



1 in marijuana, that can produce pharmacological effects similar to those induced by marijuana when  
2 smoked or ingested; and,

3 WHEREAS, synthetic cannabinoids have been developed over the last thirty (30) years for  
4 research purposes to investigate how cannabinoids interact with the human body; and,

5 WHEREAS, bath salts are chemically engineered psychoactive substances, such as  
6 methylmethcathinone, 3,4-methylenedioxymethamphetamine (“MDMA”),  
7 3,4-methylenedioxypyrovalerone (“MDPV”), fluoromethcathinone, methcathinone,  
8 3,4-methylenedioxymethcathinone (“MDMC”), methoxymethcathinone, and cathinone, which have  
9 a stimulant effect on the central nervous system and can produce pharmacological effects similar to  
10 those induced by methamphetamine, ecstasy, or cocaine when smoked or ingested; and,

11 WHEREAS, no legitimate non-research uses have been identified for synthetic cannabinoids  
12 or bath salts, and they have not been approved by the United States Food and Drug Administration  
13 for human consumption; and,

14 WHEREAS, products containing synthetic cannabinoids or bath salts are particularly  
15 attractive to children and young adults, due to packaging that resembles candy; and,

16 WHEREAS, such products are available in small packages at convenience stores at minimal  
17 costs, and the names given to these substances are intended to appeal to children and young adults;  
18 and,

19 WHEREAS, synthetic cannabinoids are typically marketed as herbal incense and are also  
20 known as Spice, Fake Pot, Fake Weed, K2, Sage, Genie, or Yucatan Fire, among other names; and,

1           WHEREAS, bath salts are typically marketed as therapeutic bath crystals, plant food, insect  
2 repellent, potpourri, iPod cleaner, or herbal incense, and are also known as Ivory Wave, Cloud Nine,  
3 Super Coke, Ocean Magic, Zoom, Vanilla Sky, White Lightning, Bliss, or Bonsai Grow, among  
4 other names; and,

5           WHEREAS, synthetic cannabinoids and bath salts may currently be purchased legally for use  
6 as an alternative to substances otherwise regulated as controlled substances at the federal and state  
7 levels; and,

8           WHEREAS, despite often being labeled as “not for human consumption,” synthetic  
9 cannabinoids and bath salts are being used as recreational drugs and have been marketed as legal and  
10 safer alternatives to illegal methods of becoming intoxicated; and,

11           WHEREAS, despite these claims, synthetic cannabinoids and bath salts are often more potent  
12 and dangerous than the illegal drugs that they mimic; and,

13           WHEREAS, synthetic cannabinoids and bath salts have been found readily available to adults  
14 and youth alike at convenience stores, discount tobacco outlets, gas stations, pawnshops, tattoo  
15 parlors, and truck stops, among other locations, and are reportedly being used predominately by the  
16 youth; and,

17           WHEREAS, synthetic cannabinoids and bath salts are abused typically by smoking; however,  
18 bath salts have also been abused by injection, snorting, swallowing, and by the use of an atomizer;  
19 and,

1           WHEREAS, reports of side effects from synthetic cannabinoids and bath salts include  
2 tachycardia, hypertension, anxiety, paranoia, high blood pressure, kidney failure, liver failure, and  
3 hallucinations; and,

4           WHEREAS, emergency room physicians have reported that individuals using synthetic  
5 cannabinoids and bath salts experience serious side effects including convulsions, seizures, anxiety  
6 attacks, combativeness, delirium, panic, dangerously elevated heart rates, increased blood pressure,  
7 vomiting, and disorientation; and,

8           WHEREAS, there have been fatal overdoses and suicides which are believed to have resulted  
9 from consumption of synthetic cannabinoids and bath salts; and,

10           WHEREAS, the American Association of Poison Control Centers has reported increased  
11 calls in recent years to poison control centers across the United States related to exposure to synthetic  
12 cannabinoids, with 2,906 calls in 2010; 6,959 calls in 2011; and 2,389 calls in the first four (4)  
13 months of 2012; and,

