



# *Ordinance*

ORDINANCE NUMBER 322

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, AMENDING TITLE XIII, GENERAL OFFENSES, OF THE SAN LUIS CITY CODE BY ADDING A NEW CHAPTER 132, POSSESSION, USE, SALE AND DISPLAY OF CERTAIN FEDERALLY CONTROLLED DANGEROUS SUBSTANCES AND THEIR CHEMICAL ANALOGUES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

WHEREAS, products containing the chemicals 4-methyl-N-methylcathinone (mephedrone), 3,4-methylenedioxy-N-methylcathinone (methylone), 3,4-ethylenedioxypropylvalerone (MDPV), as well as certain cannabimetic agents and/or their chemical analogues, and marketed under labels that include “bath salts,” “spice,” “hebal incense,” “spice product,” “incense,” “window cleaner,” “potpourri,” “plant fertilizer,” and “insect repellent” among other names have been linked to serious physical effects resulting in hospitalization and death when ingested, inhaled, or otherwise introduced into the human body; and

WHEREAS, the use of products containing the chemicals 4-methyl-N-methylcathinone (mephedrone), 3,4-methylenedioxy-N-methylcathinone (methylone), 3,4-ethylenedioxypropylvalerone (MDPV), and their chemical analogues makes users agitated, delusional, paranoid, and violent; and

WHEREAS, the United States has pursuant to the David Mitchel Rogza Act added certain defined cannabimetic agents to Schedule I of the Controlled Substances Act, and are listed at the end of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), said definition including any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within listed structural classes, the David Mitchel Rogza Act being incorporated herein by this reference, as though fully set forth again, in full;

WHEREAS, the use of products containing the chemicals 4-methyl-N-methylcathinone (mephedrone), 3,4-methylenedioxy-N-methylcathinone (methylone), 3,4-ethylenedioxypropylvalerone (MDPV), the substances identified in the David Mitchel Rogza Act, and their chemical analogues is sending children and adults to emergency rooms across the United States in alarming numbers; and

WHEREAS, pursuant to published reports these mixtures commonly referred to as “spice”, “bath

salts”, “synthetic cannabis”, “herbal incense”, “K-2”, “Black Mamba”, “Bombay Blue”, “Fake Weed”, “Genie”, “Zohai”, “herbal smoking blends”, “Yucatan Fire”, “Skunk”, “Moon Rocks” and “spice product”, have been easy to purchase in head shops, liquor stores, convenience markets, gas stations and via the Internet. Because the chemicals used in these products have a high potential for abuse and no medical benefit, the Drug Enforcement Administration (DEA) has designated the five active chemicals most frequently found in Spice as Schedule I controlled substances, making it illegal to sell, buy, or possess them. Manufacturers of Spice products and so-called bath salts attempt to evade these legal restrictions by substituting different chemicals in their mixtures; and while the DEA continues to monitor the situation and evaluate the need for updating the list of banned cannabinoids despite the substitution of different chemicals, in the attempt to evade these restrictions, certain names are used in marketing these manufactured products in order to signal and allow the consumers of these dangerous substances to identify these products for the purpose of purchasing and then smoking, inhaling, ingesting or otherwise consuming in a way that leads to the serious physical effects identified herein; and

WHEREAS, the 57 poison control centers in the United States received 303 calls in 2010 and more than 4,720 calls in the first eight (8) months of 2011 relating to the use of products containing the chemicals 4-methyl-N-methylcathinone (mephedrone), 3,4-methylenedioxy-N-methylcathinone (methylone), 3,4-ethylenedioxypropylvalerone (MDPV); and

WHEREAS, the National Institute on Drug Abuse research indicates that 11% of high school seniors used some form of synthesized marijuana in the year 2012. In 2010, 11,406 ER visits were associated with synthetic marijuana referred to as “Spice” or “K2” within the research. 75% of these cases were among adolescents and young adults age 12-29.

WHEREAS, the United States Drug Enforcement Agency has listed the chemicals 4-methyl-N-methylcathinone (mephedrone), 3,4-methylenedioxy-N-methylcathinone (methylone), 3,4-ethylenedioxypropylvalerone (MDPV) as Schedule I drugs under the federal Controlled Substances Act; and

WHEREAS, the Mayor and City Council of the City of San Luis, Arizona find that the abuse of the chemicals identified above and their chemical analogues constitutes a public health and safety emergency for the residents of the City; and

WHEREAS, the Mayor and City Council of the City of San Luis, Arizona find that selling products using the names and labels “spice”, “bath salts”, “synthetic cannabis”, “herbal incense”, “K-2”, “Black Mamba”, “Bombay Blue”, “Fake Weed”, “Genie”, “Zohai”, “herbal smoking blends”, “Yucatan Fire”, “Skunk”, “Moon Rocks”, “Thunda”, “White Lightning”, “White Snow”, “Purple Wave”, “Zoom”, “Cloud Nine”, “Dynamite Plus”, “Cotton Cloud”, “Blaze”, “Volcano”, “Spicy Haze”, “Dragon Spice”, “The Hamster”, “Puff”, “Voodoo Spice”, “Ninja Aroma Plus”, “Dark Night”, and “spice product”, are a method of marketing chemicals and chemical analogues which constitute a nuisance pursuant to A.R.S. §9-240(B)(21)(a) and a public health and safety emergency for the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, THAT TITLE XIII, GENERAL OFFENSES, OF

