal suppository.

9 **Distribute, distributing, or distribution** shall mean to furnish, give away, exchange,
10 transfer, deliver or supply, whether for monetary gain or not.

11 **Mislabeled/Misbranded Product(s)** shall mean any Synthetic Drug, substance that is
12 represented to be a Synthetic Drug, Novel Psychoactive Substance, or other product containing
13 a psychoactive substance for which (1) the label is in any way false or misleading; (2) the label
14 does not bear the name and place of business of the manufacturer, repackager, or distributor of
15 the finished form of the product; (3) the label does not bear adequate directions for use; or (4)
16 the label does not bear adequate warnings against use or the potential effects of consumption.

17 **Novel Psychoactive Substance** means any compound that mimics the effects of any
18 federally controlled Schedule I or II substance, including, but not limited to, any quantity of a
19 natural or synthetic material, compound, mixture, preparation, substance, and their analogue
20 (including salts, isomers, esters, ethers, and salts of isomers) containing substances which have
21 a psychedelic, psychotropic, hallucinogenic or other similar effect on the central nervous system
22 and/or brain, including, but not limited to:

- 23 1. 2,5-dimethoxy-amphetamine
- 24 2. 2,3-dihydro-1H-inden-2-amine
- 25 3. 2-fluoromethamphetamine
- 26 4. methoxyketamine
- 27 5. 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine
- 28 6. 4-Chloro-2,5-dimethoxyphenethylamine

- 1 7. 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine
- 2 8. 4-Ethyl-2,5-dimethoxyphenethylamine
- 3 9. 2-(2,5-Dimethoxyphenyl)ethanamine
- 4 10. 4-Iodo-2,5-dimethoxyphenethylamine
- 5 11. 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine
- 6 12. 2,5-Dimethoxy-4-propylphenethylamine
- 7 13. 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine
- 8 14. 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine
- 9 15. 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine
- 10 16. 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine
- 11 17. N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-
12 2-aminoethane
- 13 18. 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 14 19. N-(2-methoxybenzyl)-1-[(7R)-3-bromo-2,5-dimethoxybicyclo[4.2.0]octa-1,3,5-trien-
15 7-yl]methanamine
- 16 20. 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 17 21. 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 18 22. N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine
- 19 23. 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 20 24. 2,5-Dimethoxy-4-ethylthiophenethylamine
- 21 25. 2,5-Dimethoxy-4-isopropylthiophenethylamine
- 22 26. 2,5-Dimethoxy-4-(n)-propylthiophenethylamine
- 23 27. 2-(4-trifluoromethyl-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- 24 28. 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-fluorophenyl)methyl]ethanamine
- 25 29. 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2,3-methylenedioxyphenyl)methyl]ethanamine
- 26 30. 3-[1-(ethylamino)cyclohexyl]phenol
- 27 31. 3-hydroxyphencyclidine
- 28 32. 3-Methoxyeticyclidine

- 1 33. 1-[1-(3-methoxyphenyl)cyclohexyl]-piperidine
- 2 34. 2-(4-bromo-2,3,6,7-tetrahydrofurobensofuran-8-yl)-1-methyl-ethylamine
- 3 35. 3-(2-Diethylaminoethyl)-1H-indol-4-yl acetate
- 4 36. 4-acetoxy-N,N-dimethyltryptamine
- 5 37. 4-acetoxy-N,N-dipropyltryptamine
- 6 38. 4-Chlorophenylisobutylamine
- 7 39. para-fluoroamphetamine
- 8 40. 4-fluoromethamphetamine
- 9 41. 4-Hydroxy-di-isopropyl-tryptamine
- 10 42. 4-hydroxy-N-methyl-N-ethyltryptamine
- 11 43. 3-(2-[Isopropyl(methyl)amino]ethyl)-1H-indol-4-ol
- 12 44. (R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydroxyindole
- 13 45. 3-(2-[methyl(propyl)amino]ethyl)-1H-indol-4-ol
- 14 46. 4-methoxy-N-methyl-N-isopropyltryptamine
- 15 47. 4-Methoxyphencyclidine
- 16 48. 4-Methyl- α -ethyltryptamine
- 17 49. 4-methyl- α -pyrrolidinohexphenone
- 18 50. 5-(2-Aminopropyl)benzofuran
- 19 51. 5-(2-Aminopropyl)-2,3-dihydrobenzofuran
- 20 52. 5-Iodo-2-aminoindane
- 21 53. 5-methyl-ethylone
- 22 54. 1-(5-methoxy-1H-indol-3-yl)propan-2-amine
- 23 55. N,N-diallyl-5-methoxytryptamine
- 24 56. N,N-Dethyl-5-Methoxytryptamine
- 25 57. 5-methoxy-diisopropyltryptamine
- 26 58. 5-methoxy-N,N-dimethyltryptamine
- 27 59. N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-propylpropan-1-amine
- 28 60. N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-methylpropan-2-amine

