ORDINANCE 26-43

26- 43

AN ORDINANCE AMENDING HILLSBOROUGH COUNTY CODE OF ORDINANCES AND LAWS CHAPTER 36, ARTICLE VII (ORDINANCE 13-3) SYNTHETIC DRUG ORDINANCE; AMENDING SECTION 36-503 PROVIDING FOR DEFINITIONS; AMENDING SECTION 36-504 PROVIDING CRITERIA FOR DETERMINATION OF A PRODUCT AS A SYNTHETIC DRUG TO INCLUDE KRATOM PRODUCTS AND PROVIDE FOR EXEMPTIONS; AMENDING SECTION 36-505 PROVIDING FOR PROHIBITED ACTS TO INCLUDE KRATOM PRODUCTS; AMENDING SECTION 36-506 PROVIDING FOR LABORATORY ANALYSIS TO BE RENUMBERED AS SECTION 36-507 AND REPLACING WITH NEW SECTION 36-506 PUBLIC AWARENESS SIGNAGE REQUIREMENTS; AMENDING SECTION 36-507 TO BE RENUMBERED AS SECTION 36-508 AND PROVIDING FOR ENFORCEMENT AND PENALTIES; AMENDING SECTION 36-508 PROVIDING FOR CONFLICT WITH STATE LAW TO BE RENUMBERED AS SECTION 36-509; AMENDING SECTION 36-509 PROVIDING FOR SEVERABILITY TO BE RENUMBERED AS SECTION 36-510; AMENDING SECTION 36-510 PROVIDING FOR APPLICATION TO BE RENUMBERED AS SECTION 36-511; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII of the Florida Constitution and section 125.66, Florida Statutes, authorize the Hillsborough County Board of County Commissioners (BOCC) to enact ordinances to protect the health, safety, and welfare of the County's citizens; and

WHEREAS, the BOCC previously recognized that synthetic drugs, including synthetic cannabinoids, bath salts, and other dangerous chemicals are being manufactured into products intended to mimic the effects of controlled substances when ingested into the human body; and

WHEREAS, the BOCC has previously recognized a significant increase in the use of synthetic drugs and substances being marketed as safe and legal alternatives to controlled substances; and

WHEREAS, the BOCC has previously recognized that synthetic drugs may be more potent and dangerous than the controlled substances they are designed to mimic due to the unapproved chemicals and chemical compounds contained in them and can produce undesired and dangerous side effects including death; and

WHEREAS, the BOCC has previously recognized that law enforcement response to synthetic drugs under state statute has been challenging because of changes of the molecular make-up or recipe of the chemicals or chemical compounds used in the manufacturing of synthetic drugs in order to defeat evolving regulations and law enforcement investigations; and

WHEREAS, on February 20, 2013, the BOCC adopted Ordinance 13-3 ("the Ordinance") establishing a Synthetic Drug Ordinance to protect the health, safety, and welfare of the County's citizens; and

WHEREAS, since the adoption of the Ordinance, the regulation and enforcement of synthetic drug laws continue to be challenging at the federal, state, and local levels due to the creation of new synthetic compounds that are manufactured into consumable products that quickly proliferate at locations such as gas stations, convenience stores, smoke shops, and online retailers that are easily accessible to the public; and

WHEREAS, Kratom, *Mitragyna* speciosa, is a tropical tree native to Southeast Asia that contains psychoactive ingredients in its leaves, which may be crushed and then smoked, brewed with tea, or placed into gel capsules; and

WHEREAS, 7-hydroxymitragynine ("7-OH") is a chemical compound found naturally in the kratom plant at low, trace levels, but can be isolated or concentrated into much more potent opioid-like forms that can lead to addiction, overdose, and serious health effects; and

WHEREAS, the United States Food and Drug Administration (FDA) has identified 7-OH as an emerging threat to public health because it produces respiratory depression, physical dependence, and withdrawal symptoms characteristic of classical opioids, such as morphine, fentanyl, and hydrocodone; and

