

1 SECTION 2. Section 3603 of the Zoning Ordinance is amended to add Subdivision X to
2 read as follows:

3 “X. Drug and Tobacco Paraphernalia Establishment. Any premises where drug and
4 paraphernalia is displayed for sale, offered for sale or sold, and which devotes more than a two
5 foot by four foot (two feet in depth maximum) section of shelf space for drug and tobacco
6 paraphernalia.

7 1. Drug and tobacco paraphernalia is defined as:

8 a. Including but not limited to one or more of those items identified in
9 that list set forth in Subdivision c. below, shall mean any device designed primarily for use by
10 individuals for the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine or
11 any other “controlled substance,” as that term is defined in the Health and Safety Code of the
12 State of California.

13 b. A device “designed primarily for” the smoking or ingestion set
14 forth in subdivision a. above, is a device which has been fabricated, constructed, altered,
15 adjusted, or marked especially for use in the smoking or ingestion of tobacco, marijuana,
16 hashish, hashish oil, cocaine or any other “controlled substance,” and is peculiarly adapted to
17 that purposes by virtue of a distinctive feature or combination of features associated with
18 tobacco or drug paraphernalia, notwithstanding that it might also be possible to use the device
19 for some other purpose.

20 c. Includable items or devices:

21 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes,
22 with or without screens, permanent or otherwise, heads or punctured metal bowls;

23 (2) A device constructed so as to prevent the escape of smoke
24 into the air and to channel smoke into a chamber where it may be accumulated to permit
25 inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether
26 the device is known as a “bong,” or otherwise;

27 (3) A smokable pipe constructed with a receptacle or container
28 in which water or other liquid may be placed into which smoke passes and is cooled in the
process of being inhaled or ingested;

1 (4) A smokable pipe which contains a heating unit, whether the
2 device is known as an “electric pipe,” or otherwise;

3 (5) A device constructed so as to permit the simultaneous
4 mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device
5 is known as a “buzz bomb,” or otherwise;

6 (6) A canister, container or other device with a tube, nozzle or
7 other similar arrangement attached and so constructed as to permit the forcing of accumulated
8 smoke into the user’s lungs under pressure;

9 (7) A device for holding burning material, such as a cigarette
10 that has become too small or too short to be held in the hand, whether the device is known as a
11 “roach clip,” or otherwise;”

12 d. Lighters and matches shall be excluded form the definition of
13 tobacco and drug paraphernalia.

14 2. Nothing in the definition of Drug and Tobacco Paraphernalia Establishments is
15 intended to, nor shall be interpreted as legalizing or applying to the delivery, furnishing,
16 transferring, possessing or manufacture of drug paraphernalia or any use otherwise prohibited
17 by state or federal law, including without limitation, Penal Code Section 308 and Health and
18 Safety Code Sections 11014.5, 11364, 11364.5 and 11364.7.

19 3. Chapter 7, Article XI of the Oceanside Municipal Code prohibiting minors from
20 entering or remaining in Drug and Tobacco Paraphernalia Establishments shall apply to all
21 Drug and Tobacco Paraphernalia Establishments and is incorporated herein by this reference.

22 SECTION 3. If any section, sentence, clause or phrase of this Ordinance is for any
23 reason held to be invalid or unconstitutional by a decision of any court of competent
24 jurisdiction, such decision shall not affect the validity of the remaining portions of this
25 Ordinance. The City Council hereby declares that it would have passed this ordinance and
26 adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the
27 fact that any one or more sections, subsections, sentences, clauses or phrases be declared
28 invalid or unconstitutional.

SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this

1 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
2 days after its passage in the North County Times, a newspaper of general circulation published
3 in the City of Oceanside.

4 SECTION 5. This ordinance shall take effect and be in force on the thirtieth (30th) day
5 from and after its final passage.

6 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
7 California, held on the ___ day of _____, 2003, and, thereafter,

8 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
9 Oceanside California, held on the ___ day of _____, 2003, by the following vote:

10 AYES:
11 NAYS:
12 ABSENT:
13 ABSTAIN:

14 _____
MAYOR OF THE CITY OF OCEANSIDE

15 ATTEST:

APPROVED AS TO FORM:

16 _____
CITY CLERK

17 _____
CITY ATTORNEY

18 G:\Word Documents\RO\ZONING\Paraphernalia Amendment.DR5
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 7 OF THE OCEANSIDE MUNICIPAL CODE BY ADDING ARTICLE XI, PROHIBITING MINORS FROM ENTERING DRUG AND TOBACCO PARAPHERNALIA ESTABLISHMENTS

WHEREAS, protecting children from exploitation by those promoting the illegal consumption of tobacco and tobacco related products by minors and the trafficking of illegal drugs and drug-related products, is a goal of highest priority within the City of Oceanside;

