

**AN ORDINANCE PROHIBITING ADVERTISING, POSSESSION, USE, PURCHASE,  
OR DISTRIBUTION OF SUBSTITUTED CATHINONES (COMMONLY CALLED "BATH SALTS"),  
SYNTHETIC CANNABINOIDS, AND CERTAIN OTHER SYNTHETIC DRUGS;  
AND MATTERS RELATED THERETO IN GILMER COUNTY, WEST VIRGINIA**

**WHEREAS**, the use or ingestion/consumption of substituted cathinones called "bath salts" and other synthetic drugs has significantly increased throughout the United States and Gilmer County, West Virginia, and

**WHEREAS**, there are significant reports of ingestion/consumption of substitute cathinones, commonly called "bath salts" and other synthetic drugs causing serious injury and/or death, and

**WHEREAS**, it is the desire of the County Commission of Gilmer County, West Virginia to control and minimize the use of synthetic cannabis and other synthetic drugs, and

**WHEREAS**, the United States Drug Enforcement Agency (DEA) has issued an order directing that chemicals JWH-018, JWH-073, JWH-200, CP-47, 497, CP 55, 490, 940, WIN 55, 212-2, HU-210 and Cannabicyclohexanol contained in products marketed as potpourri and increase are classified as Schedule I controlled substance. DEA used its emergency scheduling authority to temporarily control Mephedrone, Methylenedioxypyrovalerone (MDPV), Methylone, and other chemical compounds found in "bath salts" and other synthetic drugs marketed as otherwise lawful substances, finding said action necessary to protect the public from the imminent hazard posed by ingestion of these substances, and

**WHEREAS**, the State of West Virginia has amended and reenacted §60A-1-101 of the West Virginia Code, 1931, §60A-2-204 of said Code, and that §60A-4-401 of said Code, all relating to adding certain synthetic cannabinoids, hallucinogens, and stimulants to the Schedule I list of controlled substances, providing penalties; and clarifying references to definitions, and

**WHEREAS**, the County Commission of Gilmer County, West Virginia has the power and the duty to provide for the general health, safety, and welfare of the residents of Gilmer County, West Virginia and it is desirous for Gilmer County, West Virginia to be able to enforce laws with respect to such matter, and

**WHEREAS**, the County Commission of Gilmer County, West Virginia hereby declares the use, consumption, possession, sale, or distribution of substituted cathinones, commonly called "bath salts" and other products containing synthetic cannabinoids to be a danger to public health and hereby makes unlawful said use, consumption, possession, sale, or distribution as set forth herein.

**NOW, BE IT ORDAINED BY THE COUNTY COMMISSION OF GILMER COUNTY, WEST VIRGINIA:**

**ORDINANCE NUMBER 2013-1. PROHIBITED ADVERTISING, USE, POSSESSION, PURCHASE, OR DISTRIBUTION OF SYNTHETIC CANNABINOIDS, SUBSTITUTED CATHINONES (COMMONLY KNOWN AS "BATH SALTS") OR ANY SUBSTANCE(S) MARKETING AS SYNTHETIC CANNABINOIDS; DEFINITIONS; LABELING; ENFORCEMENT; PENALTIES.**

**SECTION 1. DEFINITIONS**

The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**SYNTHETIC CANNABIS:** Includes the brand names K-2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073, JWH-200, HU-210, CP-47, 497, CP 55 and 212-2.

**METHYLENEDIOXYPYROVALERONE (MDPV):** is a psychoactive drug with stimulant properties which act as a nonrepinephrine-dopamine reuptake inhibitor (NDRI). Reportedly, it has been sold since around 2004 as a research chemical. It is also known as MDPK, Magic, Super Coke and PV. In 2010 it was reportedly sold as a legal drug alternative and marketed in the United States as "bath salts" (under such names as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Vanila Sky, Bonzai Grow, Blue Silk, Serenity Now, Lovely Dovey, Euphoria, Aura, Red Dove and White Dove).

**DELIVER OR DELIVERY:** Actual, constructive or attempted transfer or possession of synthetic cannabis and synthetic drugs, with or without consideration, whether or not there is an agency relationship.

**KNOWLEDGE:** Knows, acts knowingly or with knowledge:

- A. The nature or attendant circumstances of his/her conduct, described by the section defining offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that such fact exists.
- B. The results of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
- C. Knowledge may be inferred from the surrounding circumstances.

**MANUFACTURE:** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis or synthetic drugs, either directly or indirectly, by extraction

from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or synthetic drugs or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis or synthetic drugs as an incident to lawful research, teaching or chemical analysis and not for sale.

**PERSON:** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

**MERCHANT:** An owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchise or independent contractor of the owner or operator.

**POSSESSION:** Possession may be either actual or constructive.

- A. Actual possession means exercising physical dominion.
- B. Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis, synthetic drug or drug paraphernalia.

