

ORDINANCE NO. 2012-09-282

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 14, ARTICLE V OF THE CITY'S CODE OF ORDINANCES BY ADDING DIVISION 4. "SYNTHETIC DRUGS"; BY ADDING SECTION 14-346 "PROHIBITING THE SALE AND DISPLAY OF SYNTHETIC CANNABINOIDS"; BY ADDING SECTION 14-347 "PROHIBITING THE SALE AND DISPLAY OF SYNTHETIC STIMULANT BATH SALTS, SYNTHETIC CATHINONES, SYNTHETIC AMPHETAMINES AND OTHER SYNTHETIC STIMULANTS THAT MIMIC ILLEGAL DRUGS; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, synthetic cannabis is a psychoactive herbal and chemical product that when consumed, allegedly mimics the effects of cannabis, and

WHEREAS, according to a 2011 report issued by the United States Drug Enforcement Agency ("DEA"), "herbal incense" products are being marketed to teens and young adults as synthetic cannabinoid, and

WHEREAS, synthetic cannabis has not been approved by the United States Food and Drug Administration ("FDA") for human consumption, and there is no regulatory oversight of the manufacturing process, and

WHEREAS, while herbal incense products containing synthetic cannabinoids are marketed as safe and legal alternatives to marijuana, they may be more potent and dangerous than marijuana, and

Added language is underlined. Deleted language is stricken through.

WHEREAS, Vice Mayor Oliver Gilbert recommends banning the sale of synthetic cannabinoids, as they pose an imminent threat to the health, safety and welfare of the residents of the City of Miami Gardens, and

WHEREAS, on first reading, the City Council amended this Ordinance to include a prohibition on synthetic stimulant “bath salts”, and

WHEREAS, “bath salts” are synthetic stimulants that mimic the pharmacological effects of amphetamines, cocaine, ecstasy and other illegal narcotics, and

WHEREAS, according to the DEA, “bath salts” have been linked to severe psychotic episodes, increased panic attacks and hallucinations, and

WHEREAS, during the 2011 and 2012 sessions, the Florida Legislature adopted HB 1039 and HB 1175, respectively to add dozens of synthetic stimulants to the schedule of banned controlled substances, and

WHEREAS, chemists continue to create new chemical compounds to circumvent the law, and

WHEREAS, this Ordinance bans all synthetic stimulants that are “structurally similar” to compounds on the list of banned controlled substances as enumerated in Chapter 893, Florida Statutes,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Added language is underlined. Deleted language is stricken through.

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Chapter 14, Article V of the City's Code of Ordinances is hereby amended as follows:

DIVISION 4. -SYNTHETIC DRUGS.

Section 14-346– "Sale or Display of Synthetic Cannabinoids."

(a) Definitions.

For purposes of this section, the following definitions shall apply:

"Structurally similar" as used in this section shall mean chemical substitutions off a common chemical backbone associated with synthetic cannabinoids or synthetic cannabinoid-mimicking compounds listed in the controlled substance schedules in Chapter 893, Florida Statutes, as amended, or otherwise prohibited by federal and state law.

"Synthetic cannabinoids herbal incense" means any aromatic or non-aromatic plant material containing a synthetic drug, or to which a synthetic drug has been sprayed, applied or otherwise added, that is distributed in a loose, leafy, powder or granular form, and can be crushed to result in a powder or granular form, and can be placed into a pipe, cigarette paper or drug paraphernalia for purposes of ingestion by smoking, inhaling or other method.

"Synthetic drug" means any chemical or mixture of chemicals, however packaged, that is structurally similar to synthetic cannabinoids or synthetic cannabinoid-mimicking compounds listed in the controlled substance schedules in Chapter 893, Florida Statutes, or otherwise prohibited by federal or state law.

Added language is underlined. Deleted language is stricken through.

- (b) Sale or display of synthetic cannabinoids prohibited. It is unlawful for any person or business to sell, offer for sale or display synthetic cannabinoids or synthetic drugs, which are structurally similar to cannabinoids within the City.
- (c) Penalties. Any person found in violation of this section shall be punished as provided in section 1-13 of this Code.

Section 14-347– “Sale or Display of Synthetic Stimulants, Bath Salts, Synthetic Cathinones, Synthetic Amphetamines and other Synthetic Stimulants that Mimic Illegal Drugs.”

(a) **Definitions.**

For purposes of this section, the following definitions shall apply:

“Structurally similar” as used in this section shall mean chemical substitutions off a common chemical backbone associated with the compounds listed in the controlled substance schedules in Chapter 893, Florida Statutes, as amended or otherwise prohibited by federal or state law.

“Synthetic stimulant bath salts” as used in this section shall mean any substance, whether in powder, crystal, liquid, tablet or capsule form, containing a synthetic stimulant as defined herein or to which a synthetic stimulant has been added or applied, that can be ingested by smoking, inhaling or other method, regardless of whether the substance is marketed as not for the purpose of human consumption, and regardless of how the substance is labeled, including but not limited to bath salts, insect repellants, plan foot food, herbs, incense, iPod cleaner, nutrient, dietary supplement or spice.

“Synthetic stimulant” as used in this section shall mean any chemical or mixture of chemicals, however packaged, that has a stimulant effect on the central

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nervous system and is structurally similar to the compounds listed in the controlled substance schedules in chapter 893, Florida Statutes, or otherwise prohibited by federal or state law. "Synthetic stimulant" shall also include any chemical or mixture of chemicals, however packaged, that mimics the pharmacological effects of cathinone, methcathinone, amphetamine, methamphetamine, cocaine, MDMA, or related salts, isomers, and salts of isomers. Packaging that indicates, suggests or implies that a product mimics the pharmacological effects of cathinone, methcathinone, amphetamine(s), methamphetamine, cocaine, or ecstasy, shall create a presumption that the product mimics the effects of the substance.

- (b) Sale or display of synthetic stimulant bath salts prohibited. It is unlawful for any person or business to sell, offer for sale or display synthetic stimulant bath salts or structurally similar stimulants.
- (c) Penalties. Any person found in violation of this section shall be punished as provided in section 1-13 of this Code.

Section 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami. Added language is underlined. Deleted language is stricken through.

Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 13th DAY OF June, 2012.

PASSED ON SECOND READING ON THE 27th DAY OF June 2012.

PASSED ON SECOND READING ON THE 25th DAY OF JULY,
2012.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 25th DAY OF JULY, 2012.



SHIRLEY GIBSON, MAYOR

ATTEST:



RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: VICE MAYOR OLIVER GILBERT, III

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Moved by: Vice Mayor Gilbert
Second by: Councilwoman Davis

VOTE: 6-0

Mayor Shirley Gibson	<u>X</u> (Yes)	_____ (No)
Vice Mayor Oliver Gilbert, III	<u>X</u> (Yes)	_____ (No)
Councilman David Williams Jr	<u>X</u> (Yes)	_____ (No)
Councilwoman Lisa Davis	<u>X</u> (Yes)	_____ (No)
Councilman Aaron Campbell, Jr.	<u>X</u> (Yes)	_____ (No)
Councilwoman Felicia Robinson	<u>X</u> (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No) (not present)

Added language is underlined. Deleted language is stricken through.