WHEREAS, prohibiting minors from entering establishments that sell or display drug and tobacco paraphernalia fosters the City’s goal by regulating exposure of impressionable minors to commercial exploitation by businesses seeking to expand illegal consumption of tobacco and drug use by minors;

WHEREAS, establishments that sell or display drug paraphernalia and other items promoting the use of illegal drugs characterize such paraphernalia as intended for use with tobacco products; and

WHEREAS, a regulation which prohibits minors from entering establishments that sell or display drug and tobacco paraphernalia promotes the general welfare and temperance of children and is intended to help reduce the illegal consumption and purchase of illegal drugs and tobacco by minors by limiting their exposure to drug and tobacco paraphernalia and items promoting such illegal use.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. Chapter 7 of the Oceanside Municipal Code is amended to add Article XII and shall read:

“ARTICLE XI. DRUG AND TOBACCO PARAPHERNALIA ESTABLISHMENTS

Sec. 7.96. Definitions.

(a) Drug and Tobacco Paraphernalia Establishment means any premises where drug and tobacco paraphernalia is displayed for sale, offered for sale or sold, and which devotes more than a two foot by four foot (two feet in depth maximum) section of shelf space for drug and tobacco paraphernalia.

(b) Drug and tobacco paraphernalia is defined as:

1 (1) Including but not limited to one or more of those items identified in
2 that list set forth in Subdivision c. below, shall mean any device designed primarily for use by
3 individuals for the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine or
4 any other “controlled substance,” as that term is defined in the Health and Safety Code.

5 (2) A device “designed primarily for” the smoking or ingestion set
6 forth in subdivision a. above, is a device which has been fabricated, constructed, altered,
7 adjusted, or marked especially for use in the smoking or ingestion of tobacco, marijuana,
8 hashish, hashish oil, cocaine or any other “controlled substance,” and is peculiarly adapted to
9 that purposes by virtue of a distinctive feature or combination of features associated with
10 tobacco or drug paraphernalia, notwithstanding that it might also be possible to use the device
11 for some other purpose.

12 (3) Includable items or devices:

13 a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes,
14 with or without screens, permanent or otherwise, heads or punctured metal bowls;

15 b. A device constructed so as to prevent the escape of smoke
16 into the air and to channel smoke into a chamber where it may be accumulated to permit
17 inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether
18 the device is known as a “bong,” or otherwise;

19 c. A smokable pipe constructed with a receptacle or container
20 in which water or other liquid may be placed into which smoke passes and is cooled in the
21 process of being inhaled or ingested;

22 d. A smokable pipe which contains a heating unit, whether the
23 device is known as an “electric pipe,” or otherwise;

24 e. A device constructed so as to permit the simultaneous
25 mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device
26 is known as a “buzz bomb,” or otherwise;

27 f. A canister, container or other device with a tube, nozzle or
28 other similar arrangement attached and so constructed as to permit the forcing of accumulated
smoke into the user’s lungs under pressure;

1 g. A device for holding burning material, such as a cigarette
2 that has become too small or too short to be held in the hand, whether the device is known as a
3 “roach clip,” or otherwise;

4 (4) Lighters and matches shall be excluded from the definition of
5 tobacco and drug paraphernalia.

6 **Sec. 7.97. Prohibition Against Entry By Minors.**

7 (a) It shall be unlawful for any person in charge or control of any Drug and
8 Tobacco Paraphernalia Establishment to knowingly allow or permit a person under the age of
9 eighteen, not accompanied by their parent or legal guardian, to enter or remain within any Drug
10 and Tobacco Paraphernalia Establishment.

11 (b) It shall be unlawful for any person in charge or control of a Drug and
12 Tobacco Paraphernalia Establishment to fail to display and maintain, or fail to cause to be
13 displayed and maintained, at least one sign stating that a person under the age of eighteen may
14 not enter the premises unless accompanied by their parent or legal guardian. These signs shall
15 be placed in a conspicuous location near each public entrance to the Drug and Tobacco
16 Paraphernalia Establishment.

17 (c) In the event that a sign or signs have been posted as required in subdivision 3
18 above, it shall be unlawful for a person under the age of eighteen to enter or remain in any Drug
19 and Tobacco Paraphernalia Establishment, unless he or she is accompanied by their parent or
20 legal guardian.

21 **Sec. 7.98. Violation; enforcement.**

22 The penalties and provisions of Chapter 1 of this Code shall apply to any violations of
23 this Article.

24 **Sec. 7.99. Conflicts With Other Applicable Laws.**

25 Nothing in the definition of Drug and Tobacco Paraphernalia Establishments is intended
26 to, nor shall be interpreted as legalizing or applying to the delivery, furnishing, transferring,
27 possessing or manufacture of drug paraphernalia or any use otherwise prohibited by state or
28 federal law, including without limitation, Penal Code Section 308 and Health and Safety Code
Sections 11014.5, 11364, 11364.5 and 11364.7.

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