**PRODUCE OR PRODUCTION:** Planting, cultivating, tending or harvesting.

## **SECTION 2. SALE OF SYNTHETIC CANNABINOIDS OR SUBSTITUTED CATHINONES PROHIBITED**

- A. It is unlawful for any person to sell, offer for sale, distribute, deliver, trade, barter, or give away any Synthetic Cannabinoid, Substituted Cathinones, or any substance(s) marketed as Synthetic drugs within Gilmer County, West Virginia.
- B. It is unlawful for any persons or corporation knowing, or under circumstances where one reasonably should know to sell, lend, rent, lease, give, exchange, or otherwise distribute to any persons or corporation any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, 497, Cannabicyclohexanol, CP 55, 490, 940 or HU-210, Methylenedioxypyrovalerone and marketed as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, Spice, K-2, Blaze and Red X Dawn, but not limited to incense, potpourri, plant fertilizers, insect repellant or bath salts within Gilmer County, West Virginia.
- C. It is unlawful for any person to advertise or display any Synthetic Cannabinoid or Substituted Cathinones within Gilmer County, West Virginia.
- D. It is unlawful for any person to claim or represent that a product or substance is a Synthetic Cannabinoid or Substituted Cathinones within Gilmer County, West Virginia.

### **SECTION 3. POSSESSION OF SYNTHETIC CANNABINOIDS OR SUBSTITUTED CATHINONES PROHIBITED**

- A. It is unlawful for any person to use, or to possess with the intent to use, ingest, inhale, or otherwise introduce into the human body any product containing the following chemicals: JWH-018, JWH-073, JWH-200, CP-47, Cannabicyclohexanol, or Methylenedioxypyrovalerone marketed as Cloud 9, Ivory Wave, Ocean, Charge Plus, White Lightning, Scarface, Hurricane Charlie, Red Dove and White Dove, Spice, K-2, Blaze and Red X Dawn, but not limited to, incense, potpourri, plant fertilizers, insect repellent or bath salts within Gilmer County, West Virginia.
- B. It is unlawful for any person to possess any Synthetic Cannabinoids, Substituted Cathinones, or any substance(s) marketed as Synthetic drugs within Gilmer County, West Virginia.

### **SECTION 4. LABELING**

The fact a Synthetic Cannabinoid or Substituted Cathinones is being marketed, sold, distributed, delivered, traded, bartered, or labeled as "Not for Human Consumption" (or words of similar effect) or identified as having a lawful use does not exempt a person from enforcement pursuant to this Ordinance.

### **SECTION 5. PENALTIES**

- A. Violation: No person shall sell, buy or possess any substance containing synthetic cannabis or synthetic drugs, or any substance(s) marketed as synthetic drugs.
- B. Penalty: A violation of this Ordinance shall be deemed an infraction punishable by a fine of \$500.00. The civil fine is subject to all applicable court costs, assessments, and surcharges. Each day of continuing violation of this Ordinance shall be considered a separate and distinct infraction.
- C. Administrative Fee: In addition, any person who violates any provision of this Ordinance shall be ordered to pay an administrative fee to the law enforcement agency for testing of the substance(s) collected.
- D.
- E. Forfeiture: Any items which may be seized or forfeited pursuant to statutes or guidelines for the State of West Virginia, may be forfeited in the same manner as described therein for a violation of this section.

### **SECTION 6. SEVERABILITY**

If any provision, paragraph, word, section or article is invalidated by any court or competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be

affected and shall continue in full force and effect.

**SECTION 7. CONFLICT**

All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

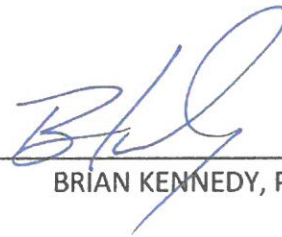
**SECTION 8. EFFECTIVE DATE**

Passed on the FIRST READING: YES ☒ NO ☐ / UNANIMOUS Yes ☒ No ☐ DATE 5/7/13

Passed on the SECOND READING: YES ☒ NO ☐ / UNANIMOUS Yes ☐ No ☐ DATE 7/2/13

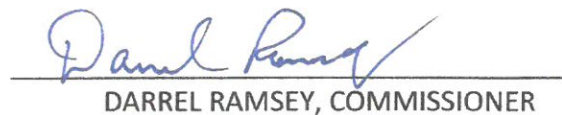
Public Hearing Date 7/2/13

This Ordinance shall be in full force and effect on: the 2<sup>nd</sup> day of July, 2013, after its passage and approval as provided by law.

  
BRIAN KENNEDY, PRESIDENT

ATTEST:

  
JEAN BUTCHER, COUNTY CLERK

  
DARREL RAMSEY, COMMISSIONER

  
LARRY CHAPMAN, COMMISSIONER