ORDINANCE NO. __________

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

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

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

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

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

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

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

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

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

5. Similarity to Illicit Street Drugs. Synthetic drugs often resemble illicit street drugs and/or use brand names and packaging that are designed to make the product appear similar to illicit drugs. For example, many synthetic drugs are sold as white powders packaged in vials (resembling cocaine) or dyed green to appear similar to marijuana.
Additionally, brand names are often targeted toward youth by utilizing names similar to street slang for illicit drugs that have no relation to the products that are purportedly being sold. These brand names are always changing, but include “Eight Ballz,” “Spice,” “Black Mamba,” “K-2,” “Puff,” “Sugar Sticks,” “Green Buddha,” “Diable Botanical Incense,” “Scooby Snax Potpourri,” “Grape Ape Herbal Incense,” “Three Monkey Incense,” “Mr. and Mrs. Marley,” “Cloud 9 Incense,” and a group of synthetic drugs marketed from “The Spice Guy.”

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

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

WHEREAS, an effective way to prevent and abate the health, safety and welfare concerns that exist as a result of the marketing, distribution, sale, mislabeling and possession of synthetic drugs and their derivatives and analogues in manners that seek to circumvent state and federal law is through the administrative, civil and criminal enforcement procedures set forth in the Oceanside City Code. Laws offering additional protections and/or duplicating state and federal regulations concerning misbranded drugs and mislabeled commodities are not
preempted; and this Ordinance is enacted under the home rule powers of the City, and in accordance with the allowance of certain local regulation under the Fair Packaging and Labeling Act, 15 U.S.C. §§ 1461, 1548; and

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

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

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

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

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

20.55.1 – Legislative Findings of Fact
20.55.2 – Purpose and Intent.
20.55.3 – Definitions
20.55.4 – Provision, Display for sale, Sale, or Distribution of Synthetic Drugs or
Mislabeled/Misbranded Products Prohibited

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

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

20.55.7 – Public Nuisance.

20.55.8 – Seizure of evidence.

20.55.9 - Suspension/Revocation of Business License.

20.55.10 - Criminal Penalties.

20.55.11 - Civil Penalties

20.55.12 - Penalties Cumulative

20.55.13 - Attorneys’ Fees

20.55.14 - Exclusions/Exemptions.

20.55.1 - Legislative Findings of Fact.

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

20.55.2 - Purpose and intent.

