

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
OCEANSIDE AMENDING SECTIONS 20.27 AND 20.28,
CONCERNING ALCOHOL AND ILLEGAL DRUG OFFENSES
BY MINORS AND JUVENILES

WHEREAS, on April 16, 2003, pursuant to Ordinance No. 03-OR289-1 the City Council of the City of Oceanside amended Chapter 20 of the Oceanside City Code by adding Sections 20.27, 20.28, 20.29, 20.30 and 20.31 concerning alcohol and illegal drug offenses by minors and juveniles, and requiring reimbursement from responsible persons for the cost of enforcement services; and

WHEREAS, on April 16, 2003, the City Council of the City of Oceanside found and declared that the purpose of the Ordinance was:

To protect public health, safety and general welfare;

To enforce laws prohibiting the consumption of alcohol and/or controlled substances by minors; and

To recover costs of providing police services to parties, gatherings, or events requiring a response;

WHEREAS, the City Council finds and declares that the original purpose of Ordinance No. 03-OR289 was justified and was a proper exercise of the power and authority of the City to regulate consumption of alcohol by minors because this consumption of alcohol by minors impacts the health, safety, and general welfare of Oceanside's citizens and communities;

WHEREAS, Section 20.28 of Ordinance No. 03-OR289 was substantially similar to San Diego Municipal Code Section 56.62(a);

WHEREAS, on September 7, 2004, the Appellate Division of the San Diego Superior Court held, in a unpublished opinion, that San Diego Municipal Code Section 56.62(a), as originally enacted on May 6, 2003, was "constitutionally impermissible" because of the lack of a mens rea [or intent] in Section 56.62(a); and

1
2 WHEREAS, the City Council hereby amends Sections 20.27 and 20.28 to add the
3 requisite intent to the Ordinance to conform with state and federal law and to set forth the
4 remedies available to the City for violations of this Ordinance.

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

6 SECTION 1. Section 20.27 is amended to add a definition of "Premises" as follows:

7 "Section 20.27 Definitions.

8 ...

9 "*Premises*" means any residence or other private property, place, or premises including
10 any commercial or business premises."

11 SECTION 2. Section 20.28 is amended as follows:

12 "Section 20.28. Hosting, Permitting, or Allowing a Party, Gathering, or Event
13 Where Minors Consume Alcoholic Beverages or Controlled Substances Prohibited

14 (a) It is unlawful for any person having control of any Premises to knowingly suffer,
15 permit, allow, or host a party, gathering, or event at said Premises where three (3) or more
16 persons are present whenever the person having control of the Premises either knows a minor
17 consumed an alcoholic beverage and/or a controlled substance or reasonably should have
18 known that a minor consumed an alcoholic beverage and/or a controlled substance. For
19 purposes of this subsection, a person reasonably should have known that a minor consumed an
20 alcoholic beverage and/or a controlled substance if that person did not take reasonable steps to
21 prevent the consumption of an alcoholic beverage and/or controlled substance by a minor as set
22 forth in subsection (b) of this section. A violation of this section is punishable as a
23 misdemeanor pursuant to Section 1.7. This section shall not apply to conduct involving the use
24 of alcohol which occurs exclusively between a minor child and his or her parent or legal
25 guardian, as permitted by Article 1, Section 4, of the California Constitution, or conduct which
26 is otherwise permitted under state or federal law.

27 (b) Reasonable steps include controlling access to alcoholic beverages at the gathering
28 when minors are present; controlling the quantity of alcoholic beverages at the gathering when
minors are present; verifying the age of persons attending the gathering by inspecting driver's
licenses or other government-issued identification cards to ensure that minors do not consume
alcoholic beverages and/or controlled substances while at the gathering; and supervising the
activities of minors at the gathering."

SECTION 3. Severability.

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

7 SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this
8 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
9 days after its passage in the North County Times, a newspaper of general circulation published
10 in the City of Oceanside.

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

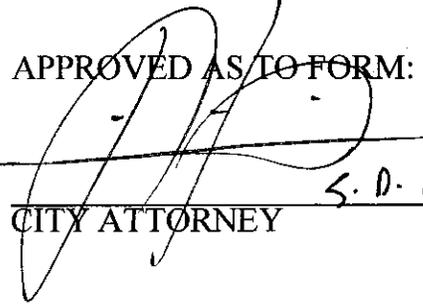
13 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
14 California, held on the ___ day of _____, 2007, and, thereafter,

15 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
16 Oceanside California, held on the ___ day of _____, 2007, by the following vote:

- 17 AYES:
- 18 NAYS:
- 19 ABSENT:
- 20 ABSTAIN:

23 ATTEST:

24 _____
25 CITY CLERK

22 MAYOR OF THE CITY OF OCEANSIDE
23 APPROVED AS TO FORM:
24 
25 _____
26 CITY ATTORNEY