- 1 61. (R)-3-(N-methylpyrrolidin-2-ylmethyl)-5-methoxyindole
- 2 62. 6-(2-aminopropyl)benzofuran
- 3 63. 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran
- 4 64. ((2-aminopropyl)benzofuran
- 5 65. ((2-aminopropyl)-2,3-dihydrobenzofuran)
- 6 66. 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine
- 7 67. Benzothiophenylcyclohexylpiperidine
- 8 68. N,N-Diisopropyltryptamine
- 9 69. 1,4-Dibenzylpiperazine
- 10 70. 1,4-dibenzylpiperazine
- 11 71. 2,5-Dimethoxy-4-bromoamphetamine
- 12 72. 2,5-Dimethoxy-4-chloroamphetamine
- 13 73. 2,5-dimethoxy-4-iodoamphetamine
- 14 74. N,N-Dipropyltryptamine
- 15 75. 2-(2-chlorophenyl)-2-(ethylamino)cyclohexanone
- 16 76. Fluoroamphetamine
- 17 77. Fluoromethamphetamine
- 18 78. Para-fluorophenylpiperazine
- 19 79. 7-hydroxymitragynine
- 20 80. 1-(3-Chlorophenyl)piperazine
- 21 81. N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine
- 22 82. 1-(thiophen-2-yl)-2-methylaminopropane
- 23 83. (RS)2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone
- 24 84. N-methyltryptamine
- 25 85. N-isopropyl-N-methyltryptamine
- 26 86. Methyl-alpha-pyrrolidinohexiophenone
- 27 87. N,N-dimethylamphetamine
- 28 88. 3-[2-(1-Amino-1-methylethyl)-1-hydroxycyclohexyl]phenol

- 1 89. 7-Bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one
2 90. 1-(4-Methoxyphenyl)piperazine
3 91. para-Methoxy-N-methylamphetamine
4 92. 1-[4-(trifluoromethylphenyl)]piperazine
5 93. 3-trifluoromethylphenylpiperazine

6 **Person** shall include any natural person, proprietor, business, firm, company,
7 corporation, public corporation, club, trust, partnership, association or similar organization.

8 **Possess, possessing or possession** shall mean to have a Synthetic Drug or
9 Mislabeled/Misbranded Product in one's actual or constructive custody or control, or under
10 one's authority or power, whether such custody, control, authority or power be exercised solely
11 or jointly with others.

12 **Provide, providing or provision** shall mean offering to distribute, give away, or sell a
13 Synthetic Drug to any person.

14 **Synthetic Cannabinoid (also known as Spice)** means:

15 (A) Any organic product consisting of plant material in granular, loose leaf, powder
16 form, or in liquid or as a food additive, or any herbal-incense-type stimulant or hallucinogen
17 product, that contains a synthetic stimulant compound that, when consumed, elicits
18 psychoactive euphoric effects and

19 (B) Any laboratory-created compound that functions similar to the active ingredient in
20 marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of natural or
21 synthetic material, compound, mixture, preparation, substance, or their analogue (including
22 isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist,
23 including, but not limited to, the following:

24 1. Adamantoylindoles or adamantoylindazoles, including adamantyl carboxamide
25 indoles and adamantyl carboxamide indazoles, or any compound structurally derived from
26 3-(1-adamantoyl) indole, 3-(1-adamantoyl)indazole, 3-(2-adamantoyl)indole, N-(1-
27 adamantyl)-1H-indole-3-carboxamide, or N-(1-adamantyl)-1H-indazole-3-carboxamide by
28 substitution at the nitrogen atom of the indole or indazole ring with alkyl, haloalkyl,

1 alkenyl, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
2 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-
3 methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not
4 further substituted in the indole or indazole ring to any extent and whether or not
5 substituted in the adamantyl ring to any extent, including, but not limited to, the following:
6 2NE1, 5F-AKB-48, AB-001, AKB-48, AM-1248, JWH-018 adamantyl carboxamide,
7 STS-135.

8 2. Benzoylindoles - any compound structurally derived from a 3-(benzoyl)indole
9 structure with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl,
10 cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
11 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-
12 methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not
13 further substituted in the indole ring to any extent and whether or not substituted in the
14 phenyl ring to any extent, including, but not limited to, the following: AM-630, AM-661,
15 AM-679, AM-694, AM-1241, AM-2233, RCS-4, WIN 48,098 (Pravadoline).

16 3. Cyclohexylphenols - any compound structurally derived from 2-(3-
17 hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl,
18 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
19 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-
20 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl
21 group, whether or not further substituted in the cyclohexyl ring to any extent, including,
22 but not limited to, the following: CP 47,497, CP 55,490, CP 55,940, CP 56,667,
23 cannabicyclohexanol.

24 4. Cyclopropanoylindoles – any compound structurally derived from 3-
25 (cyclopropylmethanoyl)indole, 3-(cyclopropylmethanone)indole, 3-
26 (cyclobutylmethanone)indole or 3-(cyclopentylmethanone)indole by substitution at the
27 nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any
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1 extent, whether or not substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to
2 any extent.

