

ORDINANCE NO. 2013 - 001

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES ("TOWN CODE"), CREATING A NEW SECTION OF THE TOWN CODE TO BE ENTITLED "SALE OR DISPLAY OF LOOSE LEAF GRANULAR INCENSE AND BATH SALTS;" PROVIDING FOR DEFINITIONS; PROHIBITING THE SALE OF LOOSE LEAF GRANULAR INCENSE AND BATHS SALTS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, synthetic drugs are often sold in legal retail outlets as "herbal incense" and "plant food," and labeled "not for human consumption" to mask their intended purpose and to avoid FDA regulatory oversight of the manufacturing process; and

WHEREAS, often marketed as legal substances, synthetic drugs are sometimes labeled as "herbal incense" or "bath salts" and are sold in small pouches or packets over the internet, in tobacco and smoke shops, drug paraphernalia shops, gas stations and convenience stores—making them easily accessible; and

WHEREAS, the Drug Enforcement Administration ("DEA") has found that numerous products marketed under the guise of being "herbal incense" are distributed in a way that poses dangerous consequences to the consumer; and

WHEREAS, many of the substances used to make synthetic drugs sold in the United States are manufactured and distributed in other countries without any oversight; and

WHEREAS, as of April 2012, the American Association of Poison Control Centers ("AAPCC") has received 2,389 calls relating to exposures to synthetic marijuana and 1,007 calls relating to exposure to bath salts; and

WHEREAS, poison control experts, who have first-hand knowledge of the devastation these drugs cause for individuals and their families, say these substances are among the worst they have ever seen; and

WHEREAS, both houses of Congress have now passed S. 3187 which will classify 26 synthetic chemicals—used to make "fake weed," "K2" "Spice" and "bath salts"—as Schedule I substances within 21 U.S.C. 812 (c); and

WHEREAS, substances classified as Schedule I have a high potential for abuse, have no medical use in the United States, and “lack of accepted safety for use;” and

WHEREAS, state and local public health departments have determined that these drugs cause serious adverse health effects, including agitation, anxiety, nausea, vomiting, tachycardia, elevated blood pressure, tremor, seizures, hallucinations and paranoia; and

WHEREAS, the DEA recognizes that synthetic cannabinoids (the chemical compounds that are the key ingredient in synthetic marijuana) constitute an immediate hazard to public health and safety; and

WHEREAS, according to Rick Broider, president of the North American Herbal Incense Trade Association, despite numerous federal, state, and local bans, sales in the synthetic drug industry seem to be growing—to roughly \$5 billion a year; and

WHEREAS, the Town Council of the Town of Southwest Ranches, Florida deems it to be in the best interest of the health, safety, and welfare of its citizens to prohibit the sale of synthetic marijuana, bath salts, and related substances;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AS FOLLOWS:

Section 1. That each of the above stated recitals is hereby adopted and confirmed as being true and correct and are incorporated herein by reference.

Section 2. That the Town Code is hereby amended to create a new Section to be entitled:

“Sale or Display of Herbal Incense and Bath Salts”

(A) Definitions. For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Loose leaf granular incense” shall mean any aromatic plant material containing any chemical compound, synthetic or natural, which imitates the effects of any controlled substance in granular, loose leaf or powder form which may be used or converted into a form intended for introduction into the human body.

“Bath Salts” shall mean any product or material sold in powder, block, or granular form containing any chemical compound, synthetic or natural, which

imitates the effect of any controlled substance which may be used or converted into a form intended for introduction into the human body.

(B) Sale or Display Prohibited. It is unlawful for any person to sell or display loose leaf granular incense or bath salts, as defined by this section, within the Town.

(C) Enforcement. This section may be enforced by any law or code enforcement officer of the Town. Any loose leaf granular incense or bath salts, as defined by the section, may be seized and held by the Town as evidence to be used in any further proceeding.

(D) Penalties for Violation. Any person found guilty of violating this section, whether that individual is an adult or a minor, shall be subject to punishment in accordance with Article VII of the Town's Code. A violation of this section, and the impact that a violation of this section will have on the citizenry, shall be deemed to be irreparable or irreversible in nature and shall be subject to the maximum fines and penalties prescribed by law. Repeated violations of this section may result in additional fines and penalties.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. That the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Southwest Ranches, Florida; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflict. That all Ordinances or Resolutions or parts of Ordinances or Resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

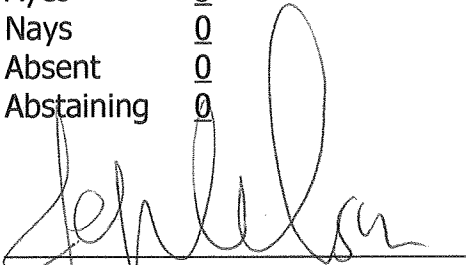
Section 6. Effective Date. That this Ordinance shall become effective upon adoption on second reading.

PASSED ON FIRST READING this 13th day of September 2012, on a motion by Council Member Jablonski and seconded by Vice Mayor McKay.

PASSED ON SECOND AND FINAL READING this 27th day of September 2012, on a motion by Council Member Jablonski and seconded by Vice Mayor McKay.

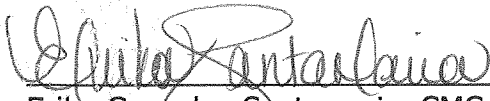
Nelson	<u>YES</u>
McKay	<u>YES</u>
Breitkreuz	<u>YES</u>
Fisikelli	<u>YES</u>
Jablonski	<u>YES</u>

Ayes	<u>5</u>
Nays	<u>0</u>
Absent	<u>0</u>
Abstaining	<u>0</u>



Jeff Nelson, Mayor

ATTEST:



Erika Gonzalez-Santamaria, CMC, Town Clerk

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Approved as to Form and Correctness:



Keith M. Poliakoff, J.D., Town Attorney
ACTIVE: 4053612_1

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