

ORDINANCE NO. 2017-026

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 14, "OFFENSES," ARTICLE I, "IN GENERAL," BY ENACTING SECTION 14-4, "PROHIBITION ON SYNTHETIC CANNABIS AND BATH SALTS," IN ORDER TO PROHIBIT THE SALE, DISPLAY, DELIVERY, AND POSSESSION OF SYNTHETIC CANNABIS AND BATH SALTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR LABEL REQUIREMENTS ON PACKAGING; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, there is evidence of a growing public safety and health concern regarding the sale of incense products that contain chemical compounds designed as consumable synthetic alternatives to certain illegal controlled substances; and

WHEREAS, synthetic cannabinoids, commonly known as synthetic cannabis or synthetic marijuana, are chemically-engineered substances that can produce an effect similar to marijuana when smoked and ingested; and

WHEREAS, substituted cathinones, commonly called "bath salts," and other synthetic drugs are being manufactured, sold, and used for their psychoactive properties, which may cause serious injury; and

WHEREAS, these consumable incense products are being offered for sale in gas stations, convenience stores, and "head shops" in the area and are designed to mimic the effects of illegal drugs such as cannabis, cocaine, and amphetamines; and

WHEREAS, manufacturers of these consumable incense products are labeling the

product as "not for human consumption" in order to avoid regulation by the U.S. Food and Drug Administration (FDA); however, the product is being crushed and/or ground up and ingested by individuals; and

WHEREAS, national studies have documented that a great number of the individuals ingesting these incense products are minors and young adults; and

WHEREAS, the ingestion of these incense products has been documented to cause symptoms such as paranoia, severe anxiety, hallucinations, suicidal thoughts, combative behavior, nausea, increased heart rate, seizures, and on occasions, death; and

WHEREAS, the Legislature, in Section 893.0356, Florida Statutes, has identified these substances as "controlled substance analogs," which is defined as a substance that is "substantially similar to that of a controlled substance listed in Schedule I or Schedule II of Section 893.03; and has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of Section 893.03;" and

WHEREAS, some of these substances evade classification as a "controlled substance analog" by being packaged in a loose, leafy, or granular form and marked as "not for human consumption;" and

WHEREAS, in an additional attempt to combat the sale, distribution, purchase, and/or possession of these substances, the Florida Legislature amended Section 893.03, Florida Statutes, in 2012 to include 142 new chemical compounds that trigger similar hallucinogenic symptoms as Schedule I controlled substances; in 2013 to include 27 new chemical compounds and include reference to salts, isomers, and salts of isomers within the specific chemical designations; in 2014 to include 6 new chemical compounds; in 2015 to include 5 new chemical compounds; and

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in 2016 to include 12 new chemical compounds, plus over 150 newly-identified synthetic cannabinoids and substituted cathinones, and include reference to homologues, nitrogen-heterocyclic analogs, esters, or ethers; and

WHEREAS, to evade identification as a Schedule I or Schedule II controlled substance, the manufacturers of these incense products have been altering the chemical compounds to prevent the substance from being identified as a Schedule I and/or Schedule II controlled substance; and

WHEREAS, these incense products are usually not labeled with the contained packaged ingredients, and it is difficult for law enforcement to determine whether the ingredients contained in the packaging are illegal substances under Chapter 893, Florida Statutes; and

WHEREAS, the risks associated with the sale, delivery, and possession of these incense products are increased because they can be created more rapidly than they can be identified and controlled by state and federal law; and

WHEREAS, Sections 893.03 and 893.13, Florida Statutes, provide for criminal violations for the possession, delivery, sale, and possession with intent to deliver any of these aforementioned illegal substances; and

WHEREAS, the labeling of the ingredients on the packaging of these incense products should assist in the effective enforcement of the aforementioned Florida Statutes; and

WHEREAS, the City Commission finds that the sale, delivery, and use of these incense products has a substantial and detrimental impact on the public health, safety, and welfare of the residents of the City of Coconut Creek and seeks to prohibit the improper use.

