

**ORDINANCE NO. 2014-03**

**AN ORDINANCE RELATING TO ILLICIT SYNTHETIC DRUGS;  
PROHIBITING THE SALE, PUBLIC DISPLAY FOR SALE,  
ATTEMPTED SALE, GIFT, BARTER, DELIVERY,  
POSSESSION, OR USE OF ILLICIT SYNTHETIC DRUGS AND  
MISBRANDED DRUGS INCLUDING "SPICE", SYNTHETIC  
CANNABINOIDS, SYNTHETIC MARIJUANA, "BATH SALTS",  
SYNTHETIC STIMULANTS, OR OTHER MISBRANDED DRUGS**

**WHEREAS**, the Board of County Commissioners of Curry County have determined that there is a great danger to the youth and citizens of Curry County from the sale, exchange, possession and/or use of synthetic and misbranded drugs; and,

**WHEREAS**, the City of Clovis has adopted an ordinance prohibiting the sale, use and transportation of illicit synthetic drugs; and,

**WHEREAS**, the State of New Mexico has passed laws prohibiting the possession, use or distributing of synthetic drug.

**BE IT ORDAINED** by the Board of County Commissioners of Curry County as follows:

**SECTION 1. RECITALS.**

- A. The County Commission finds there are herbal and/or chemical mixtures that are being marketed, sold and/or otherwise being distributed in the County of Curry which are designed and marketed to provide and/or mimic the effects of illegal narcotics.
- B. Although often marked "NOT FOR HUMAN CONSUMPTION," or labeled as otherwise innocuous products (i.e., plant food, incense, potpourri, bath salts, iPod cleaner, etc.) these products are in fact designed, marketed to the buyer, and intended to be used as products that act upon and affect the human body and its systems to get the user "high" or achieve the narcotic effects of illegal narcotic drugs.
- C. Products containing illicit synthetic drugs and misbranded drugs are available and are being marketed, distributed, or made available to young adults and children in the County of Curry in small packages as alternatives to illegal narcotics, and further, the names and packaging of these substances appear to be designed to appeal to children and young adults, to mischaracterize their intended uses and purposes, and to minimize or conceal the inherent danger of these products.
- D. The County Commission finds that illicit synthetic drugs and misbranded drugs are distributed, labeled, and marketed in a way that poses dangerous consequences to the consumer.
- E. The County Commission deems it to be in the best interests of the citizens and residents of the County of Curry to prohibit the sale, public display for sale, attempted sale, gift, barter, delivery, possession, or use of illicit synthetic drugs and misbranded drugs.

## SECTION 2. PROHIBITION.

- A. It shall be unlawful for any person, knowingly, to sell, publicly display for sale, attempt to sell, give, barter, deliver, possess, or use the following substances within the unincorporated portions of Curry County:
1. Any substance listed as a controlled substance or a controlled substance analog as defined by Section 30-31-6C(19), NMSA, 1978 as amended, or Chapter 481 of the New Mexico Health and Safety Code.
  2. *Salvia divinorum* or *Salvinorum A*; all parts of the plant presently classified botanically as *salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;
  3. Any aromatic plant material in granular, loose leaf or powder form, or in liquid form or as a food additive, and any herbal incense type stimulant commonly characterized or represented to be legal spice/synthetic cannabinoids, synthetic cannabinoids/synthetic "legal" marijuana, sold under numerous brand names such as "K-2", and "Spice." Other common brand names may include, but are not limited to: Blaze, Blueberry, Haze, Dank, Demon Passion Smoke, Genie, Hawaiian Hybrid, Magma, Mr. Nice Guy, Ninja, Nitro, Ono Budz, Panama Red Ball, Puff, Red X Dawn, Sativah Herble Smoke, Sence, Skunk, Smoke, Ultra Chronic, Voodoo Spice, Yucatan Fire, Zohai, etc.
  4. Any crystalline or powder product in crystalline, loose-powder, block tablet, or capsule form, or any stimulant-type product commonly characterized or represented to be bath salts/synthetic cathinones/synthetic stimulants, sold under numerous brand names such as "Bliss," "Euphoria," and "Super Coke." Other common brand names may include, but are not limited to: Ivory Wave, Purple Wave, Red Dove, White Dove, Blue Silk, Zoom, Bloom, Cloud Nine, Charge +, Ocean Snow, Lunar Wave, Vanilla Sky, White Lightning, Scarface, Snow Leopard, Tranquility, Eight Ballz, Hurricane Charlie, White Rush, Pure Ivory, etc.
  5. Any other substance or substances similar to the above described substances which when inhaled or otherwise ingested, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts, or disturbs the auditory, visual, or mental process of the user, when the substance has no other legitimate, non-narcotic purpose.
  6. Any other substance or substances which are labeled, marketed or are distributed for the purposes of implying, suggesting or alluding to the idea or notion that the product, whether smoked directly or inhaled as incense or otherwise, may produce intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts or disturbs the auditory, visual, or mental process of the user, when the substance has no other legitimate, non-narcotic purpose.

- B. It shall be unlawful for any person, knowingly, to breath, inhale, drink, or otherwise ingest, any compound, liquid, or chemical listed within this section for the purpose of inducing a condition of intoxication, stupefaction, giddiness, paralysis, irrational behavior, or which, in any manner, changes, distorts, or disturbs, the auditory, visual, or mental process of the user.

### **SECTION 3. EXCEPTIONS.**

- A. The prohibitions set forth in this ordinance shall not apply to any person or facility regulated under the New Mexico Pharmacy Act.
- B. The prohibitions set forth in this ordinance shall not apply to any substance if the substance packaging includes:
1. the name and physical address of the manufacturer of the product and each ingredient or component thereof; and,
  2. the name and physical address of each distributor; and,
  3. a complete list of all ingredients and components of the product, including their chemical composition, sufficient to provide full disclosure.
- C. The prohibitions set forth in this ordinance shall not apply to any substance labeled in accordance with the regulations of the U.S. Food and Drug Administration or other Federal or State law.
- D. It is not a violation of this ordinance if a person purchased, sold, breathed, inhaled, drank, or otherwise ingested the substance under the lawful supervision of an authorized law enforcement officer to enforce or ensure compliance with this ordinance.
- E. It is not a violation of this ordinance if a person breathed, inhaled, drank or otherwise ingested a substance described in this ordinance pursuant to the lawful direction of prescription of a licensed physician, dentist, etc.
- F. This ordinance does not apply to the inhalation of a lawfully prescribed anesthesia for medical or dental purposes.

### **SECTION 4. SEVERABILITY.**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The County hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**PASSED, APPROVED AND ADOPTED** by the governing body of the County of Curry this 2nd day of September, 2014.

BOARD OF COUNTY COMMISSIONERS  
OF CURRY COUNTY NEW MEXICO



Attest:

*Rosalie Riley*

Rosalie Riley  
Curry County Clerk

*Frank H. Blackburn*

Frank Blackburn, Chairman