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7 **ORDINANCE NO. 2005-103**
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12 **An Ordinance of the Pierce County Council Adopting a New Chapter 9.56 of**
13 **the Pierce County Code, "Drug Paraphernalia."**
14

15 **Whereas**, the illegal use of controlled substances creates serious physical and
16 psychological damage to users and their families; and
17

18 **Whereas**, Pierce County ("County") expends considerable resources dealing
19 with the secondary impacts of the illegal use of controlled substances, including costs to
20 clean up methamphetamine labs and the cost for police, courts, and corrections
21 associated with illegal drug use; and
22

23 **Whereas**, the Pierce County Council ("Council") believes that the continued
24 proliferation and sale of drug paraphernalia symbolizes a public tolerance for illegal use
25 of controlled substances; and
26

27 **Whereas**, the Council believes that reducing the availability of drug
28 paraphernalia will discourage the use of illegal controlled substances in the County;

29 **Now Therefore**,

30
31 **BE IT ORDAINED by the Council of Pierce County:**
32

33 Section 1. A new Chapter 9.56 to the Pierce County Code, "Drug Paraphernalia"
34 is hereby adopted as shown in Exhibit A, which is attached hereto and incorporated
35 herein by reference.
36



1 Section 2. Should any Section, paragraph, sentence, clause or phrase of this
2 Ordinance, or its application to any person or circumstance, be declared
3 unconstitutional or otherwise invalid for any reason, or should any portion of this
4 Ordinance be pre-empted by state or federal law or regulation, such decision or pre-
5 emption shall not affect the validity of the remaining portions of this Ordinance or its
6 application to other persons or circumstances.

7
8 **PASSED this _____ day of _____, 2006.**

9
10 ATTEST:

PIERCE COUNTY COUNCIL
Pierce County, Washington

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12
13
14 _____
15 **Denise D. Johnson**
16 Clerk of the Council

Shawn Bunney
Council Chair

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18
19
20 _____
21 **John W. Ladenburg**
22 Pierce County Executive
23 Approved _____ Vetoed _____, this
24 _____ day of _____,
25 2006.

26 Date of Publication of
27 Notice of Public Hearing: _____

28
29 Effective Date of Ordinance: _____



"NEW CHAPTER"

Chapter 9.56

DRUG PARAPHERNALIA

Sections:

9.56.010 Definitions.

9.56.020 Illegal Conduct.

9.56.010 Definitions.

As used in this Chapter, the following terms shall mean the following:

- A. "Business" means any location, whether indoors or outdoors, at which merchandise is offered for sale.
- B. "Controlled substance" means those controlled substances set forth in the Revised Code of Washington (RCW 69.50) or the United States Code (at 21 USC Sections 801-971) as such now exist or may hereafter be amended.
- C. "Display" means to show to a patron or to place in a manner so as to be available for viewing or inspection by a patron.
- D. "Distribute" means to transfer ownership or a possessory interest to another, whether for consideration, as a gratuity or gift, for consignment, or otherwise.
- E. "Drug paraphernalia" means any of the following:
 1. Any item, whether useful for non-drug-related purposes or not, which is displayed, grouped with other items, advertised, or promoted in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, manufacturing, preserving, inhaling, injecting, or ingesting of marijuana, hashish, cocaine, methamphetamine, or any controlled substance.
 2. Any item, whether useful for non-drug-related purposes or not, which is designed, decorated, adorned, packaged, or displayed in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, inhaling, injecting, or ingesting of marijuana, hashish, cocaine, methamphetamine, or any controlled substance.
 3. Any item defined by any statute of the state of Washington as drug paraphernalia (RCW 69.50) or by any statute of the United States Code (at 21 USC Sections 801-971) as drug paraphernalia.
 4. The term "drug paraphernalia" includes, without limitation, all equipment, products, and materials of any kind, whether useful for non-drug-related purposes or not, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. Drug paraphernalia includes, but is not limited to, objects used, intended for use, or designed for use in



