

ORDINANCE NO. 2012-003

AN ORDINANCE AMENDING THE BLUFF CITY MUNICIPAL CODE BY ADDING PROVISIONS MAKING CERTAIN FINDINGS RELATIVE TO SYNTHETIC MARIJUANA, “BATH SALTS” AND SIMILAR COMPOUNDS; MAKING THE USE, POSSESSION, PRODUCTION, MANUFACTURE, DISTRIBUTION, TRANSPORT, SELL, OFFERING FOR SALE, TRADE, BARTER, EXCHANGE OR PURCHASE OF CERTAIN SUBSTANCES UNLAWFUL; PROVIDING FOR CERTAIN EXCEPTIONS, FIXING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR THE SEVERABILITY OF THIS ORDINANCE; AND FIXING THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BLUFF CITY, TENNESSEE:

Section 1. That the Bluff City Municipal Code is hereby amended by adding the following new sections to be appropriately numbered to confirm with the numbering systems used in the Bluff City Municipal Code.

Findings.

- 1) T.C.A. section 30-17-438 pertaining to substances generally known as “synthetic marijuana” and T.C.A. section 39-17-452 pertaining to substances generally known as “bath salts” given certain actions regarding the substances listed in those statutes and certain synthetic derivatives or analogues of compounds listed therein, but the board has been informed that the chemical makeup of these synthetic drugs is or can be changed to avoid using the listed substances, while providing the same effect and detrimental health risk, making enforcement of such statutes difficult and ineffective.
- 2) Synthetic marijuana and “bath salts” are being manufactured in a way to avoid the application of existing state and federal laws.
- 3) Studies have indicated that synthetic marijuana usage includes the dangers associated with using natural marijuana, with additional danger to the public

health due, in part, to the unknown nature of any long term effects of this synthetically created substance.

- 4) The board finds that synthetic marijuana (synthetic cannabinoids) or compounds that emulate or simulate the effects of synthetic cannabinoids through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent have been developed such that it can create similar hallucinogenic qualities to natural marijuana and such items are now being possessed, distributed, and sold in the city.
- 5) The board finds a manufactured product known as “Bath Salts”, “Plant Food”, “Fake Bath Salts”, “Fake Fertilizer”, and/or “Fake Insect Repellant” has been developed, and that compounds that emulate or simulate the effects of such synthetic derivatives or analogues of cathinone or methcathinone or the derivatives or analogues of the chemical or compounds listed in T.C.A. section 39-17-452 through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent have been developed and are now being possessed, distributed, and sold in the city and the usage of these compounds have effects similar to methamphetamine.
- 6) 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.
- 7) The use of these types of compounds can be extremely addictive, and are not currently detectable by drug testing procedures commonly used in the workplace.
- 8) The use of synthetic marijuana or “bath salts”, even with the change in chemical compounds, creates a danger to the health and safety of the public, and to protect the health and welfare of the public it is necessary to prohibit

the use, sale, possession and distribution of said compounds, not otherwise controlled by state or federal law.

- 9) Pursuant to Article I. Section 2. Subsections (20) and (22) of the Bluff City Charter the city has the authority to license and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not forbidden by law. To define and prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the town, and to exercise general police powers.
- 10) The use, possession, production, manufacture, distribution, transporting, selling, offer for sale, trading, bartering, exchanging or purchase of the substances addressed herein is detrimental to the health, safety, or welfare of the inhabitants of the city, and absent action by board such activity is currently lawful in the city, and to protect the health, safety or welfare of the inhabitants of the city such activity should be made unlawful.

Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section.

Package means each single unit marketing package or packaging for the substances prohibited herein.

Practitioner means any physician, dentist, optometrist, veterinarian, pharmacist, scientific investigator or other person who is licensed, registered, or otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee; or (B) a pharmacy, hospital or other institution licensed, registered, or

otherwise lawfully permitted to distribute, dispense, conduct research with respect to, or to administer a synthetic drug as defined herein in the course of professional practice or research in the State of Tennessee.

Offenses.

(a) It shall be a civil offense for any person to use, possess, produce, manufacture, distribute, transport, sell, offer for sale, trade, barter, exchange or purchase any amount, including any packet, capsule, pill, or product, of any chemical compound or synthetic drug not governed by T.C.A. section 39-17-438 that emulates, replicates, mimics, simulates or causes a similar reaction to the effects of any synthetic drug or chemical compound listed in T.C.A. section 39-17-438, marijuana, cannabis or synthetic marijuana, including any drug or chemical compound that is privately compounded that circumvents the compounds listed in T.C.A. section 39-17-438 for synthetic cannabinoids, including through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent.

(b) It shall be a civil offense for any person to use, possess, produce, manufacture, distribute, transport, sell, offer for sale, trade, barter, exchange or purchase any amount, including any packet, capsule, pill, or product, of any chemical compound or synthetic drug not governed by T.C.A. section 39-17-452 that emulates, replicates, mimics, simulates or causes effects similar to any synthetic drug or chemical compound listed in T.C.A. section 39-17-452, or a reaction similar to the effects of a psychoactive drug with stimulant properties which acts as a norepinephrine-dopamine reuptake inhibitor (BDRI), including any drug or chemical compound that is privately compounded that circumvents the synthetic derivatives or analogues of cathinone or methcathinone or the derivatives or analogues listed in T.C.A. section 39-17-452, including through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent.

(c) It is not a defense to this offense that the item is not intended for human consumption.

Exceptions.

(a) An act otherwise prohibited and unlawful pursuant to this ordinance shall be lawful if done by or under the direction, while acting in the course of his professional practice, of a practitioner, as defined herein, provided such act is otherwise permitted by general law.

(b) The provisions of this ordinance shall not apply to any substances regulated as controlled substances by the United States Food and Drug Administration or the Drug Enforcement Administration, including any dosage form that is legally obtainable from a retail establishment without a prescription and is recognized by the United States Food and Drug Administration as a homeopathic drug.

(c) This ordinance is not intended to and shall not be construed to supersede any other federal or state law pertaining to synthetic drugs now or hereafter in effect, but to supplement any such laws in so far as lawfully permitted.

(d) The provisions of this ordinance shall not apply to a person in possession of a prohibited substance solely for the purpose of transporting such substance from an originating point outside the city to a destination point outside the city.

Penalty.

Any person violating this ordinance shall be guilty of an offense and shall be assessed a civil fine as a penalty of \$50.00 and court costs for each violation. Each day of violation shall be deemed a separate violation. The possession, production, manufacture, distribution, transportation, sell, offer for sale, trade, barter, exchange or purchase of each separate package containing any prohibited substance as set out herein shall be deemed a separate violation of this ordinance.

Severability.

It is hereby declared that the sections, clauses, sentences and parts of this ordinance are severable, are not matters of mutual essential inducement, and any of them shall be excinded if the ordinance would otherwise be unconstitutional or ineffective. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 2. That this Ordinance shall become effective immediately upon its final passage, the public welfare requiring it.

Irene Wells, Mayor

Attested: _____
Judy A. Dulaney, City Recorder

Approved
as to form: _____
J. Paul Frye, City Attorney

Passed on First Reading: _____
Passed on Second Reading: _____
Public Hearing: _____