



1 anxiety, paranoia, and hallucinations. Psychoactive herbal incense abusers who have been taken  
2 to Poison Control Centers report symptoms that include rapid heart rate, vomiting, agitation,  
3 confusion, and hallucinations. Nationwide, the American Association of Poison Control Centers  
4 (“AAPCC”) reported 6,968 cases of exposure in 2011, 5,230 in 2012, 2,668 in 2013, 3,682 in  
5 2014, and 7,779 in 2015. The AAPCC claims that psychoactive herbal incense can cause  
6 dangerous health effects, is made specifically to be abused, and is not tested for safety; and

7 **WHEREAS**, there is an emerging family of drugs commonly referred to as “bath salts” or  
8 “psychoactive bath salts” that contain one or more chemicals relating to cathinone, an  
9 amphetamine-like stimulant found naturally in the Khat plant. According to the NIDA,  
10 psychoactive bath salts typically take the form of a white or brown crystalline powder and are  
11 sold in small plastic or foil packages labeled “not for human consumption.” Psychoactive bath  
12 salts are often sold in drug stores under a variety of brand names, such as Ivory Wave, Bloom,  
13 Cloud Nine, Lunar Wave, Vanilla Sky, White Lightning, and Scarface and users of psychoactive  
14 bath salts can experience euphoria, increased sociability, and sex drive, while others experience  
15 paranoia, agitation, and hallucinatory delirium. Some users even display psychotic and violent  
16 behavior, with deaths being reported in several instances; and

17 **WHEREAS**, in October 2011, the DEA placed three common synthetic cathinones found  
18 in psychoactive bath salts under emergency ban pending further investigation and, in July 2012,  
19 President Obama signed the Synthetic Drug Abuse Prevention Act of 2012 (as part of the Federal  
20 Drug Administration Safety and Innovation Act) permanently making two of them illegal along  
21 with psychoactive herbal incense. On April 12, 2013, the DEA used its emergency scheduling  
22 authority to schedule three more types of synthetic cannabinoids, temporarily designating them as  
23 Schedule I substances; and

24 **WHEREAS**, the Analog Drug Law codified in California Health and Safety Code Section  
25 11400 provides that selling a drug that is an analog of a scheduled controlled substance is a crime  
26 subject to criminal prosecution; and

27 **WHEREAS**, according to NIDA, although federal law prohibits chemically similar  
28 “analogues” of the specifically banned types of psychoactive herbal incense and psychoactive  
bath salts, manufacturers are expected to respond by creating new drugs different enough from the  
banned substances to evade current legal restriction. For example, after the cathinone  
mephedrone was banned in the United Kingdom in 2010, a chemical called naphyrone quickly  
replaced it, and is now being sold as “jewelry cleaner” under the name “Cosmic Blast”; and

**WHEREAS**, the AAPCC reported 6,137 cases of exposure in 2011, 2,691 in 2012, 995 in  
2013, 582 in 2014, and 522 in 2015. The AAPCC claims that psychoactive bath salts are among  
the worst substances the AAPCC has ever seen, has not been tested, and can have permanent side  
effects; and

**WHEREAS**, to avoid the threat to public health, safety, and welfare that would occur if  
these intoxicating synthetic chemical compounds were permitted in the City and to ensure the  
individual or business which possesses, provides, distributes or sells Synthetic Drugs as defined  
herein is a threat to public health, safety and welfare and, as such, is subject to the City’s  
administrative, criminal and civil enforcement procedures (including those set forth in Chapters  
8.02 and 8.12 of Title 8 of the Colton Municipal Code) and, in the case of a business, prohibition

1 against the issuance of a business license (pursuant to Chapter 5.02 of the Colton Municipal  
2 Code); and

3 **WHEREAS**, the City Council hereby finds that many communities in California have  
4 recognized the dangers of Synthetic Drugs, which have been documented to cause hallucinations,  
5 agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism and death. While  
6 state and federal law prohibit certain compounds that are used to create synthetic drugs, they are  
7 not comprehensive enough to eliminate the distribution and sale of all Synthetic Drugs in the City.  
8 Specifically, the Council finds that the makers of Synthetic Drugs continually alter the  
9 composition of the compounds in their products so as to not come under the purview of state and  
10 federal law and other laws and regulations attempting to prohibit the sale of Synthetic Drugs. In  
11 fact, products which plainly are being marketed for use of Synthetic Drugs are now being  
12 packaged with advertisements stating that the product does not contain the compounds  
13 specifically banned by state or federal law. Thus, the City Council finds that in order to  
14 implement an effective measure prohibiting the distribution and sale of Synthetic Drugs, it is  
15 necessary to look at all factors related to the sales and marketing of Synthetic Drugs. These  
16 factors will help City officials determine whether a product that does not come under the purview  
17 of state or federal law is nevertheless a Synthetic Drug because it is intended for recreational drug  
18 use; and

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

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

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

31 3. Warning Labels: Synthetic Drugs often use warning labels such as: “not for human  
32 consumption” and “not for purchase by minors.” Bona fide bath salts, incense, cleaning  
33 products and the like do not typically bear such labels. Of particular relevance are labels  
34 that indicate a given product does not contain chemical compounds banned by state law,  
35 which bona fide bath salts, incense, cleaning products and the like would not have any  
36 reason to advertise.

37 4. Price: Synthetic Drugs are typically more expensive than products that are used for a  
38 Synthetic Drug’s marketed use. For example, a Synthetic Drug marketed as “glass  
39 cleaner” might be priced at \$50.00 for an eighth of an ounce, while bona fide glass cleaner  
40 is priced at approximately \$5.00 for 26 ounces.

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

12           **WHEREAS**, the City Council further finds that, given the recent state and federal laws  
13 making the certain identified chemicals in psychoactive herbal incense and psychoactive bath  
14 salts illegal and the public peace, health, safety and welfare concerns associated with the sale and  
15 use of psychoactive herbal incense and psychoactive bath salts as mentioned herein, the City finds  
16 that the sale and the use of psychoactive herbal incense and psychoactive bath salts each create a  
17 nuisance that threatens the health, safety, and property of users, their families, and any person or  
18 property nearby and therefore, by adding Chapter 9.23 to the Colton Municipal Code by this  
19 Ordinance, wishes to prohibit, without encroaching upon any field of law occupied by state or  
20 federal law, the sale and use of psychoactive herbal incense and psychoactive bath salts (as those  
21 phrases are defined in this Ordinance) in the City. To avoid the threat to public health, safety, and  
22 welfare that would occur if these intoxicating synthetic chemical compounds were permitted in  
23 the City and to ensure the individual or business which possesses, provides, distributes or sells  
24 Synthetic Drugs as defined herein is a threat to public health, safety and welfare and, as such, is  
25 subject to the City’s administrative, criminal and civil enforcement procedures (including those  
26 set forth in Chapters 8.02 and 8.12 of Title 8 of the Colton Municipal Code) and, in the case of a  
27 business, prohibition against the issuance of a business license (pursuant to Chapter 5.02 of the  
28 Colton Municipal Code); and

19           **WHEREAS**, an effective way to prevent and abate the health, safety and welfare  
20 concerns that exist as a result of the marketing, distribution and sale of Synthetic Drugs in  
21 manners that brazenly seek to circumvent State and Federal Law is through the enforcement of  
22 the City's administrative, criminal and civil enforcement procedures and through the prohibition  
23 against the issuance of a business license. Because the chemical composition of Synthetic Drugs  
24 is constantly evolving, it is necessary to look at the circumstances surrounding the marketing  
25 (including price), distribution or sale of any given product to determine if the product is being  
26 provided, distributed or sold as a recreational drug. This ordinance shall not apply to any activity  
27 already regulated by Health and Safety Code Sections 11357.5, 11375.5, 11401, the federal  
28 Controlled Substances Act or pre-empted by any State or Federal law or regulation; and

25           **WHEREAS**, by enacting this Ordinance, the City ordains that nothing herein shall be  
26 deemed to conflict with federal law, including but not limited to its treatment of controlled  
27 substances, state law, including but not limited to Health and Safety Code Section 11357.5 and  
28 Section 11375.5, or otherwise or to license any activity that is prohibited thereunder except as  
mandated by such laws.



