

Agenda Item #:

4A1

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 2, 2012       Consent       Regular  
    Ordinance       Public Hearing

Department  
Submitted By: County Attorney's Office

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve on preliminary reading and advertise for public hearing on October 16, 2012, at 9:30 a.m.: an ordinance of the Board of County Commissioners of Palm Beach County, Florida, pertaining to the regulation of synthetic cannabinoid herbal incense and synthetic stimulant bath salts and related substances; providing for short title; providing for purpose and intent; providing for definitions; providing for prohibited conduct; providing for enforcement and penalties; providing for severability; providing for repeal of laws and conflict; providing for inclusion in the code of laws and ordinances; providing for captions, providing for scope of ordinance; and providing for an effective date.

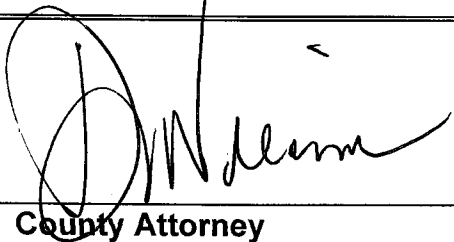
**Summary:** On July 10, 2012, the BCC gave staff direction to draft an ordinance banning the sale and public display for sale of synthetic marijuana and bath salts, commonly sold in gas stations and convenience stores and marketed to minors and young adults. **Countywide (PGE)**

**Background and Justification:** The chemically enhanced products referenced in this ordinance, which may be purchased legally in the absence of this ordinance, are being used as recreational drugs and marketed as legal and safer alternatives to illegal methods of "getting high," when in actuality, they contain substances that are often more potent and dangerous than the illegal drugs they are designed to mimic. Although there are state and federal laws that provide for criminal prosecution stemming from the possession and sale of many of these chemically engineered substances, rogue chemists are able to subtly reconfigure the particular synthetic compounds quicker than the legislature can act.

**Attachments:**

- 1. Proposed Synthetic Drug Ban Ordinance.

Recommended by:



County Attorney

9-12-12

Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
<b>NET FISCAL IMPACT</b>	✱	-0-	-0-	-0-	-0-
No. ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Reporting Category \_\_\_\_\_

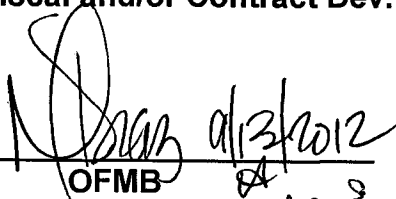

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

✱ No fiscal impact to the County. The Clerk keeps 10% of any fines collected, 90% is deposited in the Clerk of Court Trust Fund which goes to the Dept. of Revenue and is ultimately distributed back to fund the court system.

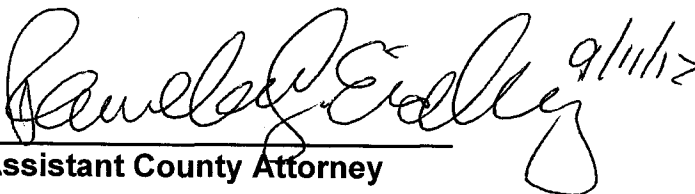
**C. Departmental Fiscal Review:**

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

 _____ OFMB 9/13/12	 _____ Contract Dev. and Control 9-20-12 B. Cheek
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**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

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ORDINANCE NO. 2012 - \_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PERTAINING TO THE REGULATION OF SYNTHETIC CANNABINOID HERBAL INCENSE AND SYNTHETIC STIMULANT BATH SALTS AND RELATED SUBSTANCES; PROVIDING FOR SHORT TITLE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED CONDUCT; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS AND CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS, PROVIDING FOR SCOPE OF ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, under the guise of herbal incense, products are being sold at commercial businesses within Palm Beach County, Florida that contain chemical compounds designed as synthetic alternatives to controlled substances prohibited under Florida law; and

**WHEREAS**, the Board of County Commissioners of Palm Beach County ("Board") is concerned about the sale of those items and the potential for increased sales if remedial action is not taken; and

