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# Mayor & Council Memorandum

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September 7, 2016

**Subject: Discussion on “Spice” and Related Products (City Wide)**

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Issue – At the request of Vice Mayor Kozachik and Council Members Fimbres and Romero, time has been set aside at today’s Study Session to allow for discussion of issues relating to the sale of products containing synthetic cannabinoids, sometimes marketed or known as “Spice,” “K2,” “synthetic marijuana” and other names. The item is intended to allow the Mayor and Council to discuss the broad range of issues associated with these products, to include: (1) whether an effective local ordinance could be drafted and approved that would prohibit the sale of these products, and would include within the scope of that prohibition the sale of products that contain chemicals or chemical structures that are not currently addressed under state law; (2) what efforts could be made towards a public education campaign relating to the public health hazards associated with these products; and (3) the availability of treatment alternatives for users, and whether additional efforts can be made to expand on treatment options.

City Manager's Office Recommendation – The City Manager’s Office asks that the Mayor and Council provide direction with respect to these issues.

Background – The attached Memorandum dated July 25, 2016 describes some of the issues presented by synthetic cannabinoids and other synthetic drugs, including the public health hazards they engender, particularly among youth and low-income residents. Some of the effects of the use of these products include hypertension, accelerated heartbeat, vomiting, agitation, anxiety, paranoia, hallucinations, and seizures. Although many of these products are frequently referred to as “synthetic marijuana,” they are more accurately described as hallucinogens and are more similar to drugs like PCP than marijuana.

In 2011, the Arizona Legislature adopted legislation that classified certain chemicals used to make “Spice” and related products as prohibited dangerous drugs. However, manufacturers responded by manipulating the chemical makeup of the products in order to avoid the prohibitions in the laws. In 2013, the Legislature amended the definitions of dangerous drugs to include chemical configurations that typically compose synthetic cannabinoids and synthetic cathinones (sometimes marketed as “bath salts”). While those legislative amendments had the effect of making the statutory prohibitions much broader and more effective, and significantly curtailed the open, over-the-counter sales of many of these products, manufacturers continue to attempt to avoid the laws by designing new chemical configurations that are not addressed in the statutes. Certain products already exist that include synthetic cannabinoid chemicals that are not addressed under the current statutes, and manufacturers continue to try to create new products that could fall outside of the statutory definitions. Additionally, sales of products that are already covered and prohibited by the statutes continue to occur on the “black market.”

In recent years, cities and states across the country have explored different approaches to try to address the considerable public health hazards attendant to the sale and use of synthetic cannabinoids, synthetic cathinones and other synthetic drugs. In some instances, such as in San Diego and New York City, local jurisdictions have enacted general bans that prohibit synthetic drugs and that attempt to cover drugs/chemicals that have not yet been identified or added to state law (sometimes called “analogue” or “analog” laws). These laws attempt to address substances that are substantially similar in structure to those specifically identified as illegal, and focus on the intoxicating effects of the drugs as a basis for the prohibitions. Additionally, some jurisdictions have restricted the marketing, display, labelling and advertising of these products.

Present Considerations – An example of an analogue law, recently (October, 2015) adopted in New York City, is attached for your review and reference. This example, as well as others adopted by local and state jurisdictions, could serve as a model for an ordinance that the Mayor and Council could consider for approval and adoption. Such a law would expand on the existing Arizona statutes by addressing “analogue” or “analog” (both spellings are used) drugs as described above. As a local ordinance, the penalties for violating such a law would be limited to misdemeanor-level limits, which include maximums of up to 6 months in jail, and fines of \$2,500.

The attached example from New York prohibits the manufacture, distribution, sale, or possession with intent to sell, any synthetic cannabinoid and related synthetic drugs, or any analogue of those drugs, with “analogue” defined as a substance substantially similar to the chemical structure of an already banned substance and that has a substantially similar (or greater) stimulant, depressant or hallucinogenic effect on the central nervous system. If the Mayor and Council provide direction to develop a similar local ordinance, the City Attorney will work from the examples from other jurisdictions to produce an ordinance that prohibits the sale or distribution of analogue drugs that may not currently be prohibited under Arizona law. The City Attorney will also examine various remedies incorporated in some of the example ordinances – such as abatement remedies directed at holding the property owner accountable for sales of prohibited products from a specific location – for inclusion in the ordinance.

Additionally, today’s item is scheduled so that the Mayor and Council can discuss what efforts could be made towards a public education campaign relating to the public health hazards associated with these products; and the availability of treatment alternatives for users, and whether additional efforts can be made to expand on treatment options.

Plan Tucson Considerations – This item relates to *Chapter Three, Focus Areas & Policies, The Social Environment* element, Goal 3, which is to provide for “a safe community and secure neighborhoods.”