1 psychoactive herbal incense and psychoactive bath salts in the City would result in undesirable  
2 impacts to the community. Among these impacts are: increased potential for the sale of these  
3 controlled substances to minors and adults for their use, increased dependency on these controlled  
4 substances, increased harm to the users of these controlled substances, and increased risk of  
5 injury to persons or property by users of these controlled substances.

6 **9.23.020 Definitions.**

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

10 *Business* shall have the same meaning as the term is defined in section 5.02.020 of this Municipal  
11 Code.

12 *Consume, consuming* or *consumption* shall mean to ingest, inhale, inject, smoke or snort  
13 (insufflate).

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

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

18 *Possess, possessing* or *possession* shall mean to have for consumption, distribution or sale in  
19 one's actual or constructive custody or control, or under one's authority or power, whether such  
20 custody, control, authority or power be exercised solely or jointly with others.

21 *Provide, providing* or *provision* shall mean offering to distribute or sell a product or substance to  
22 any person.

23 *Psychoactive bath salts* shall mean any crystalline or powder product that contains a synthetic  
24 chemical compound that, when consumed, elicits psychoactive or psychotropic stimulant effects.  
25 The term "psychoactive bath salts" includes without limitation:

26 (1) Products that elicit psychoactive or psychotropic stimulant effects and contain any of  
27 the following intoxicating chemical compounds:

28 (A) 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;

(B) Cathinone (2-amino-1-phenyl-1-propanone), 4- methylmethcathinone (2-  
methylamino-1-(4-methylphenyl)propan-1-one), 4-methoxymethcathinone (1-(4-methoxyphenyl)-  
2-(methylamine)propan-1-one), MDPV (methylenedioxypropylone), MDMA (3, 4-  
methylenedioxy-N-methylamphetamine), methylene (3,4-methylenedioxy- N-methylcathinone),  
methcathinone (2-(methylamino)-1-phenyl-propan-1- one), flephedrone (4-fluoromethcathinone),  
3-FMC (3- fluoromethcathinone), ethcathinone (2-ethylamino-1-phenyl-propan-1-one), butylone

1 (β-keto-N-methylbenzodioxolylbutanamine), a-PPP (a- pyrrolidinopropiophenon), MPPP (4'-  
2 methyl-a-pyrrolidinopropiophenone), MDPPP (3',4'-methylenedioxy-a-pyrrolidinopropiophenone),  
3 a-PVP (1- phenyl-2-(1-pyrrolidinyl)-1-pentanone) or naphyrone (1-naphthalen-2-yl-2- pyrrolidin-1-  
4 ylpentan-1-one), 6-APDB (6(2aminopropyl)2,3 dihydrobenzo-furan), and analogs of MDA (3,4-  
5 methylenedioxy-methamphetamine);

6 (C) Any derivative of the above listed intoxicating chemical compounds;

7 (D) Any synthetic substance and its isomers with a chemical structure similar to  
8 the above listed compounds;

9 (E) Any chemical alteration of the above listed intoxicating chemical compounds;

10 or

11 (F) Any other substantially similar chemical structure or compound; and

12 (2) Products that elicit psychoactive or psychotropic stimulant effects and are marketed  
13 under any of the following trade names: Bliss, Blizzard, Blue Silk, Bonzai Grow, Charge Plus,  
14 Charlie, Cloud Nine, Euphoria, Hurricane, Ivory Snow, Ivory Wave, Lunar Wave, Ocean, Ocean  
15 Burst, Pixie Dust, Posh, Pure Ivory, Purple Wave, Red Dove, Scarface, Snow Leopard, Stardust,  
16 Vanilla Sky, White Dove, White Night and White Lightning. The term “psychoactive bath salts”  
17 shall not include any product, substance, material, compound, mixture or preparation that is  
18 specifically excepted by the California Uniform Controlled Substances Act (“UCSA”) (Health  
19 and Safety Code §§ 11000 et seq.), listed in one of the UCSA’s schedules of controlled  
20 substances (Health and Safety Code §§ 11053-11058), regulated by one of the UCSA's Synthetic  
21 Drug Laws (Health and Safety Code §§ 11357.5, 11375.5 and 11401), regulated by the Federal  
22 Controlled Substances Act (the “CSA”) (21 USC §§ 801 et seq.) or approved by the Food and  
23 Drug Administration (“FDA”).

24 *Psychoactive herbal incense* shall mean any organic product consisting of plant material that  
25 contains a synthetic stimulant compound that, when consumed, elicits psychoactive or  
26 psychotropic euphoric effects. The term “psychoactive herbal incense” includes without  
27 limitation:

28 (1) Products that elicit psychoactive or psychotropic euphoric effects and contain any of  
the following chemical compounds:

(A) Cannabicyclohexanol (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methylnonan-2-yl)phenol), JWH-018 (naphthalene-1-yl-(1-pentylindol-3-yl)methanone), JWH-073 (naphthalen-1-yl-(1-butylindol-3-yl)methanone), JWH-200 ((1-(2-morpholin-4-ylethyl)indol-2-yl)-naphthalen-1-yl)methanone), HU-210 or 1.1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol), CP 47, 497 (2-[(1R,3S)-3- hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol) and the dimethylhexyl, dimethyloctyl and dimethylnonyl homologues of CP 47,497 (2-[1R,3S)-3- hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol) or AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(naphthalen-1-yl)methanone), 1-Pentyl-3 (2-methoxyphenylacetyl)indole (also known as JWH-250), 1-Hexyl-3-(1- naphthoyl)indole (also known as JWH-019), 1-Pentyl-3-(4-chloro-1- naphthoyl)indole (also known as JWH-398), N-

1 benzylpiperazine (also known as BZP), 1-(3-trifluoromethylphenyl)piperazine (also known as  
2 TFMPP);

3 (B) Any derivative of the above listed intoxicating chemical compounds;

4 (C) Any synthetic substance and its isomers with a chemical structure similar to  
5 the above listed intoxicating chemical compounds;

6 (D) Any chemical alteration of the above listed intoxicating chemical compounds;

7 (E) Any other substantially similar chemical structure or compound; or

8 (F) Any other synthetic cannabinoid.

9 (2) Products that elicit psychoactive or psychotropic euphoric effects and are marketed  
10 under any of the following names: K2, K3, Spice, Genie, Smoke, Potpourri, Buzz, Spice 99,  
11 Voodoo, Pulse, Hush, Mystery, Earthquake, Black Mamba, Stinger, Ocean Blue, Stinger,  
12 Serenity, Fake Weed and Black Mamba. The term "psychoactive herbal incense" shall not  
13 include any product, substance, material, compound, mixture, or preparation that is specifically  
14 excepted by the UCSA (Health and Safety Code §§ 11000 et seq.), listed in one of the UCSA's  
15 schedules of controlled substances (Health and Safety Code §§ 11053—11058) regulated by one  
16 of the USCA's Synthetic Drug Laws (Health and Safety Code §§ 11357.5, 11375.5 and 11401),  
17 regulated by the CSA (21 USC §§ 81 et seq.) or approved by the FDA.

18 *Psychoactive or psychotropic stimulant effects* shall mean affecting the central nervous system or  
19 brain function to change perception, mood, consciousness, cognition or behavior in ways that are  
20 similar to the effects of cocaine, methylphenidate or amphetamines.

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

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

25 *Synthetic drug* shall include psychoactive bath salts and psychoactive herbal incense, as those  
26 terms are defined hereinabove.

27 **9.23.030 Provision, display for sale, sale or distribution of synthetic drugs prohibited.**

28 (a) It is unlawful for any person to store, provide, display for sale, distribute or sell  
any synthetic drug within the City of Colton.

(b) It is unlawful for any person to permit the storage, provision, display for sale,  
distribution or sale of any synthetic drugs from any real property owned, possessed, managed or  
controlled by such person in the City of Colton.

(c) Merely disclaiming a synthetic drug as "not safe for human consumption" will not  
avoid the application of this section.

1 **9.23.040 Provision, display for sale, sale or distribution of substances claimed or**  
2 **represented to be synthetic drugs prohibited.**

3 (a) It is unlawful for any person to claim or represent that a product that person is  
4 storing, providing, displaying for sale, distributing or selling is a synthetic drug within the City of  
5 Colton.