1 ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish
2 oil into the human body, such as:

- 3 a. Kits used, intended for use, or primarily designed for use in the planting,
4 propagating, cultivating, growing, or harvesting of any species of plant which is
5 a controlled substance or from which a controlled substance or unlawful drug can
6 be derived.
- 7 b. Kits used, intended for use, or primarily designed for use in the manufacturing,
8 compounding, converting, producing, processing, or preparing of unlawful drugs
9 or controlled substance.
- 10 c. Isomerization devices used, intended for use, or designed for use in increasing
11 the potency of any species of plant which is an unlawful drug or controlled
12 substance.
- 13 d. Testing equipment used, intended for use, or designed for use in identifying or
14 analyzing the strength, effectiveness, or purity of unlawful drugs or controlled
15 substances.
- 16 e. Scales and balances used, intended for use, or designed for use in weighing or
17 measuring unlawful drugs or controlled substances.
- 18 f. Diluents and adulterants, such as quinine hydrochloride, mannitol/mannite,
19 dextrose, and lactose used, intended for use, or designed for use in cutting or
20 thinning unlawful drugs or controlled substances.
- 21 g. Separation gins and sifters used, intended for use, or designed for use in
22 removing twigs and seeds from, or in otherwise cleaning or refining, marijuana
23 or other controlled substance.
- 24 h. Blenders, bowls, containers, spoons, and mixing devices used, intended for use,
25 or designed for use in compounding unlawful drugs or a controlled substance.
- 26 i. Capsules, balloons, envelopes, and other containers used, intended for use, or
27 designed for use in packaging small quantities of unlawful drugs.
- 28 j. Containers and other objects used, intended for use, or designed for use in storing
29 or concealing unlawful drugs.
- 30 k. Hypodermic syringes, needles, and other objects used, intended for use, or
31 designed for use in parenterally injecting unlawful drugs or controlled substances
32 into the human body.
- 33 l. The phrase "designed primarily for" in subsection 4. of this Section means a
34 device which has been fabricated, constructed, altered, adjusted, or marked
35 especially for use in the smoking, ingestion, or consumption of marijuana,
36 hashish, hashish oil, cocaine, or any other "controlled substance" and is
37 peculiarly adapted to such purposes by virtue of a distinctive feature or
38 combination of features associated with drug paraphernalia, notwithstanding the
39 fact that it might also be possible to use such device for some other purpose.
40 Such drug paraphernalia includes, but is not limited to, the following items or
41 devices:
- 42 (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or
43 without screens, permanent screens, hashish heads, or punctured metal
44 bowls;
- 45 (2) Water pipes;
- 46 (3) Carburetion tubes and devices;
- 47 (4) Smoking and carburetion masks;