3 5. Naphthoylindoles – any compound structurally derived from 3-(1-
4 naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen
5 atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl,
6 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-
7 morpholinyl)ethyl group, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
8 morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further
9 substituted in the naphthyl ring to any extent, including, but not limited to, the following:
10 AM-678, AM-1220, AM-1221, AM-1235, AM-2201, AM-2232, EAM-2201, JWH-004,
11 JWH-007, JWH-009, JWH-011, JWH-015, JWH-016, JWH-018, JWH-019, JWH-020,
12 JWH-022, JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070, JWH-071,
13 JWH-072, JWH-073, JWH-076, JWH-079, JWH-080, JWH-081, JWH-082, JWH-094,
14 JWH-096, JWH-098, JWH-116, JWH-120, JWH-122, JWH-148, JWH-149, JWH-164,
15 JWH-166, JWH-180, JWH-181, JWH-182, JWH-189, JWH-193, JWH-198, JWH-200,
16 JWH-210, JWH-211, JWH-212, JWH-213, JWH-234, JWH-235, JWH-236, JWH-239,
17 JWH-240, JWH-241, JWH-242, JWH-258, JWH-262, JWH-386, JWH-387, JWH-394,
18 JWH-395, JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413, JWH-414,
19 JWH-415, JWH-424, MAM-2201, WIN 55,212.

20 6. Naphthoynaphthalenes – any compound structurally derived from naphthalene-1-
21 yl-(naphthalene-1-yl) methanone with substitutions on either of the naphthalene rings to
22 any extent, including, but not limited to, the following: CB-13.

23 7. Naphthoylpyrroles - any compound structurally derived from 3-(1-
24 naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl,
25 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
26 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-
27 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl
28 group, whether or not further substituted in the pyrrole ring to any extent and whether or

1 not substituted in the naphthyl ring to any extent, including, but not limited to, the
2 following: JWH-030, JWH-031, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156,
3 JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308,
4 JWH-309, JWH-346, JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368,
5 JWH-369, JWH-370, JWH-371, JWH-373, JWH-392.

6 8. Naphthylmethylindenes - any compound containing a naphthylideneindene
7 structure or which is structurally derived from 1-(1-naphthylmethyl)indene with
8 substitution at the 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl,
9 hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
10 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-
11 methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not
12 further substituted in the indene ring to any extent and whether or not substituted in the
13 naphthyl ring to any extent, including, but not limited to, the following: JWH-171, JWH-
14 176, JWH-220.

15 9. Naphthylmethylindoles – any compound structurally derived from an H-indol-3-
16 yl-(1-naphthyl) methane by substitution at the nitrogen atom of the indole ring by alkyl,
17 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
18 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-
19 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl
20 group, whether or not further substituted in the indole ring to any extent and whether or
21 not substituted in the naphthyl ring to any extent, including, but not limited to, the
22 following: JWH-175, JWH-184, JWH-185, JWH-192, JWH-194, JWH-195, JWH-196,
23 JWH-197, JWH-199.

24 10. Phenylacetylindoles - any compound structurally derived from 3-
25 phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl,
26 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
27 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-
28 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl

1 group, whether or not further substituted in the indole ring to any extent and whether or
2 not substituted in the phenyl ring to any extent, including, but not limited to, the following:
3 Cannabipiperidiethanone, JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-
4 205, JWH-206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-
5 250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-
6 311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-8.

7 11. Quinolinyndolecarboxylates – any compound structurally derived from quinolin-
8 8-yl-1H-indole-3-carboxylate by substitution at the nitrogen atom of the indole ring with
9 alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl,
10 hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-
11 tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the
12 indole ring to any extent, whether or not substituted in the quinoline ring to any extent,
13 including, but not limited to, the following: BB-22, 5-Fluoro-PB-22, PB-22.

14 12. Tetramethylcyclopropanoylindoles – any compound structurally derived from 3-
15 tetramethylcyclopropanoylindole, 3-(1-tetramethylcyclopropyl)indole, 3-(2,2,3,3-
16 tetramethylcyclopropyl)indole or 3-(2,2,3,3-tetramethylcyclopropylcarbonyl)indole with
17 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl,
18 hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
19 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-
20 methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not
21 further substituted in the indole ring to any extent and whether or not substituted in the
22 tetramethylcyclopropanoyl ring to any extent, including, but not limited to, the following:
23 5-bromo-UR-144, 5-chloro-UR-144, 5-fluoro-UR-144, A-796,260, A-834,735, AB-034,
24 UR-144, XLR11.

25 13. Tetramethylcyclopropane-thiazole carboxamides – any compound structurally
26 derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by
27 substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl,
28 halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl,

1 cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-
2 morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent,
3 whether or not substituted in the tetramethylcyclopropyl ring to any extent, including: A-
4 836,339.

