

BODY – LEGISTAR #35384

DRAFTER'S ANALYSIS: Synthetic Cannabinoids are a large family of compounds that are functionally (biologically) similar to THC, the main active ingredient in marijuana. Synthetic cannabinoids are not organic, but are chemicals created in a laboratory. Synthetic cannabinoid products are currently being sold at commercial businesses in the City of Madison that contain chemical compounds designed as synthetic alternatives to controlled substances prohibited under Wisconsin law. These products are commonly marketed as "bath salts", "herbal incense", "Plant food" and are sold by hundreds of various brand names such as "Spice," "K2," "Kush," "Scooby Snax," etc. The United States Department of Justice, Drug Enforcement Administration ("DEA") has researched synthetic cannabinoids and has found the vast majority of cannabinoids are manufactured in Asia by individuals who are not bound by any manufacturing requirements or quality control standards. These products are smuggled into the United States typically as misbranded imports. Local distributors then apply this drug to leafy material and package it for retail distribution, ignoring any control mechanisms to prevent contamination or to ensure a consistent, uniform concentration of drug in each package. The most common route of administration of this drug is smoking.

These products are typically labeled "not for human consumption" to mask their intended purpose and avoid Food and Drug Administration ("FDA") oversight of the manufacturing process. These synthetic cannabinoid substances claim to produce intoxicating effects similar to THC or marijuana. They are marketed and sold as benign and legal alternatives to marijuana.

Synthetic Chemical cannabinoids are potentially dangerous to users due to the fact that the substances can create potency up to 100 times greater than marijuana; have been reported to produce severe adverse health conditions such as heart palpitations, hallucinations, delusions, paranoia, seizures, panic attacks, increased agitation, vomiting, and even death. The contents and effects of synthetic cannabinoids are unpredictable due to a constantly changing variety of chemicals used in the manufacturing process and lack of regulation. The target audience for synthetic cannabinoids is teenagers and young adults.

The DEA has twice exercised its emergency scheduling authority to control new synthetic cannabinoids as they become known and many of them have been permanently placed into Schedule I by DEA regulation. The State of Wisconsin has categorized synthetic cannabinoids as a Schedule I controlled substance under sec. 961.14(4)(tb).

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 25.31 entitled "Synthetic Chemical Cannabinoid Prohibited" of the Madison General Ordinances is created to read as follows:

"25.31 SYNTHETIC CHEMICAL CANNABINOID PROHIBITED.

- (1) Adoption of Wis. Stat. § 961.14(14)(4)(tb). Pursuant to Wis. Stat. § 66.0107(1), which authorizes the enactment and enforcement of an ordinance to prohibit the possession of a controlled substance specified in Wis. Stat. § 961.14(4)(tb), the City of Madison does hereby adopt and incorporate into this section of the Madison General Ordinances, Wis. Stat. § 961.14(4)(tb).
- (2) Definitions.
 - "Deliver" has the same meaning given in Wis. Stat. § 961.01(6) with respect to a controlled substance or controlled substance analog.
 - "Distribute" has the same meaning given in Wis. Stat. § 961.01(9) with respect to a controlled substance or controlled substance analog.
- (3) Prohibited Sale, Use and Possession. It shall be unlawful for any person to possess, sell, publicly display for sale or attempt to sell, give, deliver, distribute or barter any one or more of the following chemicals whether under the common

street or trade names of “Spice,” “K2,” “Genie,” “Yucatan Fire,” “Blaze,” “Scubby Snacks,” “Red X Dawn,” “Zohia,” “Spike Diamond,” “Route 69,” “Smoke XXXX,” “Citron,” “fake,” or “new” marijuana, or by any other name, label or description as set forth in Wis. Stat. § 961.14(4)(tb).

(4) Medical and Dental Use Allowed. Acts prohibited under sub. (3) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist or other medical health professional authorized to direct or prescribe such acts provided use is permitted under state and federal laws.

(5) Penalties.

(a) Any person violating this section shall be subject to a forfeiture of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each violation. Each day a violation continues constitutes a separate offense.

(b) Any commercial establishment displaying or offering synthetic cannabinoids for sale, shall be subject to a forfeiture of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation. Each day a violation continues constitutes a separate offense.

(c) Violation of this ordinance by a commercial establishment is a public nuisance.”

2. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating therein the following:

| <u>“Offense</u> | <u>Ord. No./Adopted Statute No.</u> | <u>Deposit</u> |
|--|-------------------------------------|----------------|
| <u>Unlawful to possess, sell or distribute synthetic chemical cannabinoid.</u> | <u>25.31(5)(a)</u> | <u>\$750</u> |
| <u>Unlawful sale or display of synthetic chemical cannabinoid by commercial establishment.</u> | <u>25.31(5)(b)</u> | <u>\$2500”</u> |

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved.