

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH REGULATIONS AND REQUIREMENTS RELATED TO THE SALE, DISTRIBUTION, POSSESSION, OR USE OF SYNTHETIC MARIJUANA AND BATH SALTS WITHIN THE TOWN OF HAMPTON.

WHEREAS, the Town Council of the Town of Hampton, upon assessing current conditions and more recent medical findings made by authoritative sources, has determined that neither the Town's existing code nor the statutes of South Carolina sufficiently address the pressing public health issues arising from the life threatening harmful effects of the consumption or other use of newly developed drugs known as synthetic marijuana and as bath salts, and additional action by the Town Council is necessary and proper; and

WHEREAS, the Town Council (the "Council") of the Town of Hampton, South Carolina, hereby finds and determines:

- (a) The Town of Hampton, South Carolina (the "Town"), is an incorporated municipality located in Hampton County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and the laws of the State of South Carolina, including the powers enumerated in S.C. Code § 5-7-30 (2005 Supp.) relating to regulating streets, markets and public health.
- (b) A product known as Synthetic marijuana has been developed in an apparent effort to create and distribute a product which has similar hallucinogenic qualities to natural marijuana but cannot currently be prosecuted in South Carolina as a controlled substance. It is now being possessed, distributed and sold in the Hampton Area under several names, included but not limited to, Incense, Potpourri, Spice, K-2, and Blaze. Studies around the nation have indicated that Synthetic Marijuana usage carries with it all the dangers associated with usage of natural marijuana and carries with it additional dangers because of the unknown nature of any long term effects of this synthetically created substance.
- (c) Another manufactured product known as "Bath Salts", "Plant Food", "Fake Bath Salts", "Fake Fertilizer", and/or "Fake Insect Repellent" has been developed recently and is now being possessed, distributed, and sold in the Hampton area under several names including, but not limited to, Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightening, Scarface, Hurricane Charlie, Vanilla Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove, Rex X Dawn, and White Dove. The usage of these compounds has affects very similar to the effects of Methamphetamine. Additionally, the usage of these compounds is causing serious and life threatening health problems, including but not limited to, kidney failure, liver failure, and respiratory problems. Additionally, studies have found the use of these compounds to be extremely addicting. Despite these dangers, these compounds have been manufactured in a way to avoid the existing state and federal laws regarding controlled substances. As a result, absent action by Town Council, the sale, distribution, possession, and usage of these compounds would be lawful in the Town of Hampton.

- (d) Numerous studies have found that usage of synthetic marijuana and bath salts cause serious health problems including heart disease, liver failure, kidney disease, and respiratory disease. The 2011 edition of the U.S. Drug Enforcement Administration's "Drugs of Abuse: a DEA Resource Guide," designates bath salts as a drug of concern which poses risks to users despite not yet being listed as a controlled substance.
- (e) Many retail outlets in the Town of Hampton have voluntarily agreed to refuse to sell "bath salts" and "synthetic marijuana" under their many marketing names, but it is important and in the best interest of the citizens of Hampton that the Town be able to prohibit such sales until such time as the State of South Carolina or the federal government has the chance to regulate the use, sale, possession and distribution of said compounds.
- (f) The Town recognizes that use of both synthetic marijuana and bath salts create a danger to the health and safety of the public at large, and, in order to protect the health and welfare of the public, it is necessary to prohibit the use, sale, possession and distribution of said compounds in the manner provided for in this article (the "article") as a stop gap measure.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAMPTON, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, AND BY THE AUTHORITY THEREOF AS FOLLOWS:

SECTION I. PROHIBITION OF POSSESSION, USAGE, SALE, AND DISTRIBUTION OF SYNTHETIC MARIJUANA AND BATH SALTS.

- (a) The advertisement, sale, distribution, possession, and/or usage of *synthetic marijuana* are hereby prohibited with the Town of Hampton.
- (b) The advertisement, sale, distribution, possession, and/or usage of Methylendioxypropylone (MDPV), which is commonly known as *bath salts*, are hereby prohibited within the Town of Hampton.

SECTION II. ENFORCEMENT.

- (a) This Ordinance shall be enforced by the Police Department of Hampton.
- (b) Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the Town.
- (c) Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the Police Department of Hampton.

SECTION III. VIOLATIONS AND PENALTIES.

- (a) A person or entity that violates the prohibitions contained in Section I of this Ordinance shall be guilty of an infraction, punishable by a civil fine in the amount of twenty five (\$25.00) dollars.

- (b) A person who owns, manages, operates, or otherwise controls a business location who fails to comply with the provisions of this Ordinance shall be guilty of an infraction, punishable by a civil fine in the amount of twenty five (\$25.00) dollars.
- (c) The possession, sale, distribution or use of each separate package of synthetic marijuana or bath salts shall constitute and be punished as a separate occurrence and infraction of this ordinance.
- (d) In order to enforce infractions of this ordinance, the Town shall serve a uniform ordinance summons upon the infractor.
- (e) In addition to the civil fines established in this Section, three (3) or more violations of this ordinance by a person or entity that owns, manages, operates, or otherwise controls a place of business in the Town of Hampton shall be a reason for and may result in the suspension or revocation of any business license issued for the premises on which the infractions occurred.
- (f) In the even the infractor fails to pay the civil fine or fails to appear pursuant to uniform ordinance summons, the Town may utilize the Set-Off Debt Process provided for under Section 12-56-50, *et. seq.* of the South Carolina Code of Laws, as amended.
- (g) A violation of provisions of this ordinance by selling, marketing or distributing *synthetic marijuana* or *bath salts* shall constitute a nuisance in the Town of Hampton.

SECTION IV. DEFINITIONS.

Unless the context shall clearly indicate some other meaning, the terms defined in this section shall, for all purposes of this article and other documents herein referenced, have the meaning herein specified. Definitions shall be equally applicable to both the singular and plural forms of any of the terms herein defined.

- (a) *Synthetic marijuana* means THC, HU-210 Cannabicyclohexanol, JWH-073 and refers to all chemical compounds intended to replicate, mimic or cause a similar reaction to the effects of marijuana or cannabis. Such compounds are known as or marketed under many names, including but not limited to, such names as THC, HU-210 Cannabicyclohexanol, JWH-073, Potpourri, Spice, K-2, Blaze, herbal incense, herbal smoking blends, and other names.
- (b) *Bath salts* mean Methylenedioxyprovalerone (MDPV), which is a psychoactive drug with stimulant properties which acts as norepinephrine-dopamine reuptake inhibitor (NDRI). It is also known as MDPK, Magic Super Coke and PV. It was reportedly sold as a legal drug alternative and marketed in the United States as “bath salts;”, “Plant Food”, “Fake Bath Salts”, “Fake Fertilizer”, and/or “Fake Insect Repellant” under many marketing names, including but not limited to such names as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightening, Scarface, Hurricane Charlie, Vanilla Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovey Dovey, Euphoria, Aura, Red Dove, Red X Dawn and White Dove.

(c) *Package* means each single unit marketing package or packaging for *synthetic marijuana* and /or *bath salts*.

SECTION V. SEVERABILITY.

If any part of this Ordinance is held to be invalid or unconstitutional, it shall be construed to have been the legislative intent to pass said ordinance without such invalid or unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such as holding shall not affect the applicability thereof to any persons, property or circumstances.

SECTION VI. ORDINANCES IN CONFLICT.

All Ordinances or parts of Ordinances in conflict herewith, to the extent of such inconsistency, are hereby repealed.

SECTION VII. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon passage.

AND IT IS SO ORDAINED this 1 day of Nov. , 2011.

TOWN OF HAMPTON

By: John B. Rhoden
John B. Rhoden, Mayor

ATTEST: Lynn Sanders
Lynn Sanders, Town Clerk

FIRST READING: 10-18-11

SECOND READING: 11-1-11