5 14. Unclassified Synthetic Cannabinoids:

6 a. AM-087 (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-trimethyl-
7 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol

8 b. AM-356 (methanandamide) (5Z,8Z,11Z,14Z)-N-[(1R)-2-hydroxy-1-
9 methylethyl]icosa-5,8,11,14-tetraenamide; OR arachidonyl-1'-hydroxy-2'-
10 propylamide

11 c. AM-411 (6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-
12 tetrahydrobenzo[c]chromen-1-ol AM-855 (4aR,12bR)-8-hexyl-2,5,5-trimethyl-
13 1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol

14 d. AM-905 (6aR,9R,10aR)-3-[(E)-hept-1-enyl]-9-(hydroxymethyl)-6,6-
15 dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol

16 e. AM-906 (6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydroxymethyl)-6,6-
17 dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol

18 f. AM-2389 (6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6a,7,8,9,10,10a-
19 hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9 diol

20 g. BAY 38-7271 (-)-(R)-3-(2-Hydroxymethylindanyl-4-oxy)phenyl-4,4,4-
21 trifluorobutyl-1-sulfonate

22 h. CP 50,556-1 (Levonantradol) 9-hydroxy-6-methyl-3-[5-phenylpentan-2-
23 yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate; OR [(6S,6aR,9R,
24 10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-
25 octahydrophenanthridin-1-yl] acetate; OR [9-hydroxy-6-methyl-3-[5-
26 phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10, 10a-octahydrophenanthridin-1-yl]acetate

27 i. HU-210 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3- (2-methyloctan-
28 2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol; OR [(6aR,10aR)-9-

1 (hydroxymethyl)-6,6-dimethyl-3-(2-methyl octan-2-yl)-6a,7,10,10a-
2 tetrahydrobenzo[c]chromen-1-ol; OR 1,1-Dimethylheptyl-11-
3 hydroxytetrahydrocannabinol

4 j. HU-211 (Dexanabinol) (6aS, 10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-
5 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; OR (6aS,
6 10aS)-9-(hydroxymethyl)-6,6-dimethyl- 3-(2-methyloctan-2-yl)-6a,7,10,10a-
7 tetrahydrobenzo[c]chromen-1-ol

8 k. HU-243 3-dimethylheptyl-11-hydroxyhexahydrocannabinol

9 l. HU-308 [(91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-
10 7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol

11 m. HU-331 3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-
12 cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione

13 n. HU-336 (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-1H-
14 benzo[c]chromene-1,4(6H)-dione

15 o. JTE-907 N-(benzol[1,3]dioxol-5-ylmethyl)-7-methoxy-2-oxo-8-pentyl-
16 1,2-dihydroquinoline-3-carboxamide

17 p. JWH-051 ((6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-
18 tetrahydrobenzo[c]chromen-9-yl)methanol

19 q. JWH-057 (6aR,10aR)-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-
20 6,6,9-trimethyl-6H-Dibenzo[b,d]pyran

21 r. JWH-133 (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro -
22 6,6,9-trimethyl-6H-dibenzo[b,d]pyran

23 s. JWH-359 (6aR,10aR)- 1-methoxy- 6,6,9-trimethyl- 3-[(2R)-1,1,2-
24 trimethylbutyl]- 6a,7,10,10a-tetrahydrobenzo[c]chromene

25 t. URB-597 [3-(3-carbamoylphenyl)phenyl]-N-cyclohexylcarbamate

26 u. URB-602 [1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexyl ester; OR
27 cyclohexyl [1,1'-biphenyl]-3-ylcarbamate

28 v. URB-754 6-methyl-2-[(4-methylphenyl)amino]-4H-3,1-benzoxazin-4-one

1 w. URB-937 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl
2 cyclohexylcarbamate

3 x. WIN 55,212-2 (R)-(+)-[2,3-dihydro-5-methyl-3-(4-
4 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
5 naphthalenylmethanone; OR [2,3-Dihydro-5-methyl-3-(4-
6 morpholinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-
7 naphthalenylmethanone

8 (C) Products that elicit psychoactive or psychotropic euphoric effects and are
9 marketed under any of the following trade names, including but not limited to: K2, K3, Spice,
10 Genie, Smoke, Potpourri, Buzz, Voodoo, Pulse, Hush, Bliss, Black Mamba, Bombay Blue,
11 Fake Weed, Genie, Spice, Zohai, K2, K3, Smoke, Pot-Pourri, Buzz, Spice 99, Mystery,
12 Earthquake, Stinger, Ocean Blue, Serenity, Chronic Spice, Spice Gold, Spice Silver, Skunk,
13 Mr. Nice Guy, Mr. Happy, K3 Legal, Sence, Smoke, Chill X, Earth Impact, Galaxy Gold,
14 Space Truckin, Solar Flare, Moon Rocks, Aroma, Scope, Sky High, Atomic, G-20, Guerrilla
15 Warfare, Makes Scents, g-13, Tiger Shark, California Dreams, Dank, Bullet, Mind Trip,
16 Voodoo Child, Jazz, Nightlights, Matrix, Hypnotiq, AK47, Maui Wowie, Daylights, Joker,
17 Dead Man Walking, Brain Storm, Soul Sence, Kush, Kush Mania, Dragons Fire, Lucid, Mad
18 Hatter, Scooby Snax, D-ZL, OMG, Demon, Barely In, Pineapple Express, Hayze, Mystery,
19 Earthquake, Ocean Blue, Stinger, Serenity, Fake Week and Black Mamba.