**WHEREAS**, synthetic cannabinoids, commonly known as synthetic marijuana, are chemically engineered substances, similar to tetrahydrocannabinol (THC), the active ingredient in marijuana, that may produce a "high" similar to marijuana when smoked or ingested; and

**WHEREAS**, synthetic cannabinoids have been developed over the last 30 years for research purposes to investigate how cannabinoid interacts with the human body; and

**WHEREAS**, no legitimate non-research uses have been identified for synthetic cannabinoids, and they have not been approved by the U.S. Food and Drug Administration for human consumption; and

**WHEREAS**, products containing synthetic cannabinoids are particularly attractive to children and young adults due to their packaging similar to candy, their availability in small packages at convenience stores at minimal costs, as well as due to the names being given to these substances, which are intended to appeal to children and young adults; and

**WHEREAS**, these products currently may be purchased legally, in the absence of this Ordinance, for use as an alternative to substances otherwise regulated as controlled substances and illegal at the federal or state levels; and

**WHEREAS**, synthetic cannabinoids are typically marketed as herbal incense and also known as Spice, Fake Pot, Fake Weed or K2, among other names; and

**WHEREAS**, despite being labeled as "not for human consumption," synthetic cannabinoids are being used as recreational drugs and have been marketed as legal and safer alternatives to illegal methods of "getting high"; and

1           **WHEREAS**, despite these claims, these substances are often many times  
2 more potent and dangerous than the illegal drugs that they mimic; and

3           **WHEREAS**, in the south Florida area, these substances have been found  
4 readily available to adults and youth alike at convenience stores, discount tobacco  
5 outlets, gas stations, pawnshops and tattoo parlors, among other locations, and are  
6 reportedly being used predominately by the youth population; and

7           **WHEREAS**, synthetic cannabinoids are abused typically by smoking; and

8           **WHEREAS**, the Drug Enforcement Administration (“DEA”) has determined that  
9 the consumption of synthetic cannabinoids can have adverse health effects such as  
10 agitation, anxiety, nausea, vomiting, rapid heartbeat, elevated blood pressure, tremors,  
11 seizures, hallucinations, paranoid behavior and non-responsiveness; and

12           **WHEREAS**, there also have been fatal overdoses, which are believed to have  
13 resulted from consumption of synthetic cannabinoids; and

14           **WHEREAS**, the American Association of Poison Control Centers is reporting  
15 increasing calls in recent years to poison control centers across the United States  
16 related to exposure to synthetic cannabinoids, with 2,906 calls in 2010; 6,959 calls in  
17 2011; and 3,372 calls in the first six months of 2012; and

18           **WHEREAS**, Chapter 893, Florida Statutes, sets forth the Florida  
19 Comprehensive Drug Abuse Prevention and Control Act and classifies controlled  
20 substances into five schedules, which are used to regulate the manufacture,  
21 distribution, preparation and dispensing of the substances listed in the Act; and

22           **WHEREAS**, the distinguishing factors between the different drug schedules  
23 are the potential for abuse of the substance listed in each schedule, and whether there  
24 is a currently accepted medical use for the substance; and

25           **WHEREAS**, Schedule I substances such as cannabis, tetrahydrocannabinol  
26 (also known as THC), and heroin have a high potential for abuse and currently have  
27 no accepted medical use in the United States; and

28           **WHEREAS**, during the 2011 Legislative Session, the Florida Legislature  
29 passed HB 39, Chapter 2011-73, Laws of Florida, which added five synthetic  
30 cannabinoids or synthetic cannabinoid-mimicking compounds to Schedule I of  
31 Florida’s controlled substance schedule, allowing law enforcement officials and  
32 prosecutors to arrest and prosecute for the possession and sale of those five particular  
33 substances under Florida law; and

34           **WHEREAS**, following passage of HB 39, rogue chemists reconfigured the  
35 particular synthetic cannabinoids and synthetic cannabinoid-mimicking compounds  
36 made illegal by HB 39, and marketed new products that were not illegal under Florida  
37 law; and

