

4E

REVISÉD

Meeting Date: October 16, 2012 ☐ Consent ☐ Regular
☐ Ordinance ☒ Public Hearing

I. EXECUTIVE BRIEF

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-
NET FISCAL IMPACT	-0-*	-0-	-0-	-0-	-0-

No. ADDITIONAL FTE POSITIONS (Cumulative) _____

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

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

* No fiscal impact. The Clerk keeps 10% of any fines collected and 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 county court system.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

[Signature] 10/5/12
OFMB
[Initials]
[Signature] 10/9/12
Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 10/10/12
Assistant County Attorney

C. Other Department Review:

Department Director

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

G:\WPDATA\ENVIR\PEIDELBERG\PBSO\Synthetic Marijuana Ordinance\AIS - Synth Drug Ord - 2nd reading

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48

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

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

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

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

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

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

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

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

46 **WHEREAS**, despite being labeled as "not for human consumption," synthetic
47 cannabinoids are being used as recreational drugs and have been marketed as legal
48 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 repellant 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-propiophenone, 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 pyrrolidinopropiophenone, (MDPBP) 3,4-Methylenedioxy-alpha
13 pyrrolidinobutiophenone, Methoxy-alpha-pyrrolidinopropiophenone (MOPPP), Methyl-
14 alpha-pyrrolidinohexiophenone (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), Pyrrolidinopropiophenone (PPP), Pyrrolidinobutiophenone (PBP),
20 Pyrrolidinovalerophenone (PVP), Methyl-alpha-pyrrolidinopropiophenone (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 repellant, 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 Sherriff'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.