20 (D) The term Synthetic Cannabinoid shall not include any product, substance, material,
21 compound, mixture, or preparation that is specifically excepted by the California Uniform
22 Controlled Substances Act (“California UCSA”) (Health and Safety Code §§11000 *et seq.*),
23 listed in one of the California UCSA's schedules of controlled substances (Health and Safety
24 Code §§11053-11058), regulated by one of the California UCSA’s synthetic drug laws (Health
25 and Safety Code §§11357.5, 11375.5 and 11401), regulated by the Federal Controlled
26 Substances Act (the “CSA”) (21 USC §§ 81 *et seq.*) or approved by the Food and Drug
27 Administration (“FDA”).
28

1 ***Psychoactive stimulant effects*** shall mean affecting the central nervous system or brain
2 function to change perception, mood, consciousness, cognition or behavior in ways that are
3 similar to the effects of cocaine, methylphenidate or amphetamines.

4 ***Psychoactive euphoric effects*** shall mean affecting the central nervous system or brain
5 function to change perception, mood, consciousness, cognition or behavior in ways that are
6 similar to the effects of cannabis.

7 ***Sell, selling or sale*** shall mean to furnish, exchange, transfer, deliver or supply for
8 monetary gain.

9 ***Synthetic Cathinone (Bath Salts)*** means any compound that mimics the effects of any
10 federally controlled Schedule I substance such as cathinone, methcathinone, MDMA, and
11 MDEA including, but not limited to:

12 (A) Any quantity of a natural or synthetic material, compound, mixture, preparation,
13 substance, and their analogue (including salts, isomers, and salts of isomers) containing
14 substances which have a psychoactive stimulant effect on the central nervous system, including,
15 but not limited to:

- 16 1. 2-diphenylmethylpyrrolidine
- 17 2. 2-diphenylmethylpiperidine
- 18 3. 2-fluoromethcathinone
- 19 4. 3,4-dimethylmethcathinone
- 20 5. 3-fluoromethcathinone
- 21 6. 4-ethylmethcathinone
- 22 7. 4-fluoromethcathinone
- 23 8. 4-methyl-N-benzylcathinone
- 24 9. 4-methyl-N-ethylcathinone
- 25 10. 4-methylbuphedrone
- 26 11. alpha-Pyrrolidinobutiophenone
- 27 12. alpha-pyrrolidinopropiophenone
- 28 13. alpha-Pyrrolidinopentiophenone

- 1 14. 4-methylephedrone
- 2 15. 2-(methylamino)-1-phenylbutan-1-one
- 3 16. beta-Keto-N-methylbenzodioxolylpropylamine
- 4 17. benzylpiperazine
- 5 18. diphenyl-2-pyrrolidinyl-methanol
- 6 19. (3-diethylamino-2,2-dimethylpropyl)-4-aminobenzoate
- 7 20. 1-(Benzo[d][1,3]dioxol-5-yl)-2-(dimethylamino)butan-1-one
- 8 21. dimethylethcathinone
- 9 22. dimethylmethcathinone
- 10 23. 2-(methylamino)-1-phenylpropan-1-one
- 11 24. 2-ethylamino-1-phenyl-propan-1-one
- 12 25. Ethylethcathinone
- 13 26. Ethylmethcathinone
- 14 27. 3,4-methylenedioxy-N-ethylcathinone
- 15 28. beta-Keto-Ethylbenzodioxolylbutanamine
- 16 29. Fluorococaine
- 17 30. Fluoroethcathinone
- 18 31. Fluoroisocathinone
- 19 32. Fluoromethcathinone
- 20 33. 3-methoxymethcathinone
- 21 34. Isopentadrone
- 22 35. 4-methyl-alpha-pyrrolidinopropiophenone
- 23 36. Methylbuphedrone
- 24 37. 1-methyl-4-benzylpiperazine
- 25 38. 5,6-methylenedioxy-2-aminoindane
- 26 39. 6,7-methylenedioxy-2-aminotetralin
- 27 40. Dimethylone
- 28 41. Methylenedioxymethcathinone

- 1 42. 3,4-methylenedioxy-alpha-pyrrolidinobutiophenone
- 2 43. 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone
- 3 44. 3,4-methylenedioxypropylvalerone
- 4 45. Methylethcathinone
- 5 46. 4-methylmethcathinone
- 6 47. N,N-dimethylcathinone
- 7 48. 4-methoxymethcathinone
- 8 49. Methylmethcathinone
- 9 50. 3,4-methylenedioxy-N-methylcathinone
- 10 51. Methoxymethcathinone
- 11 52. 4-methoxy-alpha-pyrrolidinopropiophenone
- 12 53. 4-methyl-alpha-pyrrolidinobutyrophenone
- 13 54. Naphthylpyrovalerone
- 14 55. NRG-2
- 15 56. 2-(methylamino)-1-phenyl-1-pentanone
- 16 57. beta-Keto-N-methylbenzodioxolylpentanamine