6 (b) To determine if a person is claiming or representing that a product is a synthetic  
7 drug, the enforcing officer may consider any of the following evidentiary factors:

8 (1) The product is not suitable for its marketed use (such as a crystalline or  
9 powder product being marketed as "glass cleaner");

10 (2) The business providing, displaying for sale, distributing or selling the  
11 product does not typically provide, distribute or sell products that are used for that product's  
12 marketed use (such as a liquor store selling "plant food");

13 (3) The product contains a warning label that is not typically present on  
14 products that are used for that product's marketed use (such as "not for human consumption,"  
15 "not for purchase by minors," or "does not contain chemicals banned by section 11357.5");

16 (4) The product is significantly more expensive than products that are used for  
17 that product's marketed use (such as half of a gram of a substance marketed as "glass cleaner"  
18 costing \$50.00);

19 (5) The product resembles an illicit street drug (such as cocaine,  
20 methamphetamine or marijuana); or

21 (6) The product's name or packaging uses images or slang referencing an illicit  
22 street drug (such as "Eight Ballz" or "Green Buddha").

23 (c) Merely disclaiming a substance claimed or represented to be a synthetic drug as  
24 "not safe for human consumption" will not avoid the application of this section.

25 **9.23.050 Possession of synthetic drugs prohibited.**

26 It is unlawful for any person to possess any synthetic drug within the City of Colton.

27 **9.23.060 Public nuisance.**

28 (a) It is a public nuisance for any person to store, provide, display for sale, distribute  
or sell any synthetic drug within the City of Colton.

(b) It is a public nuisance for any person to allow the storage, provision, display for  
sale, distribution or sale of any synthetic drug on property owned, controlled or managed by such  
person within the City of Colton.

(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 Colton.

1 (d) It is a public nuisance for any person to allow the provision, display for sale,  
2 distribution or sale of any substance claimed or represented to be a synthetic drug on property  
3 owned, controlled or managed by such person within the City of Colton.

4 (e) To determine if a person is claiming or representing that a substance or product is  
5 a synthetic drug, the enforcing officer may consider any of the evidentiary factors set forth in  
6 section 9.23.040 of this Chapter.

7 (f) A criminal conviction is not required for establishing the occurrence of nuisance  
8 activity pursuant to this Chapter. The occurrence of nuisance activity may be established by  
9 documented evidence that the nuisance activity was witnessed by a code enforcement officer,  
10 peace officer or other witness willing to testify.

11 (g) The remedies set forth in this Chapter are cumulative and additional to any and all  
12 other legal remedies available whether set forth elsewhere in the Colton Municipal Code, or in  
13 state or federal laws, regulations, or case law.

14 **9.23.070 Summary abatement.**

15 Because the use of synthetic drugs has been documented to cause hallucinations, agitation,  
16 psychosis, aggression, suicidal and homicidal ideations, cannibalism and death, any violation of  
17 this Chapter presents a grave and imminent danger not only to the person consuming the synthetic  
18 drug, but also to the public at large. If the code enforcement officer, based on the facts then  
19 known, determines that a violation of this division presents an imminent danger or hazard or is  
20 imminently injurious to the public health or safety, then that violation is punishable by the  
21 summary abatement procedures set forth in Section 8.04.150 of this Municipal Code.

22 **9.23.080 Revocation of business license.**

23 No person holding a city business license and owning or operating a business in the city  
24 may use that business to store, provide, distribute or sell any synthetic drug or any substance  
25 claimed or represented to be a synthetic drug. A violation of this section by the holder of a city  
26 business license, shall constitute grounds for modification, suspension, revocation, or any  
27 combination thereof, of said license.

28 **9.23.090 Penalties.**

(a) *Misdemeanor violation.* Failure to comply with any of the requirements of this  
Chapter is a misdemeanor punishable by imprisonment in the city or county jail for a period not  
exceeding six months or by fine not exceeding \$1,000.00, or by both, provided that where the city  
attorney determines that such action would be in the interest of justice, he/she may specify in the  
accusatory pleading that the offense shall be an infraction.