38           **WHEREAS**, in some cases, these new products went so far as to list on the  
39 packaging the five particular synthetic cannabinoids or synthetic cannabinoid-  
40 mimicking compounds made illegal by HB 39, and further indicate that the product was  
41 not one of those substances; and

1           **WHEREAS**, illicit products are being marketed as “bath salts” that are synthetic  
2 substitutes that mimic the pharmacological effects of amphetamines, cocaine, ecstasy  
3 and other illegal drugs; and

4           **WHEREAS**, despite being labeled as “not for human consumption,” these bath  
5 salts are being used as recreational drugs, and have been marketed as legal and safer  
6 alternatives to illegal methods of “getting high”; and

7           **WHEREAS**, such bath salts, which have been being sold at commercial  
8 businesses in the County, have, as part of their composition, synthetic central nervous  
9 system stimulants that are typically in a class of drugs known as synthetic cathinones;  
10 and

11           **WHEREAS**, these synthetic stimulants sell for many times more than legitimate  
12 bath salts, and are also marketed as plant food, insect repellent and iPod cleaner  
13 (hereinafter collectively “bath salts”); and

14           **WHEREAS**, cathinone is a Schedule I controlled substance under Florida Law  
15 and is an alkaloid found in the khat shrub that is chemically similar to amphetamines  
16 and other stimulants; and

17           **WHEREAS**, the molecular architecture of cathinone can be altered to produce a  
18 series of different compounds, which are closely structurally related to cathinone, but  
19 which are not listed in Schedule I of Florida’s controlled substance schedule; and

20           **WHEREAS**, synthetic stimulants are commonly distributed in powder, crystal  
21 and liquid forms, but they are also available and abused in tablet and capsule forms;  
22 and

23           **WHEREAS**, products containing synthetic stimulants are particularly attractive  
24 to children and young adults due to their availability in small packages at convenience  
25 stores at minimal costs, as well as due to the names being given to these substances,  
26 such as Bliss, Blizzard, Blue Silk, Charge+, Cloud Nine, Hurricane Charlie, Ivory  
27 Snow, Ivory Wave, Mr. Nice Guy, Ocean Burst, Pure Ivory, Purple Wave, Red Dove,  
28 Snow Leopard, Star Dust, Vanilla Sky, White Dove, White Knight, White Rush, and  
29 White Lightning; which are intended to appeal to children and young adults; and

30           **WHEREAS**, despite claims related to safety, these substances often are many  
31 times more potent and dangerous than the illegal drugs that they mimic; and

32           **WHEREAS**, the DEA has determined that consumption of synthetic stimulants  
33 have been linked to severe psychotic episodes, increased heartbeat, panic attacks  
34 and hallucinations; and

35           **WHEREAS**, the Palm Beach County Substance Awareness Coalition and law  
36 enforcement officers have reported that individuals who use synthetic stimulants  
37 experience serious side effects which include convulsions, seizures, anxiety attacks,  
38 combativeness, delirium, panic, dangerously elevated heart rates, increased blood  
39 pressure, vomiting, sharp increase in body temperature and disorientation; and

40           **WHEREAS**, in the most extreme cases, bath salts have been linked to self-  
41 mutilation and drug-induced deaths, including an increased risk of suicides; and

1           **WHEREAS**, the American Association of Poison Control Centers is reporting  
2 increasing calls in recent years to poison control centers across the United States  
3 related to exposure to bath salts, with 304 calls in 2010; 6,138 calls in 2011; and 1,717  
4 calls in the first six months of 2012; and

5           **WHEREAS**, Chapter 893, Florida Statutes, sets forth the Florida  
6 Comprehensive Drug Abuse Prevention and Control Act and classifies controlled  
7 substances into five schedules, which are used to regulate the manufacture,  
8 distribution, preparation and dispensing of the substances listed in the Act; and

9           **WHEREAS**, Schedule I substances have a high potential for abuse and have  
10 no medical uses currently accepted in the U.S., such as cathinone and heroin; and