THE CITY CODE OF THE CITY OF SAN LUIS, IS HEREBY AMENDED BY ADDING A NEW CHAPTER 132, POSSESSION, USE, SALE AND DISPLAY OF CERTAIN FEDERALLY CONTROLLED DANGEROUS SUBSTANCES AND THEIR CHEMICAL ANALOGUES, AS FOLLOWS:

**Section 1:** That a new Chapter 132, Possession, Use, Sale and Display of Certain Federally Controlled Dangerous Substances and Their Chemical Analogues, is hereby added to Title XIII, General Offenses, of the San Luis City Code as follows:

Chapter 132  
Possession, Use, Sale and Display of Certain Federally Controlled Dangerous  
Substances and Their Chemical Analogues

132.01. It shall be unlawful for any person or entity to possess, sell, transfer, use or display or offer for sale any product or substance containing 4-methyl-N-methylcathinone (mephedrone); 3,4-methylenedioxy-N-methylcathinone (methydone); 3,4-methylenedioxypyrovalerone (MDPV); 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent; 3-(1-naphthoyl)indole or 3-(1-naphthyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent; 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the naphthoyl ring to any extent; 1-(1-naphthylmethyl)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent; 3-phenylacetylindole or 3-benzoylindole 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 phenyl ring to any extent.; 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497);  
`ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog); 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678); 1-butyl-3-(1-naphthoyl)indole (JWH-073); 1-hexyl-3-(1-naphthoyl)indole (JWH-019);  
`vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200); 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250); 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081); 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122); 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398); 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201); 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694); 1-pentyl-3-[(4-methoxy-benzoyl)]indole (SR-19 and RCS-4); 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203). or any product or substance that would constitute a controlled substance analogue of any of those substances under 21 U.S.C. Section 802(32).

132.02. It shall be unlawful for any person or entity to possess, sell, transfer, use or display or offer for sale any product or substance using the names and/or labels "spice", "bath salts", "synthetic cannabis", "herbal incense", "K-2", "Black Mamba", "Bombay Blue", "Fake Weed", "Genie", "Zohai", "herbal smoking blends", "Yucatan Fire", "Skunk", "Moon Rocks", "Thunda", "White Lightning", "White Snow", "Purple Wave", "Zoom", "Cloud Nine", "Dynamite Plus", "Cotton Cloud", "Blaze", "Volcano", "Spicy Haze", "Dragon Spice", "The Hampster", "Puff", "Voodoo Spice", "Ninja Aroma Plus", "Dark Night", and "spice product", or to repackage for purpose of sale or distribution, or possess, sell, transfer, use, display, offer for sale, or distribute repackaged products which originally were manufactured and packaged using said names and/or labels.

132.03 (A) It is unlawful for any person to possess for sale, offer for sale, or sell any product that is not intended or labeled for human consumption, knowing or having reason to know that the purchasers and/or end users of such product commonly intentionally misuse such product.

(B) For the purposes of this section:

(1) INTENTIONAL MISUSE OF A PRODUCT means the consumption, ingestion, smoking, or other introduction of a product into the human body for the purpose of obtaining a high, hallucinogenic, psychoactive, psychotropic, or other mind altering effect.

(2) If an employee of the federal, state, county, or local government, acting in his/her official capacity, provides a person with information documenting the common intentional misuse of a product, such person shall be deemed to know or have reason to know of the common intentional misuse of the product.

132.04. Penalties.

(a) Any person or entity violating any provision of Sections 132.01 or 132.03 of this Chapter shall be guilty of a class one misdemeanor punishable pursuant to Section 10.99 of the San Luis City Code;

(b) Any person violating any provision of Section 132.02 of this Chapter shall be responsible for a civil violation punishable pursuant to Section 10.99 of the San Luis City Code;

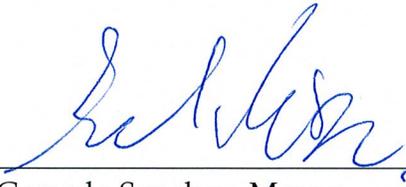
(c) Each day during which any violation of this Chapter is committed, continued or permitted shall constitute a separate offense.

**Section 2:** In order to preserve the public health and safety, an emergency is hereby declared to exist, and this Ordinance shall become immediately effective upon its

approval by no less than three-fourths of the members of the City Council, taken by ayes and noes, and its approval by the Mayor.

**Section 3:** If any section, subsection, sentence, clause, phrase or portion of this Ordinance adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions thereof.

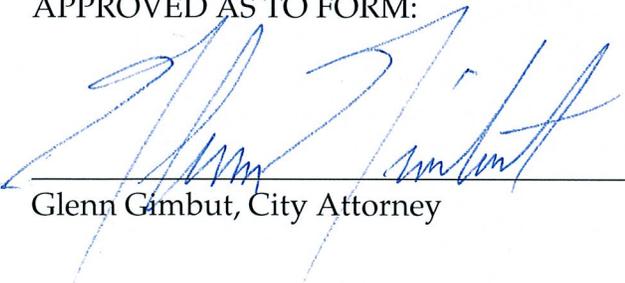
PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF SAN LUIS, ARIZONA. THIS 10 DAY OF April, 2013.

  
\_\_\_\_\_  
Gerardo Sanchez, Mayor

ATTEST:

  
\_\_\_\_\_  
Sonia Cuello, City Clerk

APPROVED AS TO FORM:

  
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Glenn Gambut, City Attorney