- 1 (5) Roach clips - meaning objects used to hold burning material, such as a
- 2 marijuana cigarette, that has become too small or too short to be held in the
- 3 hand; whether the device is known as a "roach clip" or otherwise;
- 4 (6) Miniature cocaine spoons, cocaine vials, or any spoon used, intended for
- 5 use, or primarily designed for ingestion of a controlled substance;
- 6 (7) Chamber pipes;
- 7 (8) Carburetor pipes;
- 8 (9) Electric pipes;
- 9 (10) Air-driven pipes;
- 10 (11) Chillums;
- 11 (12) Bongs;
- 12 (13) Ice pipes or chillers;
- 13 (14) Wired cigarette papers;
- 14 (15) Cocaine freebase kits;
- 15 (16) A device constructed so as to prevent the escape of smoke into the air and to
- 16 channel smoke into a chamber where it may be accumulated to permit
- 17 inhalation or ingestion of larger quantities of smoke than would otherwise
- 18 be possible, whether the device is known as a "bong" or otherwise;
- 19 (17) A device constructed so as to permit the simultaneous mixing and ingestion
- 20 of smoke and nitrous oxide or other compressed gas, whether the device is
- 21 known as a "buzz bomb" or otherwise;
- 22 (18) A canister, container, or other device with a tube, nozzle, or other similar
- 23 arrangement attached thereto so constructed as to permit the forcing of
- 24 smoke accumulated therein into the user's lungs, under pressure, whether the
- 25 device is known as a "power hitter" or otherwise;
- 26 (19) A straw or tube for ingestion of a controlled substance through the nose or
- 27 mouth; and
- 28 (20) A smokable pipe constructed with a receptacle or container in which water
- 29 or other liquid may be placed into which smoke passes and is cooled in the
- 30 process of being inhaled or ingested.
- 31 m. In determining whether an object is "drug paraphernalia," a court, hearing
- 32 officer, or other authority may consider the following, in addition to the
- 33 foregoing and all other logically relevant factors:
- 34 (1) Statement by an owner or by anyone in control of the object concerning its
- 35 use;
- 36 (2) Proximity of the object to controlled substances;
- 37 (3) Existence of any residue of controlled substances on the object;
- 38 (4) Direct or circumstantial evidence of the intent of an owner, or of anyone in
- 39 control of the object, to deliver to persons whom he or she knows, or
- 40 reasonably should know, intend to use the object to facilitate a violation of
- 41 the laws of the state of Washington or the United States relating to
- 42 controlled substances;
- 43 (5) Descriptive materials or instructions, written or oral, accompanying the
- 44 object, which explain or depict its use;
- 45 (6) National and local advertising concerning its use;
- 46 (7) The manner in which the object is displayed for sale, including its proximity
- 47 to other objects falling within the definition of drug paraphernalia;



1 (8) The existence and scope of legitimate uses for the object in the community;
2 and

3 (9) Expert testimony concerning its use, including testimony from law
4 enforcement personnel regarding their knowledge and experience
5 concerning its use.

6 F. "Manufacture" means to fabricate, make, produce, create, assemble, modify, adapt, or
7 turn out.

8 G. "Patron" means a person who enters a business for the purpose of purchasing, or viewing
9 as a shopper, merchandise offered for sale at the business.

10 H. "Person" means a natural person or any firm, partnership, association, corporation, or
11 cooperative association.

12
13 **9.56.040 Illegal Conduct.**

14 A. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture
15 with intent to deliver drug paraphernalia, knowing, or under circumstances where one
16 reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest,
17 manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack,
18 store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body
19 a controlled substance.

20 B. It is unlawful for any person to place in any newspaper, magazine, handbill, or other
21 publication any advertisement, knowing, or under circumstances where one reasonably
22 should know, that the purpose of the advertisement, in whole or in part, is to promote the
23 sale of drug paraphernalia. Any person who violates this subsection is guilty of a
24 misdemeanor.

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26 **9.56.050 Remedies.**

27 A. Any person who violates any provision of subsections A and B, or who sells or gives, or
28 permits to be sold or given, to any person any drug paraphernalia in any form commits a
29 class 1 civil infraction under Chapter 7.80 RCW and shall be punished accordingly,
30 pursuant to Chapter 7.80 RCW and the infraction rules for courts of limited jurisdiction.
31 It shall be no defense to a prosecution for an infraction issued under this subsection that
32 the person acted, or was believed by the defendant to act, as agent or representative of
33 another. **Provided**, that nothing in this section prohibits legal distribution of injection
34 syringe equipment through public health and community-based HIV prevention
35 programs.

36 B. Any person 18 years of age or over who violates subsection A of this section by
37 delivering drug paraphernalia to a person under 18 years of age who is at least three
38 years his junior is guilty of a gross misdemeanor.

39 C. Any person who violates subsections A or B, and has previously been found to have
40 committed an infraction under either of those sections within the most recent twenty-
41 four month period shall be guilty of committing a misdemeanor. Upon conviction, said
42 person shall be punished by a fine of not more than \$1,000.00 and confinement of up to
43 90 days, or a combination of a fine and confinement.

