

ORDINANCE NO. 0-15428  
(New Series)

JAN 19 1981

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 38, SECTIONS 33.3800 THROUGH 33.3806, REGULATING DRUG PARAPHERNALIA ESTABLISHMENTS.

WHEREAS, sales displays of drug paraphernalia to minors can encourage the acquisition, experimentation with, and use thereof by such minors to their ultimate harm, and can create misunderstandings among them with respect to the safety and acceptability of drug use; and

WHEREAS, it is in the public interest that the health and safety of minors be protected; and

WHEREAS, it is in the best interests of minors that their exposure to sales displays of drug paraphernalia be also known to their parents and legal guardians in order that said parents and guardians may be better able to provide cautionary counsel to those minors in their charge with respect to the effects of the use thereof, and of drug involvement resulting therefrom;  
NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3, of the San Diego Municipal Code be and it is hereby amended by adding Division 38, Sections 33.3800 through 33.3806 to read as follows:

DIVISION 38

DRUG PARAPHERNALIA ESTABLISHMENTS

SEC. 33.3800 PURPOSE AND INTENT

It is the purpose and intent of the Council that the operation of drug paraphernalia establishments as defined in this Code should be regulated for the protection of the health and safety of minors and for the preservation of the peace of the community.

SEC. 33.3801 DEFINITIONS

A. As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, re-packaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as defined in the Health and Safety Code of California.

1. Drug paraphernalia includes, but is not limited to, all of the following:

(a) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(b) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(c) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(d) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(e) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

(g) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(h) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

(i) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(j) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(k) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(l) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(ii) Water pipes.

(iii) Carburetion tubes and devices.

(iv) Smoking and carburetion masks.

(v) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.

(vi) Miniature cocaine spoons, and cocaine vials.

(vii) Chamber pipes.

(viii) Carburetor pipes.

(ix) Electric pipes.

- (x) Air-driven pipes.
- (xi) Chillums.
- (xii) Bongs.
- (xiii) Ice pipes or chillers.

2. The following factors shall be considered in determining whether or not an object is drug paraphernalia:

(a) Statements by an owner or by anyone in control of the object concerning its use.

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(c) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate the use or consumption of a controlled substance.

(d) Instructions, oral or written, provided with the object concerning its use.

(e) Descriptive materials, accompanying the object which explain or depict its use.

(f) National and local advertising concerning its use.

(g) The manner in which the object is displayed for sale.

(h) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(i) The existence and scope of legitimate uses for the object in the community.

(j) Expert testimony concerning its use.

3. This section shall not apply to any of the following:

(a) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia as described in this Section upon the prescription of a physician, dentist, podiatrist or veterinarian.

(b) Any physician, dentist, podiatrist or veterinarian who furnishes or prescribes drug paraphernalia as described in this Section to his or her patients.

(c) Any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia as described in this Section.

B. "Drug Paraphernalia Establishment" means any place to which the public is permitted or invited wherein drug paraphernalia is displayed for sale, offered for sale, sold, transferred or given away.

SEC. 33.3802 PERMIT

No person shall operate a drug paraphernalia establishment unless a permit for the operation of said establishment has been issued by the City Treasurer and remains in effect in conformity to this Code.

SEC. 33.3803 PERMIT TERM

No permit for a drug paraphernalia establishment shall be issued in excess of twelve (12) months. The expiration date of said permit shall be December 31 of each year.

SEC. 33.3804 PERMIT FEE

Every person owning or operating a drug paraphernalia establishment shall pay a fee per 12-month period. This fee shall be set in accordance with Section 33.0104 of this Code. Any person applying for a permit for a period of less than twelve (12) months shall pay a prorated fee.

SEC. 33.3805 APPLICATIONS FOR PERMIT--INVESTIGATION  
FEE

All applications for a permit, or for the renewal of a permit, shall be accompanied by an investigation fee. In the event the permit is granted or renewed, the sum shall be applied to the permit fee as described in Section 33.3804. In the event such permit is denied, said application fee shall be and become the property of The City of San Diego.

SEC. 33.3806 OPERATING REQUIREMENTS

(a) Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred, or given away unless such drug paraphernalia are completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia are kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless such minor person is accompanied by one of his or her parents or by his or her legal guardian.

(c) No permit for a drug paraphernalia establishment shall be issued until such time as the applicant has complied with the provisions of subsection (a).



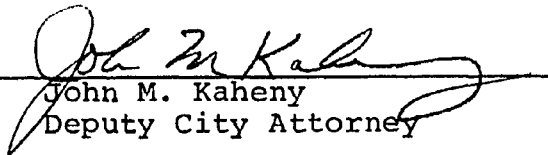
(d) Notwithstanding any other provision of this Code, a violation of subsections (a) or (b) shall not constitute a criminal offense but shall be grounds for revocation, suspension or denial of a drug paraphernalia permit.

Section 2. If any Section, Subsection, sentence, clause, phrase or portion of this Division is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Division. The Council of this City hereby declares that it would have adopted this Division and each Section, Subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more Sections, Subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By

  
John M. Kaheny  
Deputy City Attorney

JMK:rc:520

10/16/80

Or. Dept.: Councilwoman Killea

JAN 19 1981

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> VACANT
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JAN 5 1981

JAN 19 1981

\_\_\_\_\_, and on \_\_\_\_\_.

I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15428 Adopted JAN 19 1981

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE  
1981 FEB - 6 PM 3:32  
SAN DIEGO, CALIF.

San Diego, City of  
202 C St., 12th floor  
San Diego, CA 92101  
ATTN: June Blacknell

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3 OF  
THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION  
38, SECTIONS 33.3800 THROUGH 33.3806, REGULATING ETC.

0-15428

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**(New Series)**  
AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3 OF  
THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION  
38, SECTIONS 33.3800 THROUGH 33.3806, REGULATING  
**DRUG PARAPHERNALIA ESTABLISHMENTS.**  
This ordinance regulates the sale and display of drug  
paraphernalia to minors by establishing certain licensing re-  
quirements to be enforced by the San Diego Police Department.  
A complete copy of the ordinance is available for inspection  
in the office of the City Clerk of the City of San Diego, 12th Floor  
City Administration Building, 202 "C" St., San Diego, CA 92101,  
introduced on January 5, 1981.  
Passed and adopted by the Council of The City of San Diego  
on January 19, 1981.  
ATTESTED BY: PETE WILSON,  
Mayor of The City of San Diego, California.  
CHARLES G. ABDELNOUR,  
City Clerk of The City of San Diego, California.  
JUNE A. BLACKNELL, Deputy  
Published February 2, 1981

I, Camille Simpson, am a citizen  
of the United States and a resident of the County aforesaid; I am over the  
age of eighteen years, and not a party to or interested in the above-entitled  
matter. I am the principal clerk of the San Diego Daily Transcript, a  
newspaper of general circulation, printed and published daily, except  
Saturdays and Sundays, in the City of San Diego, County of San Diego, and  
which newspaper has been adjudged a newspaper of general circulation by  
the Superior Court of the County of San Diego, State of California, under  
the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. O-15428 (New Series)

is a true and correct copy of which the annexed is a printed copy and was  
published in said newspaper on the following date(s), to wit:

February 2, 1981

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 2nd day of Feb., 1981

Camille Simpson

(Signature)

2" x 2 x 7.33-29.32