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NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA AS FOLLOWS:

Section 1: Ratification. That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 14, “Offenses,” Article I, “In General,” by enacting Section 14-4, “Prohibition on Synthetic Cannabis and Bath Salts,” to read as follows:

Sec. 14-4. -- Sale, Offering for Sale, Delivery or Possession of Synthetic Cannabis, Herbal Incense and/or Bath Salts.

(a) Definitions.

Bath Salts shall mean any product distributed in a loose, leafy, powder, crystal, or granular form or in compressed block(s) that can be crushed to result in a powder or granular form that can be ingested by placing in a pipe, cigarette paper, syringe, or any other paraphernalia used for the purpose of ingesting by smoking, inhaling, or other method of ingestion, that contains any synthetic derivative of cathinone, including, but not limited to Methlenedioxypropylamphetamine (MDPV), and/or any derivative of MDPV and/or any other compound defined in Section 893.03, Florida Statutes, as amended from time to time, and/or any derivative of said compound that mimics the physiological effects of said compounds.

Herbal incense shall mean any aromatic or non-aromatic plant material that is distributed in a loose, leafy, powder, or granular form, or in compressed block(s) that can easily be crushed or ground into a powder or granular form, and can be placed into a pipe, cigarette papers, or any other paraphernalia used for the purpose of ingesting by smoking, inhaling, or other method of ingestion.

Synthetic Cannabis or Marijuana shall mean any aromatic or non-aromatic plant material containing any compound defined in Section 893.03, Florida Statutes, as amended from time to time, whether said compound has been sprayed, applied, or otherwise added, and/or any other derivative of said compound that mimics the physiological effects of said compound, that is distributed in a loose, leafy, powder, crystal, or granular form, or in compressed block(s) that can be crushed to result in a powder or granular form, that can be ingested by placing in a pipe, cigarette paper, or any other paraphernalia used for the purpose of ingesting by smoking, inhaling, or other method of ingestion.

(b) Label requirements.

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(1) Any herbal incense or bath salt product must contain on its packaging a label containing the following information: a complete list of all ingredients and chemical compounds contained therein, regardless of whether said ingredients and/or compounds are natural, manmade, or are contained therein as a result of the combining of one or more natural ingredients or compounds. Additionally, the packaging shall contain the following warning: "This product is not for human consumption. The ingestion of this product may cause paranoia, severe anxiety, hallucinations, suicidal thoughts, combative behavior, nausea, increased heart rate, seizures, and possibly death".

(2) The labeled ingredients and warning requirements in subsection (1) must be in all capital letters and the size of all other letters on the packaging shall be the same as the size of such letters. Additionally, the labeled ingredients and warning in subsection (1) shall be in a conspicuous and legible type in contrast by the typography, layout, or color with all other printed material on the package.

(3) It shall be unlawful to sell, offer to sell, display, or deliver a herbal incense or bath salt product without compliance with the label requirements herein.

(c) It shall be unlawful to sell, offer to sell, display, deliver, or possess any synthetic cannabis/marijuana, or any herbal incense or bath salt product, which contains any substances and/or compounds defined in Sections 893.03 and/or 893.0356, Florida Statutes, as amended from time to time.

(d) Penalties.

(1) Each violation of any of the provisions of this Section shall constitute a separate violation and be subject to a separate penalty herein.

(2) Any person found guilty of violating any of the provisions of this Section shall be penalized through the imposition of a \$500 per day fine.

(3) Any person found guilty of any violation under this Section shall be liable for payment of the administrative costs and all investigative costs incurred, including, but not limited to any cost for laboratory testing.

(4) Enforcement under this Section does not prohibit the City from seeking any other remedies provided by this Code or state law.

Section 3: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

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Section 4: Severability. That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 5: Codification. That the provisions of this Ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 6: Effective Date. That this Ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 27TH DAY OF JULY _____, 2017.

PASSED SECOND READING THIS 10TH DAY OF AUGUST _____, 2017.

Rebecca A. Tooley, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Nay</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>

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6/6/17

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