WHEREAS, the FDA has further warned consumers against the use of kratom in general for medical treatment because of the risk of serious adverse health events; and

WHEREAS, the United States Drug Enforcement Administration (DEA) has issued a notice of intent to place 7-OH into Schedule I of the Controlled Substances Act, which, if implemented as a final scheduling action would subject the manufacturing, distribution, sale, and possession of 7-OH above a certain threshold to criminal, civil, and administrative provisions of the Controlled Substances Act; and

WHEREAS, the DEA has already placed three highly potent opioid compounds related to mitragynine that pose an imminent hazard to public safety (mitragynine pseudoindoxyl, commonly known as MGPI, and two synthetic compounds commonly known as "MGM-15" and "MGM-16") into Schedule I of the Controlled Substances Act via emergency scheduling action, subjecting the

manufacturing, distribution, sale, and possession of these substances to federal civil, criminal, and administrative penalties; and

WHEREAS, section 500.92, Florida Statutes, prohibits the sale of all kratom products to a person who is under 21 years of age; and

WHEREAS, the Florida Department of Agriculture and Consumer Services requires food establishments regulated by the Department to post a sign regarding the age restrictions; and

WHEREAS, Florida Statutes do not schedule 7-OH or other related compounds/substances under the Florida Comprehensive Drug Abuse Prevention and Control Act ("the Act"), and;

WHEREAS, the Florida Attorney General, recognizing the serious threat to public health, issued Emergency Rule 26-2 on August 18, 2026, adding 7-OH at certain thresholds, 7-acetoxymitragynine, MGM-15, and MGM-16 as controlled substances under Schedule I of the Act, and

WHEREAS, under the Act, Schedule I substances have a high potential for abuse and no currently accepted medical use in treatment in the United States and in its use under medical supervision do not meet accepted safety standards; and

WHEREAS, Emergency Rule 26-2 is temporary and will expire on June 30, 2027, unless the Florida Legislature adopts legislation to codify the scheduling into state law; and

WHEREAS, the Florida Department of Health has reported an increase in emergency room visits and adverse health incidents linked to kratom, particularly among individuals under the age of 25; and

WHEREAS, the Hillsborough County Medical Examiner Department has advised that mitragynine intoxication has contributed to 34 deaths in Hillsborough County in the past two years; and

WHEREAS, it is not the intent of this ordinance to interfere with legitimate actions and conduct of individuals which are protected under the constitutions and laws of the United States and the State of Florida; and

WHEREAS, the BOCC desires to protect the health, safety, and welfare of the County's citizens by updating the Ordinance to address concentrated 7-OH and synthetic derivatives, prohibit products that are deliberately manufactured to contain concentrated opioid-like compounds, while not regulating traditional botanical kratom, and to further increase public awareness of the potential adverse health effects of kratom use.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

Chapter 36, Article VII, of the Hillsborough County Code of Ordinances and Laws, is hereby amended as follows:

SECTION 1. The following definitions of Section 36-503 are amended to read as follows. All other definitions shall remain as presently codified;

Sec. 36-503. – Definitions.

(b) *Synthetic drugs* shall have the same meaning as set forth in section 36-504 of this article.

(f) *Kratom* means a tropical tree indigenous to Thailand, Malaysia, Myanmar and other areas of Southeast Asia used as an herbal drug whose primary alkaloid is mitragynine described as producing both stimulant, sedative, and hallucinogenic effects at various doses.

(g) *Kratom product* means any product intended for human consumption including any capsule, pill, candy, gummy, liquid, beverage, dietary supplement, extract, or other edible form which contains or which labeling or packaging purports to contain

7-hydroxymitragynine (7-OH) - (methyl (E)-2[(2S,3S,7aS,12bS)-3-ethyl-7a-hydroxy-8-methoxy-2,3,4,6,7,12b-hexahydro-1H-indolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate),

7-acetoxymitragynine - Methyl (E)-2-[(2S,3S,7aS,12bS)-7a-acetyloxy-3-ethyl-8-methoxy-2,3,4,6,7,12b-hexahydro-1H-indolo[2, 3-a] quinolizin-2-yl]-3-methoxyprop-2-enoate,