17 (B) Any compound (not being bupropion) structurally derived from 2-amino-1-
18 phenyl-1-propanone by modification in any of the following ways: (i) by substitution in the
19 phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents,
20 whether or not further substituted in the phenyl ring by one or more other univalent substituents;
21 (ii) by substitution at the 3-position with an alkyl substituent; (iii) by substitution at the nitrogen
22 atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

23 (C) Any other crystalline or powder product that contains a synthetic compound that,
24 when consumed, elicits psychoactive stimulant effects. These drugs are marketed under names
25 including, but not to: Bliss, Blizzard, Blue Silk, Bonzai Grow, Charge Plus, Charlie, Cloud
26 Nine, Euphoria, Hurricane, Ivory Snow, Ivory Wave, Lunar Wave, Ocean, Ocean Burst, Pixie
27 Dust, Posh, Pure Ivory, Purple Wave, Red Dove, Scarface, Snow Leopard, Stardust, Vanilla
28 Sky, White Dove, White Night, and White Lightning; or

1 (D) Any synthetic substance and its isomers with a chemical structure similar to the
2 above listed compounds, or any chemical or natural alteration or analogue of the above listed
3 compounds

4 (E) The term “synthetic cathinone” shall not include any product, substance, material,
5 compound, mixture or preparation that is specifically excepted by the California UCSA (Health
6 and Safety Code §§ 11000 *et seq.*), listed in one of the California UCSA’s schedules of
7 controlled substances (Health and Safety Code §§ 11053-11058), regulated by one of the
8 California UCSA’s Synthetic Drug Laws (Health and Safety Code §§ 11357.5, 11375.5 and
9 11401), regulated by the CSA (21 USC §§ 81 *et seq.*) or approved by the FDA.

10 ***Synthetic Drug*** shall mean any Synthetic Cathinone, Synthetic Cannibanoïd, Novel
11 Psychoactive Substance, and any other substance containing intoxicating, psychoactive or
12 psychotropic compounds or chemicals, whether in crystalline, powder, granular, organic or
13 liquid form, and which causes psychoactive or psychotropic stimulant or euphoric effects on
14 the central nervous system and brain. The term Synthetic Drug shall not include any product,
15 substance, material, compound, mixture, or preparation that is specifically excepted by the
16 California UCSA (Health and Safety Code §§11000 *et seq.*), listed in one of the California
17 UCSA's schedules of controlled substances (Health and Safety Code §§11053-11058),
18 regulated by one of the California UCSA’s synthetic drug laws (Health and Safety Code
19 §§11357.5, 11375.5 and 11401), regulated by the CSA (21 USC §§ 81 *et seq.*) or approved by
20 the FDA.

21 **20.55.4 - Provision, Display for Sale, Sale, or Distribution of Synthetic Drugs or**
22 **Mislabeled/Misbranded Products Prohibited.**

23 A. It is unlawful for any person or business to sell, offer to sell, offer for sale,
24 distribute, display, or deliver any Synthetic Drug or any Mislabeled/Misbranded Product in the
25 City of Oceanside.

26 B. It is unlawful for any person to provide or sell or offer for sale a product for
27 human consumption when the product is labeled “not for human consumption” or contains
28 similar warnings when such product is in fact intended for human consumption.

1 C. Evidence that a given product is a synthetic drug may be found from its intended
2 use, which can be determined from its price, packaging, marketing, and the location and manner
3 in which a given synthetic drug is displayed or distributed. While the question of whether a
4 given product is being sold, offered for sale, distributed, displayed or delivered for use as a
5 Synthetic Drug must be evaluated on its specific facts, the City finds that, to determine if a
6 person is selling, offering to sell, distributing, displaying, or delivering a synthetic drug, the
7 enforcing officer shall consider the following evidentiary factors:

- 8 (1) The product is not suitable for its marketed use (such as a crystalline or powder
9 product being marketed as “glass cleaner”);
- 10 (2) The business providing, displaying for sale, distributing or selling the product
11 does not typically provide, distribute or sell products that are used for that
12 product’s marketed use (such as a liquor store selling “plant food” or
13 “potpourri”);
- 14 (3) The product contains a warning label that is not typically present on products that
15 are used for that product’s marketed use (such as “not for human consumption,”
16 or “does not contain chemicals banned by section 11357.5”);
- 17 (4) The product is significantly more expensive than products that are used for that
18 product’s marketed use (such as half of a gram of a substance marketed as “glass
19 cleaner” costing \$50.00);
- 20 (5) The product resembles an illicit street drug (such as cocaine, methamphetamine or
21 marijuana); or
- 22 (6) The product’s name or packaging uses images or slang referencing an illicit street
23 drug (such as “Eight Ballz” or “Green Buddha”).
- 24 (7) Aspects of the packaging or labeling suggesting the user will achieve a “high,”
25 euphoria, relaxation, mood enhancement, or that the product has other
26 psychoactive or psychotropic effects on the brain or body;
- 27 (8) The methods by which the substance is distributed;