11           **WHEREAS**, during the 2011 Session, the Florida Legislature passed HB 1039,  
12 Chapter 2011-90, Laws of Florida, which added six synthetic stimulants to Schedule I  
13 of Florida's controlled substance schedule, allowing law enforcement officials and  
14 prosecutors to arrest and prosecute for the possession and sale of those six particular  
15 substances under Florida law; and

16           **WHEREAS**, following passage of HB 1039, rogue chemists reconfigured the  
17 particular synthetic stimulants made illegal by HB 1039, and marketed new products  
18 that were not illegal under Florida law; and

19           **WHEREAS**, in some cases, the vendors of the new products went so far as to  
20 list on the packaging the particular synthetic stimulants made illegal by HB 1039, and  
21 indicated that those products were not any of those substances listed in HB 1039; and

22           **WHEREAS**, during the 2012 Session, the Legislature passed HB 1175, Chapter  
23 2012-23, Laws of Florida, which added dozens of additional synthetic cannabinoids,  
24 synthetic cannabinoid-mimicking compounds, and synthetic stimulants to Schedule I of  
25 Florida's controlled substance schedule; and

26           **WHEREAS**, it is anticipated that drug designers and chemists will again take  
27 the particular chemical compounds that the Legislature made illegal during the 2012  
28 Session and reconfigure the molecular structure of the compounds, resulting in a  
29 similar structural make up and effect, but new and different chemical compounds not  
30 listed as controlled substances in Chapter 893; and, therefore, not illegal; and

31           **WHEREAS**, these new synthetic cannabinoids, synthetic cannabinoid-  
32 mimicking compounds, and synthetic stimulants will likely nonetheless carry the same  
33 or perhaps even further heightened dangers associated with illegal drugs; and

34           **WHEREAS**, Section 893.035, Florida Statutes, grants Florida's Attorney  
35 General rulemaking authority to add new substances to Florida's schedules of  
36 controlled substances, but the rulemaking process may take time; and

37           **WHEREAS**, the Board desires to act quickly to make illegal those new synthetic  
38 cannabinoids, synthetic cannabinoid-mimicking compounds, and new synthetic  
39 stimulants that drug designers and chemists create to mimic the effects of illegal  
40 drugs; and

41           **WHEREAS**, the Board finds that the Palm Beach County Code Sections  
42 created pursuant to this Ordinance, coupled with Sections 893.145 and 893.147,

1 Florida Statutes (concerning drug paraphernalia), will facilitate the continued diligent  
2 and comprehensive efforts of the Board and the Palm Beach Sheriff's Office in their  
3 ongoing, vigorous efforts to combat crime, protect, and keep the public safe; and

4 **WHEREAS**, it is within the police power of Palm Beach County to ban the sale  
5 and display of synthetic cannabinoids, synthetic cannabinoid-mimicking compounds,  
6 and synthetic stimulants that mimic the effects of illegal drugs; and

7 **WHEREAS**, the Board has determined that implementation of this Ordinance as  
8 set forth herein will promote, protect, and improve the health, safety, and welfare of the  
9 people of Palm Beach County, Florida;

10 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
11 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

12

13 **Section 1. Short title.**

14 This Section shall be known and may be cited as "Prohibitions Against  
15 Synthetic Cannabinoid Herbal Incense and Synthetic Stimulant Bath Salts and  
16 Related Substances Ordinance of Palm Beach County."

17

18 **Section 2. Purpose and intent.**

19 (a) Synthetic Cannabinoid Herbal Incense - The Board of County Commissioners of  
20 Palm Beach County ("Board") finds and declares that the products and synthetic  
21 substances described under this Section are commonly used as alternatives to  
22 marijuana. The Board further finds that these synthetic substances are particularly  
23 appealing to youth, and that these synthetic substances are potentially dangerous to  
24 users in the short term and that the long term effects are not yet known. The Board  
25 finds that the manufacturers of these products, which contain these synthetic  
26 substances, often use a disclaimer that the product is "not for human consumption" to  
27 avoid regulations requiring the manufacturer to list the product's active ingredients.  
28 The Board finds that drug designers and chemists can quickly create new synthetic  
29 drugs once federal or state law makes a particular synthetic drug illegal. As such, the  
30 Board finds that there is a need to declare illegal the sale, offer for sale, purchase with  
31 intent to sell or public display for sale of synthetic substances that mimic illegal  
32 controlled substances that have not yet themselves been categorized as illegal  
33 controlled substances under federal or state law. The Board further finds that it is  
34 necessary and proper for it to exercise its authority to safeguard and protect the public  
35 health, safety and welfare by taking such action.