Dihydro-7-hydroxymitragynine (MGM-15) - (E)-methyl 2-((2S,3S,7aS,12aR,12bS)-3-ethyl-7a-hydroxy-8-methoxy 1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate, or

9-fluoro-7-hydroxymitragynine (MGM-16) - (E)-methyl 2-((2S,3S,7aS,12aR,12bS)-3-ethyl-9-fluoro-7a-hydroxy-8-methoxy-1,2,3,4,6,7,7a,12,12a,12b-decahydroindolo[2,3-a]quinolizin-2-yl)-3-methoxyacrylate,

including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of such substances.

Kratom product does not include whole-leaf kratom including raw or dried leaves intended to be chewed, crushed, or steeped in tea.

Kratom product also does not include products intended for human consumption that are not chemically enhanced, not chemically altered, or not otherwise concentrated for increased potency.

(h) *Business or establishment* means any place of business or any club, organization, person, firm, corporation or partnership.

SECTION 2. Section 36-504 is amended to read as follows:

Sec. 36-504. – Determination of a product as a synthetic drug.

(a) For purposes of this article, a synthetic drug is:

(1) Any capsule, pill, powder, liquid, vegetative material, product, or other substance, however constituted, including but not limited to synthetic cannabinoids, bath salts, or kratom products,

(2) Designed, intended, marketed, manufactured, engineered, or otherwise in furtherance of impairing a person's normal faculties, and

(3) Designed to be injected, ingested, inhaled, or otherwise introduced into the human body.

(4) In determining whether a product is a synthetic drug for purposes of this Article, a court, Code Enforcement Board/Special Magistrate, or jury shall consider, in addition to (1)-(3) above and all other logically relevant factors, the following:

i. The product is routinely advertised to be a substance for which it is rarely, if ever, suitable to be used for (i.e. - incense, potpourri, food additive, therapeutic bath crystals, plant food, insect repellant, iPod cleaner, glass cleaner, etc.).

ii. The product is displayed and sold in businesses such as liquor stores, smoke shops, and gas/convenience stores where such advertised products are not typically sold.

iii. The product is marketed as common non-consumable products which contain warnings not normally found on such products. The warnings may be similar, but not limited to, "not for human consumption", "not for purchase by minors", etc.

iv. The product contains notices on the package not normally found on similar products such as, but not limited to, "does not contain any chemical compounds prohibited by State law," "contains no prohibited chemicals," "product is in accordance with State and Federal laws," "product is in compliance with new Florida Law HB 1175," "does not contain AM2201 or any DEA banned substance, "legal herbal substance," "100% compliant guaranteed," "100% chemical free," "100% synthetic free," etc.

v. The product's packaging or labeling suggests the user will achieve a "high", euphoria, relaxation, mood enhancement, "energy boost," or that the product has other effects on the body.

vi. The price of the advertised product is much more expensive than other products marketed in the Hillsborough County area for the same or similar use.

vii. The product contains directions for the product's use, which is not consistent for the type of product advertised. (Example: "Place caplet over door to enhance mood".)

viii. The Product is designed to make the substance appear similar to illicit street drugs (such as a white powder made to resemble cocaine, or an herbal substance dyed green to resemble marijuana); and/or