14           WHEREAS, the American Association of Poison Control Centers has reported increased  
15 calls in recent years to poison control centers across the United States related to exposure to bath  
16 salts, with 304 calls in 2010; 6,138 calls in 2011; and 1,007 calls in the first four (4) months of 2012;  
17 and,

18           WHEREAS, Chapter 893, Florida Statutes, sets forth the Florida Comprehensive Drug Abuse  
19 Prevention and Control Act and classifies controlled substances into five (5) schedules, which are

1 used to regulate the manufacture, distribution, preparation, and dispensing of the substances listed  
2 therein; and,

3 WHEREAS, the distinguishing factors between each of the different drug schedules are the  
4 potential for abuse of the substance listed in each schedule and whether there is a currently accepted  
5 medical use for the substance; and,

6 WHEREAS, Schedule I substances, such as cannabis, THC, cathinone, methylnmethcathinone,  
7 ecstasy, and cocaine have a high potential for abuse and have no currently accepted medical use in  
8 Florida; and,

9 WHEREAS, on May 31, 2011, the Governor of Florida signed Session Law 2011-73 ("HB  
10 39"), which amended Section 893.03, Florida Statutes, by adding several synthetic cannabinoids and  
11 synthetic cannabinoid-mimicking compounds to Schedule I of Florida's controlled substance  
12 schedule, authorizing law enforcement officials and prosecutors to arrest and prosecute the  
13 possession and sale of these particular substances under Florida law; and,

14 WHEREAS, on May 31, 2011, the Governor of Florida also signed Session Law 2011-90  
15 ("HB 1039"), which amended Section 893.03, Florida Statutes, by adding bath salts to Schedule I  
16 of Florida's controlled substance schedule, authorizing law enforcement officials and prosecutors to  
17 arrest and prosecute the possession and sale of these particular substances under Florida law; and,

18 WHEREAS, following passage of HB 39 and HB 1039, chemists reconfigured the particular  
19 synthetic cannabinoids and bath salts made illegal by HB 39 and HB 1039 and marketed new  
20 products that were not illegal under Florida law; and,

1           WHEREAS, on March 23, 2012, the Governor of Florida signed Session Law 2012-23 ("HB  
2   1175"), which amended Section 893.03, Florida Statutes, by adding several additional synthetic  
3   cannabinoid and bath salt chemical compounds to Schedule I of Florida's controlled substance  
4   schedule; and,

5           WHEREAS, it is anticipated that drug designers and chemists will again take the particular  
6   chemical compounds that the Legislature made illegal during the 2012 session and reconfigure the  
7   molecular structure of the compounds, resulting in a similar structural make-up, but using new and  
8   different chemical compounds not listed as controlled substances in Chapter 893, Florida Statutes,  
9   and therefore not illegal; and,

10          WHEREAS, these reconfigured synthetic cannabinoids and bath salts will likely nonetheless  
11   carry the same, or perhaps even further, heightened dangers associated with illegal drugs; and,

12          WHEREAS, Section 893.035, Florida Statutes, grants Florida's Attorney General rulemaking  
13   authority to add new substances to Florida's schedules of controlled substances, but the rulemaking  
14   process can take time; and,

15          WHEREAS, the Hernando County Board of County Commissioners desires to act quickly  
16   to make illegal those new synthetic cannabinoids and bath salts, along with any mimicking  
17   compounds, that drug designers and chemists create as an alternative to illegal drugs; and,

18          WHEREAS, across the United States, numerous other counties, municipalities, and states  
19   are taking action to prohibit the sale of synthetic cannabinoids and bath salts due to overdoses and  
20   illnesses; and,