36 (b) Synthetic Stimulant Bath Salts, Synthetic Cathinones, Synthetic Amphetamines  
37 and Other Synthetic Stimulants that mimic illegal drugs - The Board finds and declares  
38 that the products and synthetic substances described under this Section are  
39 commonly used as alternatives to amphetamines, cocaine, ecstasy and other illegal  
40 drugs. The Board further finds that these synthetic substances are particularly  
41 appealing to youth, and that these synthetic substances are potentially dangerous to  
42 users in the short term and the long term effects are not yet known. The Board finds

1 that the manufacturers of these products, which contain these synthetic substances  
2 often use a disclaimer that the product is "not for human consumption" to avoid  
3 regulations that require the manufacturer to list the product's active ingredients. The  
4 Board finds that drug designers and chemists can quickly create new synthetic drugs  
5 once federal or state law makes a particular synthetic drug illegal. As such, the Board  
6 finds that there is a need to declare illegal the sale, offer for sale, purchase with intent  
7 to sell or public display for sale of synthetic substances that mimic illegal controlled  
8 substances, even though such synthetic substances have not yet themselves been  
9 categorized as illegal controlled substances under federal or state law. The Board  
10 further finds that it is necessary and proper for it to exercise its authority to safeguard  
11 and protect the public health, safety and welfare by taking such action.

12  
13 **Section 3. Definitions.**

14 For purposes of this Section, the following definitions shall apply:

15 (a) "*Board*" as used herein shall mean the Board of County Commissioners of Palm  
16 Beach County, Florida.

17 (b) "*Structurally similar*" as relating to "synthetic cannabinoid herbal incense," as used  
18 herein shall mean chemical substitutions off a common chemical backbone associated  
19 with synthetic cannabinoids or synthetic cannabinoid-mimicking compounds listed in  
20 the controlled substance schedules in Chapter 893, Florida Statutes, as amended from  
21 time to time, or otherwise prohibited by federal or state law.

22 (c) "*Structurally similar*" as relating to "synthetic stimulant bath salts, synthetic  
23 cathinones, synthetic amphetamines and other synthetic stimulants that mimic illegal  
24 drugs," as used herein shall mean chemical substitutions off a common chemical  
25 backbone associated with cathinone, methcathinone, amphetamine,  
26 methamphetamine, cocaine, 3,4-methylenedioxymethamphetamine (MDMA), 3,4-  
27 methylenedioxymethcathinone, 3,4-methylenedioxypyrovalerone (MDPV),  
28 methylmethcathinone, methoxymethcathinone, methylethcathinone,  
29 fluoromethcathinone, BZP (benzylpiperazine), fluorophenylpiperazine,  
30 methylphenylpiperazine, chlorophenylpiperazine, methoxyphenylpiperazine, DBZP  
31 (1,4-dibenzylpiperazine), TFMPP (3-Trifluoromethylphenylpiperazine), MBDB  
32 (Methylbenzodioxolylbutanamine), 5-Hydroxy-alpha-methyltryptamine, 5-Hydroxy-N-  
33 methyltryptamine, 5-Methoxy-N-methyl-N-isopropyltryptamine, 5-Methoxy-alpha-  
34 methyltryptamine, methyltryptamine, 5-Methoxy-N,N-dimethyltryptamine, 5-Methyl-  
35 N,N-dimethyltryptamine, Tyramine (4-Hydroxyphenethylamine), 5-Methoxy-N,N-  
36 Diisopropyltryptamine, DiPT (N,N-Diisopropyltryptamine), DPT (N,N-  
37 Dipropyltryptamine), 4-Hydroxy-N,N-diisopropyltryptamine, N,N-Diallyl-5-  
38 Methoxytryptamine, DOI (4-Iodo-2,5-dimethoxyamphetamine), DOC (4-Chloro-2,5-  
39 dimethoxyamphetamine), 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine), 2C-T-4 (2,5-  
40 Dimethoxy-4-isopropylthiophenethylamine), 2C-C (4-Chloro-2,5-  
41 dimethoxyphenethylamine), 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine), 2C-T-  
42 2 (2,5-Dimethoxy-4-ethylthiophenethylamine), 2C-T-7 (2,5-Dimethoxy-4-(n)-