ix. The Product is advertised using brand names and packaging designed to make the product appear similar to illicit street drugs, or labeled with names similar to commonly used street slang for illicit drugs, which names or labeling has no relation to the advertised use of the product being sold. (Common brand names currently being used include, but are not limited to, "AK-47", "Aroma", "Atomic", "Aura", "Aurora Incense", "Barely In", "Black Mamba", "Black Rob", "Bliss", "Blizzard", "Blue Silk", "Bonzai Grow", "Boombay Blue", "Brain Storm", "Bullet", "Buzz", "California Dreams", "Charge Plus", "Charlie", "Chill X", "Chronic Spice", "Cloud 9", "Dank", "Daylights", "Dead Man Walking", "Demon", "Diable Botanical Incense", "Dragons Fire", "Drone", "D-ZL", "Earth Impact", "Earthquake", "Eight Balls", "Energy-1", "Euphoria", "Fake Weed", "Fuzzy Wuzzy", "G-13", "G-20", "Galaxy Gold", "Genie", "Grape Ape Herbal Incense", "Green Buddha", "Guerrilla Warfare", "Hayze", "Hypnotig", "Hurricane", "Hurricane Charlie", "Hush", "Ivory Wave", "Jazz", "Joker", "K-2", "K-3", "K-3 Legal", "Kryptonite", "Kush", "Kush Mania", "Lovely Dovey", "Lucid", "Lunar Wave", "Maddie", "Mad Hatter", "Makes Scents", "Man of Steel", "Matrix", "Maui Wowie", "MCAT", "MDPV", "MDPK", "Meow Meow", "Meph", "Mind Trip", "Moon Rocks", "Mr. Happy", "Mr. and Mrs. Marley", "Mr. Nice Guy", "MTV", "Mystery", "Nightlights", "Ocean", "Ocean Blue", "Ocean Burst", "OMG", "O-Zone", "Peeve", "Pineapple Express", "Pixie Dust", "Posh", "Pot-Pourri", "Puff", "Pulse", "Pure Ivory", "Purple Haze", "Purple Wave", "PV", "Red Dove", "Scarface", "Scooby Snax", "Scope", "Sence", "Serenity", "Skunk", "Sky High", "Smoke", "Snow Leopard", "Solar Flare", "Soul Sence", "Space Truckin", "Spice", "Spice 99", "Spice Gold", "Spice Silver", "Stardust", "Stinger", "Sugar Sticks", "Supper Coke", "Three Monkey Incense", "Tiger Shark", "Vanilla Sky", "Voodoo", "Voodoo Child", "White Dove", "White Knight", "White Lightening", "Zohai", and a group of products marketed as from "The Spice Guy".)

x. The product has been enhanced with a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of

the product but mimics the effects of a controlled substance when the product, or the smoke from the burned product, is introduced into the human body.

xi. Verbal or written representations made at the place of sale or display regarding the purpose, methods, use, or effect of the product.

xii. The product is advertised to be or has packaging or labeling claiming to be an "enhanced," "concentrated," or more "potent" version of a naturally occurring plant, leaf, or chemical compound.

xiii. The product is advertised to be or has packaging claiming to be a homeopathic, herbal, or natural alternative or substitute for a controlled substance.

xiv. The product's packaging fails to list all active ingredients or compounds.

xv. The product's packaging falsely lists its active ingredients or compounds.

xvi. The product's packaging fails to identify, or contains false information about, the name and place of business of the manufacturer, packager, or distributor.

(5) Notwithstanding subsection (4) above, kratom products shown via laboratory analysis to contain 7-hydroxymitragynine ("7-OH") greater than:

a. 1 miligram per gram (mg/g) for solid or powdered products, including encapsulated materials; or
b. 1 miligram per mililiter (mg/mL) for liquid products, including beverages, extracts, and tinctures

or shown not to contain at least 100 parts mitragynine for every one part of 7-hydroxymitragynine by mass shall constitute prima facie evidence that the product is chemically enhanced or altered and is a synthetic drug.

(6) Notwithstanding subsection (4) above, kratom products shown via laboratory analysis to contain 7-acetoxymitragynine, Dihydro-7-hydroxymitragynine ("MGM-15"), or 9-fluoro-7-hydroxymitragynine ("MGM-16"), including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of such substances, shall constitute prima facie evidence that the product is chemically enhanced or altered and is a synthetic drug.

(b) *Exemptions*: Whole-leaf kratom including raw or dried leaves intended to be chewed, crushed, or steeped in tea, and other products containing kratom intended for human

consumption that are not chemically enhanced, chemically altered, or otherwise concentrated for increased potency are not synthetic drugs and are exempt from the provisions of this section.