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

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

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

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

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

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

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

1. 2,5-dimethoxy-amphetamine
2. 2,3-dihydro-1H-inden-2-amine
3. 2-fluoromethamphetamine
4. methoxyketamine
5. 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine
6. 4-Chloro-2,5-dimethoxyphenethylamine
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<tr>
<td>7.</td>
<td>2-(2,5-Dimethoxy-4-methylphenyl)ethanamine</td>
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<td>8.</td>
<td>4-Ethyl-2,5-dimethoxyphenethylamine</td>
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<td>9.</td>
<td>2-(2,5-Dimethoxyphenyl)ethanamine</td>
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<td>10.</td>
<td>4-Iodo-2,5-dimethoxyphenethylamine</td>
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<td>11.</td>
<td>2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine</td>
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<td>12.</td>
<td>2,5-Dimethoxy-4-propylphenethylamine</td>
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<td>13.</td>
<td>2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine</td>
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<tr>
<td>14.</td>
<td>2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine</td>
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<td>15.</td>
<td>2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine</td>
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<td>16.</td>
<td>2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine</td>
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<td>17.</td>
<td>N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane</td>
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<td>18.</td>
<td>2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine</td>
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<td>19.</td>
<td>N-(2-methoxybenzyl)-1-[(7R)-3-bromo-2,5-dimethoxybicyclo[4.2.0]octa-1,3,5-trien-7-yl]methanamine</td>
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<td>20.</td>
<td>2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine</td>
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<td>21.</td>
<td>2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine</td>
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<td>22.</td>
<td>N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine</td>
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<td>23.</td>
<td>2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine</td>
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<td>24.</td>
<td>2,5-Dimethoxy-4-ethylthiophenethylamine</td>
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<td>25.</td>
<td>2,5-Dimethoxy-4-isopropylthiophenethylamine</td>
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<td>26.</td>
<td>2,5-Dimethoxy-4-(n)-propylthiophenethylamine</td>
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<td>27.</td>
<td>2-(4-trifluoromethyl-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine</td>
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<td>28.</td>
<td>2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-fluorophenyl)methyl]ethanamine</td>
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<tr>
<td>29.</td>
<td>2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2,3-methylenedioxyphenyl)methyl]ethanamine</td>
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<tr>
<td>30.</td>
<td>3-[1-(ethylamino)cyclohexyl]phenol</td>
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<td>31.</td>
<td>3-hydroxyphencyclidine</td>
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<tr>
<td>32.</td>
<td>3-Methoxyeticyclidine</td>
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1. 1-[1-(3-methoxyphenyl)cyclohexyl]-piperidine
2. 2-(4-bromo-2,3,6,7-tetrahydrofurobensofuran-8-yl)-1-methyl-ethylamine
3. 3-(2-Diethylaminoethyl)-1H-indol-4-yl acetate
4. 4-acetoxy-N,N-dimethyltryptamine
5. 4-acetoxy-N,N-dipropyltryptamine
6. 4-Chlorophenylisobutylamine
7. para-fluoroamphetamine
8. 4-fluoromethamphetamine
9. 4-Hydroxy-di-isopropyl-tryptamine
10. 4-hydroxy-N-methyl-N-ethyltryptamine
11. 3-(2-[Isopropyl(methyl)amino]ethyl)-1H-indol-4-ol
12. (R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydroxyindole
13. 3-(2-[methyl(propyl)amino]ethyl)-1H-indol-4-ol
14. 4-methoxy-N-methyl-N-isopropyltryptamine
15. 4-Methoxyphencyclidine
16. 4-Methyl-α-ethyltryptamine
17. 4-methyl-a-pyrrolidino-hexphenone
18. 5-(2-Aminopropyl)benzofuran
19. 5-(2-Aminopropyl)-2,3-dihydrobenzofuran
20. 5-Iodo-2-aminoindane
21. 5-methyl-ethylone
22. 1-(5-methoxy-1H-indol-3-yl)propan-2-amine
23. N,N-diallyl-5-methoxytryptamine
24. N,N-Dethyl-5-Methoxytryptamine
25. 5-methoxy-diisopropyltryptamine
26. 5-methoxy-N,N-dimethyltryptamine
27. N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-propylpropan-1-amine
28. N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-methylpropan-2-amine
61. (R)-3-(N-methylpyrrolidin-2-ylmethyl)-5-methoxyindole
62. 6-(2-aminopropyl)benzofuran
63. 6-(2-Aminopropyl)-2,3-dihydrobenzofuran
64. ((2-aminopropyl)benzofuran
65. ((2-aminopropyl)-2,3-dihydrobenzofuran)
66. 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine
67. Benzothiophenylcyclohexylpiperidine
68. N,N-Diisopropyltryptamine
69. 1,4-Dibenzylpiperazine
70. 1,4-dibenzylpiperazine
71. 2,5-Dimethoxy-4-bromoamphetamine
72. 2,5-Dimethoxy-4-chloroamphetamine
73. 2,5-dimethoxy-4-iodoamphetamine
74. N,N-Dipropyltryptamine
75. 2-(2-chlorophenyl)-2-(ethylamino)cyclohexanone
76. Fluoroamphetamine
77. Fluoromethamphetamine
78. Para-fluorophenylpiperazine
79. 7-hydroxymitragynine
80. 1-(3-Chlorophenyl)piperazine
81. N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine
82. 1-(thiophen-2-yl)-2-methylaminopropane
83. (RS)2-(3-methoxyphenyl)-2-(ethylamino)cyclohexanone
84. N-methyltryptamine
85. N-isopropyl-N-methyltryptamine
86. Methyl-alpha-pyrrolidinohexiophenone
87. N,N-dimethylamphetamine
88. 3-[2-(1-Amino-1-methylethyl)-1-hydroxyhexyl]phenol
89. 7-Bromo-5-(2-chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one
90. 1-(4-Methoxyphenyl)piperazine
91. para-Methoxy-N-methylamphetamine
92. 1-[4-(trifluoromethylphenyl)]piperazine
93. 3-trifluoromethylphenylpiperazine