1 propylthiophenethylamine), 2C-I (4-Iodo-2,5-dimethoxyphenethylamine), Butylone  
2 (beta-keto-N-methylbenzodioxolylpropylamine), Ethcathinone, Ethylone (3,4-  
3 methylenedioxy-N-ethylcathinone), Naphyrone (naphthylpyrovalerone), N-N-Dimethyl-  
4 3,4-methylenedioxcathinone, N-N-Diethyl-3,4-methylenedioxcathinone, 3,4-  
5 methylenedioxy-propiofenone, 2-Bromo-3,4-Methylenedioxypropiofenone, 3,4-  
6 methylenedioxy-propiofenone-2-oxime, N-Acetyl-3,4-methylenedioxcathinone, N-  
7 Acetyl-N-Methyl-3,4-Methylenedioxcathinone, N-Acetyl-N-Ethyl-3,4-  
8 Methylenedioxcathinone, Bromomethcathinone, Buphedrone (alpha-methylamino-  
9 butyrophenone), Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine),  
10 Dimethylcathinone, Dimethylmethcathinone, Pentylone (beta-Keto-  
11 Methylbenzodioxolylpentanamine), (MDPPP) 3,4-Methylenedioxy-alpha  
12 pyrrolidinopropiofenone, (MDPBP) 3,4-Methylenedioxy-alpha  
13 pyrrolidinobutyrophenone, Methoxy-alpha-pyrrolidinopropiofenone (MOPPP), Methyl-  
14 alpha-pyrrolidinohexiofenone (MPHP), Benocyclidine (BCP),  
15 benzothiophenylcyclohexylpiperidine (BTCP), Fluoromethylaminobutyrophenone (F-  
16 MABP), Methoxypyrrolidinobutyrophenone (MeO-PBP), Ethyl-  
17 pyrrolidinobutyrophenone (Et-PBP), 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-  
18 MCAT), Methylethylaminobutyrophenone (Me-EABP), Methylamino-butyrophenone  
19 (MABP), Pyrrolidinopropiofenone (PPP), Pyrrolidinobutyrophenone (PBP),  
20 Pyrrolidinovalerophenone (PVP), Methyl-alpha-pyrrolidinopropiofenone (MPPP) or  
21 related salts, isomers, and salts of isomers, listed in the controlled substance  
22 schedules in Chapter 893, Florida Statutes, as amended from time to time, or  
23 otherwise prohibited by federal or state law, as such may be amended from time to  
24 time

25 (d) "*Synthetic cannabinoid herbal incense*" as used herein shall mean aromatic or non-  
26 aromatic plant material containing a synthetic drug, or to which a synthetic drug has  
27 been sprayed, applied or otherwise added that is distributed in a loose, leafy, powder  
28 or granular form or in a compressed block or blocks that can be crushed to result in a  
29 powder or granular form, and can be placed into a pipe, cigarette paper or drug  
30 paraphernalia for purposes of ingestion by smoking, inhaling or other methods.