1           Statement of Legislative Intent

2           The Hernando County Board of County Commissioners finds and declares that the  
3           products and synthetic substances described hereunder are commonly used as  
4           alternatives to marijuana, psychoactive drugs, stimulants, and other illegal drugs. The  
5           Board finds that these synthetic substances are particularly appealing to youth, are  
6           potentially dangerous to users in the short term, and the long term effects are not yet  
7           known. The Board finds that products which contain these synthetic substances often  
8           use a disclaimer that the product is “not for human consumption,” in order to avoid  
9           regulations requiring the manufacturer to list the product’s active ingredients. The  
10          Board finds that drug designers and chemists can quickly create new synthetic drugs  
11          and stimulants once federal or state law makes a particular synthetic drug or  
12          stimulant illegal. As such, the Board finds that there is a need to declare illegal the  
13          sale, giving away, offer or advertisement for sale, manufacture, compounding, and  
14          public display for sale, of synthetic substances that mimic illegal controlled  
15          substances, which have not yet been categorized as illegal controlled substances  
16          under federal or state law.

17          Definitions

18                 (1) “Contraband Bath Salts” shall mean any substance or product, whether in  
19                 crystal, powder, pill, tablet, capsule, liquid, and other forms, containing a synthetic  
20                 stimulant or to which a synthetic stimulant has been sprayed, applied, or otherwise



1 added, and that can be consumed or placed into a pipe, cigarette paper, atomizer, or  
2 drug paraphernalia for purposes of ingestion by smoking, inhaling, or other method,  
3 regardless of whether the substance is marketed as not for the purpose of human  
4 consumption, and regardless of how the substance is labeled. “Contraband bath salts”  
5 shall not include traditional therapeutic bath salts that do not contain a synthetic  
6 stimulant, such as Epsom salts, baking soda, borax, and table salt, among others.

7 (2) “Person” shall mean any natural person, individual, owner, operator,  
8 responsible party, wholesaler, retailer, licensed or unlicensed business, public or  
9 private corporation, firm, association, joint venture, partnership, or any other entity  
10 whatsoever, or any combination thereof, of whatever kind.

11 (3) “Structurally Similar” shall mean chemical substitutions of a common  
12 chemical backbone associated with synthetic cannabinoids, contraband bath salts, or  
13 any mimicking compounds of such chemicals, including any related salts, isomers,  
14 and salts of isomers that are listed in the controlled substance schedules in Chapter  
15 893, Florida Statutes, as amended, or otherwise prohibited by federal or state law.

16 (4) “Synthetic Cannabinoid Herbal Incense” shall mean aromatic or  
17 nonaromatic plant material or product, containing a synthetic drug or to which a  
18 synthetic drug has been sprayed, applied, or otherwise added, that is distributed in a  
19 loose, leafy, powder, or granular form or in a compressed block or blocks that can be  
20 crushed to result in a powder or granular form, and can be placed into a pipe,

1 cigarette paper, atomizer, or drug paraphernalia for purposes of ingestion by  
2 smoking, inhaling, or other method, regardless of whether the substance is marketed  
3 as not for the purpose of human consumption, and regardless of how the substance  
4 is labeled.

5 (5) “Synthetic Drug” shall mean any chemical or mixture of chemicals,  
6 however packaged, that is structurally similar to synthetic cannabinoids,  
7 tetrahydrocannabinol (“THC”), or any mimicking compounds of such chemicals,  
8 including any related salts, isomers, and salts of isomers that are listed in the  
9 controlled substance schedules in Chapter 893, Florida Statutes, as amended, or  
10 otherwise prohibited by federal or state law. Packaging that indicates, suggests, or  
11 implies that a product mimics the pharmacological effects of marijuana, such as “fake  
12 pot” or “fake weed,” shall create a presumption that the product contains a synthetic  
13 drug, as defined herein. “Synthetic drug” shall not include any substance currently  
14 listed in the controlled substance schedules in Chapter 893, Florida Statutes, as  
15 amended, or otherwise prohibited by federal or state law.