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

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

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

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

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

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

1. **Adamantoylindoles or adamantoylindazoles**, including adamantyl carboxamide indoles and adamantyl carboxamide indazoles, or any compound structurally derived from 3-(1-adamantoyl) indole, 3-(1-adamantoyl)indazole, 3-(2-adamantoyl)indole, N-(1-adamantyl)-1H-indole-3-carboxamide, or N-(1-adamantyl)-1H-indazole-3-carboxamide by substitution at the nitrogen atom of the indole or indazole ring with alkyl, haloalkyl,
alkenyl, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole or indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent, including, but not limited to, the following: 2NE1, 5F-AKB-48, AB-001, AKB-48, AM-1248, JWH-018 adamantyl carboxamide, STS-135.

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

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

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


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

7. **Naphthoylpyrroles** - any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholiny)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholiny)ethyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the pyrrole ring to any extent and whether or
not substituted in the naphthyl ring to any extent, including, but not limited to, the
following: JWH-030, JWH-031, JWH-145, JWH-146, JWH-147, JWH-150, JWH-156,
JWH-243, JWH-244, JWH-245, JWH-246, JWH-292, JWH-293, JWH-307, JWH-308,

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

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

10. **Phenylacetylindoles** - any compound structurally derived from 3-
phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl,
haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-
pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl
group, whether or not further substituted in the indole ring to any extent and whether or
not substituted in the phenyl ring to any extent, including, but not limited to, the following:
Cannabipiperidiethanone, JWH-167, JWH-201, JWH-202, JWH-203, JWH-204, JWH-
205, JWH-206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-
250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-

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

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

13. **Tetramethylcyclopropane-thiazole carboxamides** – any compound structurally
derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by
substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl,
halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl,
cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-
morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent,
whether or not substituted in the tetramethylcyclopropyl ring to any extent, including: A-
836,339.

14. Unclassified Synthetic Cannabinoids:
   a. AM-087 (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-trimethyl-
      6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol
   b. AM-356 (methanandamide) (5Z,8Z,11Z,14Z)-N-[(1R)-2-hydroxy-1-
methylethyl]icos-5,8,11,14-tetraenamide; OR arachidonyl-1'-hydroxy-2'-
      propylamide
   c. AM-411 (6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-
tetrahydrobenzo[c]chromen-1-ol AM-855 (4aR,12bR)-8-hexyl-2,5,5-trimethyl-
      1,4,4a,8,9,10,11,12b-octahydropaphtheno[3,2-c]isochromen-12-ol
   d. AM-905 (6aR,9R,10aR)-3-[(E)-hept-1-enyl]-9-(hydroxymethyl)-6,6-
dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol
   e. AM-906 (6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydroxymethyl)-6,6-
dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol
   f. AM-2389 (6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6a,7,8,9,10,10a-
      hexahydro-6,6-dimethyl-6H-dibenz[o,d]pyran-1,9 diol
   g. BAY 38-7271 (-)-(R)-3-(2-Hydroxymethylindanyl-4-oxy)phenyl-4,4,4-
      trifluorobutyl-1-sulfonate
   h. CP 50,556-1 (Levonantradol) 9-hydroxy-6-methyl-3-[5-phenylpentan-2-
yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate; OR [(6S,6aR,9R, 
      10aR)-9-hydroxy-6-methyl-3-[2R)-5-ph enylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-
      octahydrophenanthridin-1-yl] acetate; OR [9-hydroxy-6-methyl-3-[5-
      phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10, 10a-octahydrophenanthridin-1-yl]acetate
   i. HU-210 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3- (2-methyloctan-
      2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol; OR [(6aR,10aR)-9-
(hydroxymethyl)-6,6-dimethyl-3-(2-methyl octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; OR 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol

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

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

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

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

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

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

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

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

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

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

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

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

v. URB-754 6-methyl-2-[[4-(methylphenyl)amino]-4H-3,1-benzoxazin-4-one
w. URB-937 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl
cyclohexylcarbamate

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

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

(D) The term Synthetic Cannabinoid shall not include any product, substance, material,
compound, mixture, or preparation that is specifically excepted by the California Uniform
Controlled Substances Act (“California UCSA”) (Health and Safety Code §§11000 et seq.),
listed in one of the California UCSA's schedules of controlled substances (Health and Safety
Code §§11053-11058), regulated by one of the California UCSA’s synthetic drug laws (Health
and Safety Code §§11357.5, 11375.5 and 11401), regulated by the Federal Controlled
Substances Act (the “CSA”) (21 USC §§ 81 et seq.) or approved by the Food and Drug
Administration (“FDA”).
**Psychoactive stimulant effects** shall mean affecting the central nervous system or brain function to change perception, mood, consciousness, cognition or behavior in ways that are similar to the effects of cocaine, methylphenidate or amphetamines.

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

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

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

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

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

20
42. 3,4-methylenedioxo-alpha-pyrrolidinobutiophenone
43. 3,4-methylenedioxo-alpha-pyrrolidinopropiophenone
44. 3,4-methylenedioxopyrovalerone
45. Methylethcathinone
46. 4-methylmethcathinone
47. N,N-dimethylcathinone
48. 4-methoxymethcathinone
49. Methylmethcathinone
50. 3,4-methylenedioxo-N-methylcathinone
51. Methoxymethcathinone
52. 4-methoxy-alpha-pyrrolidinopropiophenone
53. 4-methyl-alpha-pyrrolidinobutoxyphenone
54. Naphthylpyrovalerone
55. NRG-2
56. 2-(methylamino)-1-phenyl-1-pentanone
57. beta-Keto-N-methylbenzodioxolylpentanamine

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

(C) Any other crystalline or powder product that contains a synthetic compound that, when consumed, elicits psychoactive stimulant effects. These drugs are marketed under names including, but not to: Bliss, Blizzard, Blue Silk, Bonzai Grow, Charge Plus, Charlie, Cloud Nine, Euphoria, Hurricane, Ivory Snow, Ivory Wave, Lunar Wave, Ocean, Ocean Burst, Pixie Dust, Posh, Pure Ivory, Purple Wave, Red Dove, Scarface, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Night, and White Lightning; or
(D) Any synthetic substance and its isomers with a chemical structure similar to the above listed compounds, or any chemical or natural alteration or analogue of the above listed compounds.

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

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

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

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

B. It is unlawful for any person to provide or sell or offer for sale a product for human consumption when the product is labeled “not for human consumption” or contains similar warnings when such product is in fact intended for human consumption.
C. Evidence that a given product is a synthetic drug may be found from its intended use, which can be determined from its price, packaging, marketing, and the location and manner in which a given synthetic drug is displayed or distributed. While the question of whether a given product is being sold, offered for sale, distributed, displayed or delivered for use as a Synthetic Drug must be evaluated on its specific facts, the City finds that, to determine if a person is selling, offering to sell, distributing, displaying, or delivering a synthetic drug, the enforcing officer shall consider the following evidentiary factors:

1. The product is not suitable for its marketed use (such as a crystalline or powder product being marketed as “glass cleaner”);
2. The business providing, displaying for sale, distributing or selling the product does not typically provide, distribute or sell products that are used for that product’s marketed use (such as a liquor store selling “plant food” or “potpourri”);
3. The product contains a warning label that is not typically present on products that are used for that product’s marketed use (such as “not for human consumption,” or “does not contain chemicals banned by section 11357.5”);
4. The product is significantly more expensive than products that are used for that product’s marketed use (such as half of a gram of a substance marketed as “glass cleaner” costing $50.00);
5. The product resembles an illicit street drug (such as cocaine, methamphetamine or marijuana); or
6. The product’s name or packaging uses images or slang referencing an illicit street drug (such as “Eight Ballz” or “Green Buddha”).
7. Aspects of the packaging or labeling suggesting the user will achieve a “high,” euphoria, relaxation, mood enhancement, or that the product has other psychoactive or psychotropic effects on the brain or body;
8. The methods by which the substance is distributed;
(9) The manner in which the substance is displayed, distributed, or sold to the public; or,
(10) The product label contains a restriction that it is not for sale to minors or anyone under the age of 18 when the product’s marketed use would not contain such restrictions.
(11) Comparisons with accepted methods of marketing a legitimate nonprescription drug for medicinal purposes rather than for the purpose of drug abuse or any similar nonmedical use;
(12) Verbal or written representations regarding the purpose, methods, use, or effect of the product;

20.55.5 - Provision, Display for Sale, Sale or Distribution of Substances Claimed or Represented to be Synthetic Drugs Prohibited.
A. It is unlawful for any person to claim or represent that a product that person is providing, displaying for sale, distributing or selling is a Synthetic Drug within the City of Oceanside.
B. The factors listed in 20.55.4 (C) shall also be considered to determine if a person is claiming or representing that a product is a Synthetic Drug.
C. Merely disclaiming a substance claimed or represented to be a Synthetic Drug as “not safe for human consumption” will not avoid the application of this section.

20.55.6 - Possession or Use of Synthetic Drugs Prohibited.
A. It is unlawful for any person to publicly possess or be under the influence of any Synthetic Drug within the City of Oceanside.
B. In addition to the psychological and physiological effects visible to an officer that are typically exhibited by a person using a Synthetic Drug, including but not limited to hallucinations, agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism, panic attacks, psychosis, aggression, increased heart rate, increased blood pressure, agitation, anxiety, nausea, vomiting, tachycardia, tremors, seizures, paranoid behavior, or catatonia, the ///
factors listed in 20.55.4 (C) shall also be considered to determine if a person is in possession or using a Synthetic Drug.

20.55.7 - Public Nuisance

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

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

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

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

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

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

20.55.8 - Seizure of Evidence.

A. The use of Synthetic Drugs has been documented to cause hallucinations, agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism and death, any violation of this Article presents a grave and imminent danger not only to the person consuming the Synthetic Drug, but also to the public at large. If the enforcing officer, based on the facts then known, determines that a violation of this Article presents an imminent danger or hazard or is imminently injurious to the public health or safety, then any Synthetic Drug or Mislabeled/Misbranded Product possessed, provided, distributed, displayed, or sold in violation of any provision of this Article shall be deemed a drug-related nuisance and shall result in //
seizure of the entire inventory of all such products by the enforcing officers, and will be
removed, stored and disposed of in accordance with law.

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

20.55.9 – Suspension/Revocation of Business License.

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

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

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

20.55.10 – Criminal Penalties.

A. The owner(s), occupant(s), proprietor(s), or other person(s) having possession or
control of any buildings, business, or premises which constitute a public nuisance as defined in
this Article, or anyone who violates any order of abatement made pursuant to this Article
commits a public offense which may be prosecuted as a misdemeanor or infraction offense as
defined in section 1.7 of Chapter 1 of this Code.

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

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

20.55.11 – Civil Penalties.

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

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

20.55.12 – Penalties Cumulative

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

20.55.13 – Attorneys’ Fees

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

20.55.14 – Exclusions/Exemptions.

A. This Article shall not apply to drugs or substances lawfully prescribed or to
intoxicating chemical compounds that have been approved by the federal Food and Drug
Administration or which are specifically permitted by California law, including without
limitation, intoxicating chemical compounds that are specifically excepted by the California
UCSA (Health and Safety Code § 11000 et seq.) or the CSA (21 USC §§ 801, et seq.).

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

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

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

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

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

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

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

INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
California, held on the _____ of ___________________, 2016 and, thereafter,
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside California, held on the ____ day of ________________, 2016, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

CITY ATTORNEY


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