31 (e) "*Synthetic drug*" as used herein shall mean any chemical or mixture of chemicals,  
32 however packaged, that is structurally similar to synthetic cannabinoids or synthetic  
33 cannabinoid-mimicking compounds listed in the controlled substance schedules in  
34 Chapter 893, Florida Statutes, or otherwise prohibited by federal or state law.  
35 "Synthetic drug" also shall include any chemical or mixture of chemicals, however  
36 packaged, that mimics the effects of tetrahydrocannabinol (also known as THC), the  
37 main active ingredient found in marijuana. Packaging that indicates or implies that a  
38 product mimics the effects of marijuana, such as "fake weed" or "fake pot," shall create  
39 a presumption that the product mimics the effects of tetrahydrocannabinol. "Synthetic  
40 drug" shall not include any substance currently listed in the controlled substance  
41 schedules in Chapter 893, Florida Statutes, or otherwise prohibited by federal or state  
42 law.

1 (f) "*Synthetic stimulant bath salts*" as used herein shall mean any substance, whether  
2 in powder, crystal, liquid, tablet or capsule form, containing a synthetic stimulant as  
3 defined in this Section or to which a synthetic stimulant has been added or applied,  
4 that can be ingested by smoking, inhaling or any other method, regardless of whether  
5 the substance is marketed as "not for the purpose of human consumption," and  
6 regardless of how the substance is labeled, including but not limited to use as bath  
7 salts, insect repellent, plant food, herbs, incense, iPod cleaner, nutrient, dietary  
8 supplement or spice.

9 (g) "*Synthetic stimulant*" as used in this Section shall mean any chemical or mixture of  
10 chemicals, however packaged, that has a stimulant effect on the central nervous  
11 system and is structurally similar to cathinone, methcathinone, amphetamine,  
12 methamphetamine, cocaine, MDMA or any other substance listed in paragraph one (1)  
13 above, or related salts, isomers, and salts of isomers, as listed in the controlled  
14 substance schedules in Chapter 893, Florida Statutes, as amended from time to time,  
15 or otherwise prohibited by federal or state law. "Synthetic stimulant" shall also include  
16 any chemical or mixture of chemicals, however packaged, that mimics the  
17 pharmacological effects of cathinone, methcathinone, amphetamine,  
18 methamphetamine, cocaine, MDMA or any other substance listed in paragraph one (1)  
19 above, or related salts, isomers, and salts of isomers. Packaging that indicates,  
20 suggests or implies that a product mimics the pharmacological effects of cathinone,  
21 methcathinone, amphetamine, methamphetamine, cocaine, ecstasy or any other  
22 substance listed in paragraph one (1) above, shall create a presumption that the  
23 product mimics the effects of the substance. "Synthetic stimulant" shall not include  
24 any substance currently listed in the controlled substance schedules in Chapter 893,  
25 Florida Statutes, or otherwise prohibited by federal or state law, as such may be  
26 amended from time to time.

27

28 **Section 4. Prohibited conduct.**

29 (a) Sale, offer for sale and purchase with intent to sell synthetic cannabinoid herbal  
30 incense or synthetic stimulant bath salts and synthetic stimulants prohibited. It shall  
31 be unlawful for any store owner, store manager, store purchasing agent or any other  
32 person to sell, offer for sale or purchase with intent to sell any synthetic cannabinoid  
33 herbal incense or any synthetic stimulant bath salts as defined in this section or any  
34 synthetic stimulants as defined in this Ordinance.

35 (b) Public display for sale of synthetic cannabinoid herbal incense or synthetic  
36 stimulant bath salts and synthetic stimulants prohibited. It shall be unlawful for any  
37 store owner, store manager, store purchasing agent or any other person to publicly  
38 display for sale any synthetic cannabinoid herbal incense or any synthetic stimulant  
39 bath salts as defined in this section or any synthetic stimulants as defined in this  
40 Ordinance.

41 (c) Subsequent federal or state action. If Congress or a federal agency amends  
42 federal law to include a particular substance or otherwise enacts or amends a federal

1 law providing for criminal penalties for the prohibitions of substances set forth in this  
2 Section, then upon the effective date of such enactment or amendment, the provisions  
3 of this Section addressed by federal law shall no longer be deemed effective. Any  
4 violations of this Section committed prior to the Congress or a federal agency enacting  
5 a federal law, as described above, may be prosecuted.

