ORDINANCE NO. 678

AN ORDINANCE AMENDING SECTIONS 44-1, 44-2 AND 44-3 OF THE CODE OF THE CITY OF BASEHOR KANSAS, PERTAINING TO REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF BASEHOR, KANSAS; INCORPORATING BY REFERENCE THE 'STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, 2016 EDITION,' WITH CERTAIN AMENDMENTS AND OMISSIONS, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. § 12-3009 THROUGH 12-3012 AND K.S.A. § 12-3301 AND 12-3302; REPEALING EXISTING SECTION 44-1, 44-2 AND 44-3, AND OTHER SECTIONS IN CONFLICT HEREWITH

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

Section 1: Section 44-1 of the Code of the City of Basehor, Kansas is hereby amended to read as follows:

44-1 (a)INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Basehor, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", edition of 2016, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended.

(b)No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as incorporated by Ordinance No. 674," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

Section 2: A new Section 44-2 of the Code of the City of Basehor, Kansas is hereby adopted to read as follows:

44-2 (a)Sec. 194. Driving While License Canceled, Suspended or Revoked; Penalty.

(a) (1) Any person who drives a motor vehicle on any street or highway at a time when such person's privilege to do so is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked, shall upon a first conviction be punished by imprisonment for not more than six months or fined not to exceed $1,000, or both such fine and imprisonment. On a second conviction of a violation of this section such person shall be punished by imprisonment for not more than one year or fined not to exceed $2,500, or both such fine and imprisonment.

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257 and amendments thereto, to the return of such person's driver's license.

(3) Except as otherwise provided by subsection (a)(4), every person convicted under this section shall be sentenced to at least five day' imprisonment and fined at least $100.00 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.

(4) If a person: (A) is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or law prohibits the acts prohibited by that statute; and (B) is or has been also convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by that statute, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

(b) For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section, conviction includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of any state which is in substantial conformity with this section.

44-2 (b)The following section of the Uniform Traffic Ordinance incorporated in Section 44-1 above is hereby omitted and deleted:

Section 195.1 pertaining to Operation of a Motor Vehicle When a Habitual Violator

Section 3: Section 44-3 of the Code of the City of Basehor, Kansas is hereby amended to read as follows:

44-3 SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

(b) All traffic infractions which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

Section 4. This ordinance shall be construed as follows:

A. Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience.

B. Savings Clause. The repeal of Ordinance sections, as provided herein below, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any of the provisions of said Ordinances or parts thereof. Said Ordinance repealed is hereby continued in force and effect after the passage, approval and publications of this Ordinance for the purposes of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

C. Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of this proposed Ordinance set out herein, or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code or other Ordinances.

Section 5. That existing Sections 44-1, 44-2 and 44-3 of the Code of the City of Basehor are hereby repealed.

Section 6. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED by the Governing Body this 17th day of August, 2016.

APPROVED by the Mayor this 17th day of August, 2016.

[SEAL]

SEAL OF THE CITY OF BASEHOR, KANSAS
CORPORATE
SEAL

David K. Breuer, Mayor

ATTEST:

Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

Shannon M. Marcano, City Attorney