- 1 (9) The manner in which the substance is displayed, distributed, or sold to the public;
2 or,
3 (10) The product label contains a restriction that it is not for sale to minors or anyone
4 under the age of 18 when the product's marketed use would not contain such
5 restrictions.
6 (11) Comparisons with accepted methods of marketing a legitimate nonprescription
7 drug for medicinal purposes rather than for the purpose of drug abuse or any
8 similar nonmedical use;
9 (12) Verbal or written representations regarding the purpose, methods, use, or effect of
10 the product;

11 **20.55.5 - Provision, Display for Sale, Sale or Distribution of Substances Claimed or**
12 **Represented to be Synthetic Drugs Prohibited.**

13 A. It is unlawful for any person to claim or represent that a product that person is
14 providing, displaying for sale, distributing or selling is a Synthetic Drug within the City of
15 Oceanside.

16 B. The factors listed in 20.55.4 (C) shall also be considered to determine if a person
17 is claiming or representing that a product is a Synthetic Drug.

18 C. Merely disclaiming a substance claimed or represented to be a Synthetic Drug as
19 "not safe for human consumption" will not avoid the application of this section.

20 **20.55.6 - Possession or Use of Synthetic Drugs Prohibited.**

21 A. It is unlawful for any person to publicly possess or be under the influence of any
22 Synthetic Drug within the City of Oceanside.

23 B. In addition to the psychological and physiological effects visible to an officer that
24 are typically exhibited by a person using a Synthetic Drug, including but not limited to
25 hallucinations, agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism,
26 panic attacks, psychosis, aggression, increased heart rate, increased blood pressure, agitation,
27 anxiety, nausea, vomiting, tachycardia, tremors, seizures, paranoid behavior, or catatonia, the

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1 factors listed in 20.55.4 (C) shall also be considered to determine if a person is in possession or
2 using a Synthetic Drug.

3 **20.55.7 - Public Nuisance**

4 A. It is a public nuisance for any person to provide, display for sale, distribute or sell
5 any Synthetic Drug or any Mislabeled/Misbranded Product within the City of Oceanside.

6 B. It is a public nuisance for any person to allow the provision, display for sale,
7 distribution or sale of any Synthetic Drug or any Mislabeled/Misbranded Product on property
8 owned, controlled or managed by such person within the City of Oceanside.

9 C. It is a public nuisance for any person to provide, display for sale, distribute or sell
10 any substance claimed or represented to be a Synthetic Drug within the City of Oceanside.

11 D. It is a public nuisance for any person to allow the provision, display for sale,
12 distribution or sale of any substance claimed or represented to be a synthetic drug on property
13 owned, controlled or managed by such person within the City of Oceanside.

14 E. To determine if a person is claiming or representing that a substance or product is
15 a Synthetic Drug, the enforcing officer may consider any of the evidentiary factors set forth in
16 20.55.4(C) of this Article.

17 F. Any public nuisance found under this Article to exist may be abated in accordance
18 with the provisions of Chapter 17 of this Code.

19 **20.55.8 - Seizure of Evidence.**

20 A. The use of Synthetic Drugs has been documented to cause hallucinations,
21 agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism and death, any
22 violation of this Article presents a grave and imminent danger not only to the person consuming
23 the Synthetic Drug, but also to the public at large. If the enforcing officer, based on the facts
24 then known, determines that a violation of this Article presents an imminent danger or hazard or
25 is imminently injurious to the public health or safety, then any Synthetic Drug or
26 Mislabeled/Misbranded Product possessed, provided, distributed, displayed, or sold in violation
27 of any provision of this Article shall be deemed a drug-related nuisance and shall result in

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1 seizure of the entire inventory of all such products by the enforcing officers, and will be
2 removed, stored and disposed of in accordance with law.

3 B. Any person convicted of any section of this Article shall be deemed to have
4 maintained or conducted a drug-related nuisance. The building, premises, furnishings, fixtures,
5 equipment, moneys, and any other real or personal property used in or to facilitate the offense(s)
6 that constituted the drug-related nuisance are subject to seizure, closure, and/or sale pursuant to
7 Health and Safety Code sections 11570, 11581-11582.

8 **20.55.9 – Suspension/Revocation of Business License.**

9 A. No person holding a City of Oceanside business license and owning or operating
10 a business in the City may use that business to display, provide, distribute, possess, or sell any
11 Synthetic Drug, any substance claimed or represented to be a Synthetic Drug, or any
12 Mislabeled/Misbranded Product.

13 B. In order to protect the due process rights of businesses that may believe they are
14 selling legitimate products, rather than Synthetic Drugs, a first violation of this Article shall not
15 result in suspension or revocation of the business license, but will instead result in a warning
16 and mandatory education courses regarding Synthetic Drugs, as to allow businesses to ensure
17 they do not sell or otherwise make Synthetic Drugs available without prior knowledge as to
18 what is considered a Synthetic Drug for the purposes of this Article.