16 (6) “Synthetic Stimulant” shall mean any chemical or mixture of chemicals,  
17 however packaged, that has a stimulant effect on the central nervous system and is  
18 structurally similar to fluoromethcathinone, 3,4-methylenedioxypropylvalerone  
19 (“MDPV”), cathinone, methylmethcathinone, methoxymethcathinone,  
20 methcathinone, 3,4-methylenedioxymethamphetamine (“MDMA”),

1 3,4-methylenedioxy methcathinone ("MDMC"), or any mimicking compounds of  
2 such chemicals, including any related salts, isomers, and salts of isomers that are  
3 listed in the controlled substance schedules in Chapter 893, Florida Statutes, as  
4 amended, or otherwise prohibited by federal or state law. Packaging that indicates,  
5 suggests, or implies that a product mimics the pharmacological effects of cathinone,  
6 methcathinone, methylmethcathinone, MDPV, MDMC, MDMA,  
7 methoxymethcathinone, fluoromethcathinone, amphetamine, ecstasy, or cocaine shall  
8 create a presumption that the product contains a synthetic stimulant, as defined  
9 herein. "Synthetic stimulant" shall not include any substance currently listed in the  
10 controlled substance schedules in Chapter 893, Florida Statutes, as amended, or  
11 otherwise prohibited by federal or state law.

12 Prohibition on Sale, Giving Away, Offer, or Advertisement for Sale, Manufacture,  
13 Compound, or Public Display for Sale, of Synthetic Cannabinoid Herbal Incense and  
14 Contraband Bath Salts.

15 It shall be unlawful for any person to sell, give away, offer or advertise for sale,  
16 manufacture, compound, or publicly display for sale, synthetic cannabinoid herbal  
17 incense and contraband bath salts, as defined herein.

18 Affirmative Defense.

19 It shall be an affirmative defense to prosecution of a violation of this section if the  
20 sale, giving away, offer or advertisement for sale, manufacture, compounding, or

1 public display for sale, of any synthetic cannabinoid herbal incense or contraband  
2 bath salts is pursuant to the direction or prescription of a licensed physician or dentist  
3 authorized in the state of Florida to direct or prescribe such synthetic substances.

4 Seizure and Destruction of Synthetic Cannabinoid Herbal Incense and Contraband  
5 Bath Salts.

6 Synthetic cannabinoid herbal incense and contraband bath salts prohibited herein may  
7 be seized by law enforcement officers and may be destroyed in the same manner used  
8 to destroy narcotics and contraband substances, after their use for evidentiary  
9 purposes in any judicial proceeding is no longer required.

10 Injunctive Relief.

11 Hernando County shall have the authority to seek an injunction against any person  
12 violating the provisions of this section. In any action seeking an injunction,  
13 Hernando County shall be entitled to collect its enforcement expenses, including  
14 forensic costs, law enforcement costs, administrative costs, and reasonable attorney's  
15 fees and costs incurred at trial and on appeal.

16 Subsequent Federal or State Action.

17 Pursuant to Chapter 893, Florida Statutes, it is unlawful for any person to sell  
18 substances named or described in the controlled substance schedules of said chapter,  
19 and the state, the Department of Law Enforcement, and all peace officers of the state  
20 shall enforce said provisions. In recognition that Florida law preempts local

1 government regulation of such controlled substances, the following limitations are  
2 placed on the prohibitions and restrictions contained in this section:

3 (1) In the event that the United States Congress or a federal agency  
4 amends federal law to include a particular substance or otherwise enacts or amends  
5 a federal law providing for criminal penalties for the prohibitions of substances set  
6 forth in this Ordinance, then upon the effective date of such enactment or  
7 amendment, the provisions of this Ordinance addressed by federal law shall no longer  
8 be effective. Any violations of this Ordinance committed prior to Congress or a  
9 federal agency enacting such federal law may be prosecuted.