(b) *Infraction violation.* Where the City Attorney determines that, in the interest of  
justice, a violation of this Chapter is an infraction, such infraction is punishable by a fine not  
exceeding \$100.00 for a first violation, a fine not exceeding \$200.00 for a second violation of the  
same provision within one year, and a fine not exceeding \$500.00 for each additional infraction  
violation of the same provision within one year. An infraction is not punishable by imprisonment.  
A person charged with an infraction shall not be entitled to a trial by jury and shall not be entitled

1 to have the public defender or other counsel appointed at public expense to represent him/her,  
2 unless he/she is arrested and not released on his/her written promise to appear, his/her own  
3 recognizance or a deposit of bail. However, any person who has previously been convicted two or  
4 more times during any 12-month period for any violation of this division for a crime made  
punishable as an infraction shall be charged with a misdemeanor upon the third violation.

5 (c) *Separate Offense; Cumulative Remedies.* Each person committing, causing, or  
6 maintaining a violation of this Chapter or failing to comply with the requirements set forth herein  
7 shall be deemed guilty of a separate offense for each and every day during any portion of which  
8 any violation of any provision of this Chapter is committed, continued, maintained, or permitted  
by such person and shall be punishable accordingly. The remedies set forth in this Chapter are  
cumulative and additional to any and all other legal remedies available whether set forth  
elsewhere in the Colton Municipal Code, or in state or federal laws, regulations, or case law.

9 (d) *Administrative Citations.* In lieu of issuing a criminal citation, the city may issue  
10 an administrative citation pursuant to Chapters 8.02 and 8.04 of the Colton Municipal Code to  
any person responsible for committing, causing or maintaining a violation of this Chapter.

11 (e) *Additional Penalties; Costs of Abatement.* In any administrative, civil, or criminal  
12 proceeding involving the abatement of a public nuisance, the City shall also be entitled to recover  
13 its full reasonable costs of abatement, including, but not limited to, investigation, analysis, and  
14 prosecuting the enforcement against the responsible party. The prevailing party in any  
15 proceeding associated with the abatement of a public nuisance shall be entitled to recovery of  
attorneys' fees incurred in any such proceeding, where the City has elected at the initiation of that  
individual action or proceeding to seek recovery of its own attorneys' fees.

16 **9.23.100 Seizure of evidence.**

17 Any product(s) or substance(s) stored, possessed, provided, distributed or sold in violation  
18 of any provision of this Chapter shall be seized by the enforcing officers and removed, stored and  
disposed of in accordance with law.

19 **9.23.110 Exclusions.**

20 (a) This Chapter shall not apply to drugs or substances lawfully prescribed or to  
21 intoxicating chemical compounds that have been approved by the Federal Food and Drug  
22 Administration or which are specifically permitted by California law, including without  
23 limitation, intoxicating chemical compounds that are specifically excepted by the California  
Uniform Controlled Substances Act (Health and Safety Code § 11000 et seq.).

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

26 (c) This Chapter shall not be deemed to prohibit any act that is positively permitted,  
27 prohibited or preempted by any state or federal law or regulation.”

28 **SECTION 4. CEQA.** The City Council finds that this ordinance is not subject to the  
California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections

1 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA  
2 Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA  
3 Guidelines Section 15061(b)(3) because it can be seen with certainty that it will not have a  
significant effect or physical change to the environment.

4 **SECTION 5. Severability.** If any section, subsection, subdivision, sentence, clause,  
5 phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the  
6 decision of any court of competent jurisdiction, such decision shall not affect the validity of the  
7 remaining portions of this Ordinance. The City Council hereby declares that it would have  
8 adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or  
9 portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions,  
10 sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

11 **SECTION 6. Effective Date.** This Ordinance shall become effective thirty (30) days  
12 after its adoption.

13  
14 **PASSED, APPROVED AND ADOPTED** this 19th day of April, 2016

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  

---

Richard A. DeLaRosa, Mayor

ATTEST:

---

Carolina R. Padilla, City Clerk

APPROVED AS TO FORM:

---

Best Best & Krieger LLP  
City Attorney