19 C. Any business that continues to operate in violation of this Article after having
20 received a warning and education for violating this Article poses an immediate threat to public
21 health, safety and welfare and accordingly shall not operate during the pendency of any
22 business license suspension or revocation process and/or appeal in accordance with section 15.5
23 of Article 15 of this Code.

24 **20.55.10 – Criminal Penalties.**

25 A. The owner(s), occupant(s), proprietor(s), or other person(s) having possession or
26 control of any buildings, business, or premises which constitute a public nuisance as defined in
27 this Article, or anyone who violates any order of abatement made pursuant to this Article
28

1 commits a public offense which may be prosecuted as a misdemeanor or infraction offense as
2 defined in section 1.7 of Chapter 1 of this Code.

3 B. Each violation of this Article, or every day a violation continues to exist, shall
4 constitute a new and separate violation.

5 C. The fine amounts set forth in Section 1.7 of this Code may be modified, from time
6 to time, by City Council resolution. In no event shall such fine amounts exceed the amounts
7 authorized by state law.

8 **20.55.11 – Civil Penalties.**

9 A. In addition to the other remedies provided in this Article, any activity determined
10 to be a public nuisance under any section of this Article may be abated by way of the
11 administrative procedures set forth in Article 1.14 of Chapter 1 of this Code or civil injunctive
12 action in accordance with this Code and at the direction of the City Council.

13 B. Each day that any violation of this Article is allowed to continue shall be subject
14 to a \$500.00 civil penalty against the violator in any civil nuisance abatement action.

15 **20.55.12 – Penalties Cumulative**

16 Penalties and remedies under this Article may be cumulative and in addition to other
17 administrative, civil or criminal remedies set forth in this Code.

18 **20.55.13 – Attorneys’ Fees**

19 In any action, administrative proceeding, or civil proceeding to abate a nuisance brought
20 pursuant to this Article, the prevailing party may recover attorneys’ fees. The recovery of
21 attorneys’ fees by the prevailing party is limited to those individual actions or proceedings in
22 which the City elects, at the initiation of that individual action or proceeding, to seek recovery
23 of its own attorneys’ fees. In no action, administrative proceeding, or civil proceeding shall an
24 award of attorneys’ fees to a prevailing party exceed the amount of reasonable attorneys’ fees
25 incurred by the City in the action or proceeding.

26 **20.55.14 – Exclusions/Exemptions.**

27 A. This Article shall not apply to drugs or substances lawfully prescribed or to
28 intoxicating chemical compounds that have been approved by the federal Food and Drug

1 Administration or which are specifically permitted by California law, including without
2 limitation, intoxicating chemical compounds that are specifically excepted by the California
3 UCSA (Health and Safety Code § 11000 *et seq.*) or the CSA (21 USC §§ 801, *et seq.*).

4 B. This Article shall not apply to drugs or substances that are prohibited by state or
5 federal law, including without limitation, California Health and Safety Code §§ 11357.5,
6 11375.5, 11401 and the Federal Controlled Substances Act.

7 C. This Article shall not apply to food products, drugs, dietary supplements,
8 cosmetics, or other substances regulated by the Food and Drug Administration and that are in
9 compliance with that agency's requirements

10 D. This Article shall not be deemed to prescribe any act that is positively permitted,
11 prohibited, or preempted by any state or federal law or regulation.

12 SECTION 2. Any provision of the Oceanside City Code or appendices thereto
13 inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no
14 further, is hereby repealed or modified to that extent necessary to effect the provisions of this
15 Ordinance.

16 SECTION 3. Severability. If any section, sentence, clause or phrase of this Ordinance is
17 for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such
18 decision shall not affect the validity of the remaining portions of this Ordinance. The City
19 Council hereby declares that it would have passed and adopted this Ordinance and each section,
20 sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,
21 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

22 SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this
23 ordinance once within fifteen (15) days after its passage in the San Diego Union Tribune, a
24 newspaper of general circulation published in the City of Oceanside.

25 SECTION 5. This Ordinance shall take effect and be in force on the thirtieth (30th) day
26 from and after its final passage.

27 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
28 California, held on the ____ of _____, 2016 and, thereafter,

1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside California, held on the ____ day of _____, 2016, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

6 ABSTAIN:

7 _____
8 MAYOR OF THE CITY OF OCEANSIDE

9
10 ATTEST:

APPROVED AS TO FORM:

11
12 _____
13 CITY CLERK

14 _____
15 CITY ATTORNEY

16 [AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE
17 ADDING ARTICLE VI TO CHAPTER 20 OF THE OCEANSIDE CITY CODE
18 PROHIBITING THE DISPLAY, SALES, DISTRIBUTION, POSSESSION, AND
19 USE OF SYNTHETIC DRUGS AND MISLABELED/MISBRANDED
20 PRODUCTS CONTAINING PSYCHOACTIVE SUBSTANCES WITHIN THE
21 CITY OF OCEANSIDE]

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