SECTION 3. Section 36-505(d) is amended to read as follows:

(d) The display for sale, marketing, advertisement, or other offer to sell any product described in Section 36-504 above is prohibited, and may be enforced administratively as a County Code violation.

SECTION 4. Section 36-506. – Laboratory Analysis is renumbered as section 36-507. All contents of that section shall remain as presently codified. Replacement section 36-506 is created as follows:

Sec. 36-506. - Public Awareness Signage

(a) A business or establishment that holds a retail food establishment permit issued by the Florida Department of Agriculture and Consumer Services and sells kratom in any form, including whole leaf products, shall post a clear and conspicuous sign directly adjacent to the display of the product which states the following:

THE SALE OF KRATOM TO PERSONS UNDER THE AGE OF 21 IS PROHIBITED. PROOF OF AGE IS REQUIRED FOR PURCHASE. THE USE OF KRATOM MAY CAUSE SERIOUS ADVERSE HEALTH EFFECTS.

(b) Hillsborough County Code Enforcement Department is empowered to investigate any situation where a business or establishment is alleged to be violating this section. Violations of this section may be enforced through the issuance of a noncriminal civil citation and fine as provided in sections 125.69 and 775.083, Florida Statutes, and Hillsborough County Code of Laws and Ordinances, Part A, Chapter 14, Article III and/or Hillsborough County Code of Laws and Ordinances, Part A, Chapter 16, Article II.

(c) A violation of this section is punishable by a fine of up to $500 for the first offense and any subsequent offenses.

SECTION 5. Section 36-507. – Enforcement and Penalties is renumbered as section 36-508 and (f) is amended, and (g) and (h) are created, to read as follows:

Sec. 36.508. – Enforcement and Penalties

(f) The production, manufacturing, distribution, sale, display for sale, marketing, or advertisement of a synthetic drug may also be criminally prosecuted in the same manner as a misdemeanor in accordance with the provisions of section 125.69, Florida Statutes, as such may be amended from time to time, and is punishable by a fine not to exceed $500.00 or by imprisonment in the Hillsborough County Jail for a period not to exceed 60 days or by both such fine and imprisonment.

(g) Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this article including but not limited to:

(1) Pursuit of injunctive and/or declaratory relief in a court of competent jurisdiction;

(2) Initiating an action to recover any and all damages that may result from a violation of, or a refusal to comply with, any part of this article;

(3) Initiating an action under the Hillsborough County Consumer Protection Ordinance, Chapter 16, Article II of this Code, as it may from time to time be amended; or

(4) Utilizing any other action or enforcement method allowable by law.

SECTION 6: Section 36-508. - Conflict with State law is renumbered as section 36-509. All contents of this section shall remain as currently codified.

Sec. 36-509. – Conflict with State law.

SECTION 7: Section 36-509. – Severability is renumbered as section 36-510. All contents of this section shall remain as currently codified.

Sec. 36-510. – Severability.

SECTION 8: Section 36-510. – Application is renumbered as section 36-511. All contents of this section shall remain as currently codified.

Sec. 36-511. – Application.

SECTION 9: SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid or declared to be unconstitutional, inoperative or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

SECTION 10: RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida Law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 11: INCLUSION IN THE HILLSBOROUGH COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established.

SECTION 12: FILING OF ORDINANCE.

In accordance with the provisions of section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State.

SECTION 13: EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Florida Department of State.

STATE OF FLORIDA)

COUNTY OF HILLSBOROUGH)

I, VICTOR D. CRIST, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting November 10, 2026 as the same appears of record in Minute Book 606 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 10th day of November, 2026.

Attest: VICTOR D. CRIST
Clerk of Circuit Court

BY: _____
Deputy Clerk

APPROVED BY COUNTY ATTORNEY
AS TO FORM AND LEGAL SUFFICIENCY

BY: Whitney Green
Whitney L. Green, Assistant County Attorney

FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

November 10, 2026

Victor Crist
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, FL 33601

Dear Victor Crist:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 26-43, which was filed in this office on November 10, 2026.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL/dp