10 (2) In the event that the Florida Legislature amends the controlled  
11 substance schedules in Section 893.01, Florida Statutes, to include a particular  
12 substance or otherwise enacts or amends a state statute providing for criminal  
13 penalties for the prohibitions of substances set forth in this Ordinance, then upon the  
14 effective date of such enactment or amendment, the provisions of this Ordinance  
15 addressed by the state statute shall no longer be effective. Any violations of this  
16 Ordinance committed prior to the Florida Legislature enacting such statute may be  
17 prosecuted.

18 (3) In the event that the Florida Attorney General, pursuant to the  
19 rulemaking authority provided in Section 893.035, Florida Statutes, adds any  
20 substance regulated hereunder to the controlled substance schedules in Section

1 893.01, Florida Statutes, then upon the effective date of such rule, the provisions of  
2 this Ordinance addressed by the rule shall no longer be effective. Any violations of  
3 this Ordinance committed prior to the Florida Attorney General promulgating such  
4 rule may be prosecuted.

5 Civil Enforcement and Penalties.

6 (1) Any person or entity violating any of the provisions of this Article  
7 shall be prosecuted as described in Hernando County Code Ch. 2, Art. III, as  
8 amended from time to time. Each incident or separate occurrence of an act that  
9 violates this article shall be deemed a separate offense.

10 (2) In addition to, or in lieu of, the penalties provided in Hernando County  
11 Code, Ch. 2, Art. III, any person violating any provision of this Article may be  
12 prosecuted in accordance with Section 125.69, Florida Statutes, and upon conviction  
13 shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by  
14 imprisonment not to exceed sixty (60) days in the County Jail, or by both such fine  
15 and imprisonment.

16 (3) Any person who violates any provision of this Article and is  
17 convicted, pleads guilty, pleads nolo contendere, or imposed civil penalties against,  
18 shall be ordered to pay all administrative fees and costs to the designated  
19 enforcement agency for the testing of the substance(s) collected and any other actual  
20 costs arising therefrom, as applicable to said violation.

1           **Section 2. Severability.**

2           It is declared to be the intent of the Board of County Commissioners that if any section,  
3 subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held  
4 unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining  
5 portions of this ordinance.

6           **Section 3. Inclusion in the Code.**

7           It is the intention of the Board of County Commissioners of Hernando County, Florida, and  
8 it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the  
9 Code of Ordinances of Hernando County, Florida. To this end, the section of this Ordinance may  
10 be renumbered or re-lettered to accomplish such intention, and that the word “ordinance” may be  
11 changed to “section, “article,” or other appropriate designation.

12           **Section 4. Conflicting Provisions Repealed.**

13           All ordinances or parts of ordinances in conflict with the provisions of this ordinance are  
14 hereby repealed.


15           **Section 5. Effective Date.**

16           This Ordinance shall take effect immediately upon receipt of official acknowledgment from  
17 the office of the Secretary of State of Florida that this ordinance has been filed with said office.

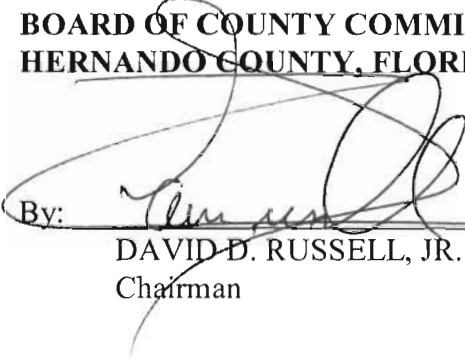
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19

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
2 HERNANDO COUNTY in Regular Session this 24<sup>th</sup> day of September 2013



9 Attest:   
10 DONALD C. BARBEE, JR.  
11 Clerk

BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA

By:   
12 DAVID D. RUSSELL, JR.  
13 Chairman

14  
15 Approved for Form and Legal Sufficiency

16   
17 \_\_\_\_\_  
18 Assistant County Attorney