6 If the Florida Legislature amends the controlled substance schedules in Section  
7 893.01, Florida Statutes, to include a particular substance or otherwise enacts, or  
8 amends a state statute providing for criminal penalties for the prohibitions of  
9 substances set forth in this Section, then upon the effective date of such enactment or  
10 amendment, the provisions of this Section addressed by the state statute shall no  
11 longer be deemed effective.

12 If the Florida Attorney General, pursuant to the rulemaking authority provided in  
13 Chapter 893, adds a particular substance to the controlled substance schedules in  
14 Section 893.01, Florida Statutes, then upon the effective date of such enactment or  
15 amendment, the provisions of this Section addressed by the rulemaking action shall no  
16 longer be deemed effective.

17 Any violations of this Section committed prior to the Florida Legislature enacting such  
18 a statute or the Florida Attorney General promulgating rules may be prosecuted.

19

20 **Section 5. Enforcement and penalties.**

21 (a) This Ordinance is enforceable by all means provided by law. The provisions of  
22 this Ordinance shall be enforced by the Palm Beach County Sheriff's Office.  
23 Additionally, the County may choose to enforce this article by seeking injunctive relief  
24 in the Circuit Court of the County against any person or business violating the  
25 provisions of this ordinance. In any action seeking an injunction, the County shall be  
26 entitled to collect its enforcement expenses, including forensic costs, law enforcement  
27 costs, and reasonable attorney fees and costs incurred at trial and on appeal.

28 (b) Synthetic cannabinoid herbal incense, synthetic stimulant bath salts, and  
29 synthetic stimulants prohibited in this Ordinance may be seized by law enforcement  
30 officers and may be destroyed in the same manner used to destroy narcotics and  
31 contraband substances, after its use for evidentiary purposes in any judicial  
32 proceeding is no longer required.

33 (c) Any violation of any portion of this Ordinance shall be punishable as provided by  
34 law. Any store owner, store manager, store purchasing agent or any other person who  
35 violates this Ordinance shall be punished by a fine not to exceed five hundred dollars  
36 (\$500.00) or by imprisonment for a term not to exceed sixty (60) days, or both, for  
37 each violation. Any person violating any of the provisions of this ordinance shall be  
38 prosecuted in the same manner as misdemeanors are prosecuted.

39

40 **Section 6. Severability.**

41 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for  
42 any reason held by the Court to be unconstitutional, inoperative or void, it is the intent

1 of the Board of County Commissioners that such holding shall not affect the remainder  
2 of this Ordinance.

3

4 **Section 7. Repeal of laws in conflict.**

5 All local laws and ordinances applying to the unincorporated area of Palm Beach  
6 County in conflict with any provision of this article are hereby repealed to the extent of  
7 any conflict.

8

9 **Section 8. Inclusion in Code of Laws and Ordinances.**

10 It is the intention of the Board of County Commissioners that the provisions of this  
11 Ordinance shall become and be made a part of the Palm Beach County Code; and  
12 that the sections of this Ordinance may be renumbered or re-lettered and the word  
13 "ordinance" may be changed to "section," "article," or such other appropriate word or  
14 phrase in order to accomplish such intentions.

15

16 **Section 9. Captions.**

17 The captions, section headings, and section designations used in this Ordinance are  
18 for convenience only and shall have no effect on the interpretation of the provisions of  
19 this Ordinance.

20

21 **Section 10. Scope of Ordinance.**

22 This article shall be applicable in both the unincorporated and incorporated areas of  
23 Palm Beach County, except that this article shall not apply in any municipality that has  
24 adopted and maintains in effect ordinances or regulations governing the same matter.

25

26 **Section 11. Effective date.**

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

28

29 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach  
30 County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

31 SHARON R. BOCK  
32 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

33

34

35

36 By \_\_\_\_\_  
37 Deputy Clerk

By \_\_\_\_\_  
Shelley Vana, Chair

38

39 APPROVED AS TO FORM AND  
40 LEGAL SUFFICIENCY

41

42 By \_\_\_\_\_  
43 Assistant County Attorney

44

45

46 Filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 2012.