

(Published First Time in Basehor Sentinel August 25, 2005)

ORDINANCE NO. 474

ORDER AMENDING CHAPTER XI, PUBLIC OFFENSES TO INCORPORATE  
ARTICLE 3 DRUGS AND DRUG PARAPHERNALIA, SECTION 1, 11-301 AND  
SECTION 2, 11-302 OF THE CODE OF THE CITY OF BASEHOR, KANSAS

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

**Article 3.** To incorporate Article 3 Drugs and Drug Paraphernalia within the code of the city of Basehor.

**Article 3. Drug and Drug Paraphernalia**

**Section 1.** To incorporate section 11-301, Drugs, Marijuana within the code of the city of Basehor.

**DRUGS, MARIJUANA.** (a) It shall be unlawful for any person to manufacture, possess, have under his/her control, prescribe, administer, deliver, distribute, dispense, compound, sell or offer for sale any depressant, stimulant or hallucinogenic drug in violation of the Kansas controlled substances act.

(b) It shall be unlawful for any person to have in his possession any marijuana in violation of the Kansas controlled substance act. (K.S.A. 65-4101-4163)

(c) No person shall use or possess with intent to use:

1. Any simulated controlled substance: any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act: or, any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, or compound, convert, produce, process, prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the Uniform Controlled Substance Act.

(d) No person shall deliver, possess with intent to deliver, manufacture with intent to deliver or cause to be delivered within the state:

1. Any drug paraphernalia, knowing or under circumstances where one reasonably should know that it would be used to use, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act.

Violation of this section is a Class A non-person misdemeanor.



**Section 2.** To incorporate section 11-302, Possession of Drug Paraphernalia: Prohibited within the code of the city of Basehor.

11-302 POSSESSION OF DRUG PARAPHERNALIA; PROHIBITED. No person shall possess any paraphernalia with the intent to use that paraphernalia for the unlawful use, consumption, or administration of any barbiturate, amphetamine, hallucinogenic drug, marijuana or other controlled substance as defined by K.S.A. 65-4150.

- a. **“Drug Paraphernalia”** means all equipment, products and materials of any kind, which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the uniform controlled substance act.
- b. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:
  1. Statements by an owner or person in control of the object concerning its use.
  2. Prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance.
  3. The proximity of the object, in time and space, to a direct violation of the uniform controlled substance act.
  4. The proximity of the object to controlled substances.
  5. The existence of any residue of controlled substances on the object.
  6. Direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of the uniform controlled substances act. The innocence of an owner or person in control of the object as to a direct violation of the uniform controlled substances act shall not prevent a finding that the object is intended for use as drug paraphernalia.
  7. Oral or written instructions provided with the object concerning its use.
  8. Descriptive materials accompanying the object, which explain or depict its use.
  9. National and local advertising concerning the object’s use.
  10. The manner in which the object is displayed for sale.
  11. Whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community, such as a distributor or dealer of tobacco products.
  12. Direct or circumstantial evidence of the ratio of sales of the object or object to the total sales of the business enterprise.

13. The existence and scope of legitimate uses for the object in the community.
14. Expert testimony concerning the object's use.  
Pursuant to K.S.A. 65-4151
2. POSSESSION OF DRUGS; PROHIBITED. No person shall possess any barbiturate, amphetamine, hallucinogenic drug, Cannabis Sativa (marijuana) or other controlled substance as defined by K.S.A. 65-4150, without a written prescription from a licensed physician.
3. INHALATION PROHIBITED. It shall be unlawful for any person within the city limits to smell or inhale the fumes from any elements, compounds or combinations of both elements and compounds as defined in section 11-302(6) of this article for the purpose of causing a condition of intoxication, hallucination, inebriation, excitement, stupefaction or dulling of his or her brain or nervous system; provided, that nothing in this article shall be interpreted as applying to the inhalation of anesthesia for medical or dental purposes as prescribed or administered by duly authorized personnel.
4. SAME; ELEMENTS USED. No person shall, for the purpose of violation section 11-302(3) of this article, use or possess for the purpose of using, any of the element, compounds or combination of both elements and compounds or combination of both elements and compounds as defined in section 11-302(6).
5. SAME; SALE OF; No person shall sell, give or offer to sell or give to any other person any of the elements, compounds or combinations of both elements and compounds as defined in section 11-302(6) of this article if he or she has knowledge that he product sold, given or offered to be sold or given will be used for the purpose as set forth in section 11-032(3) of this article.
6. SAME; DEFINITIONS. For the purpose of this article elements, compounds or combinations of both elements and compounds shall be defined as any material in a liquid, solid or gaseous stat, which contains one or more of the following materials:
  - a. Hydrocarbons, to include but not limited to methyl, ethyl, isopropyl and butyl;
  - b. Alcohols, to include but not limited to ethyl, acetate, isopropyl ad butyl;
  - c. Volatile esters, to include but not limited to ethyl, acetate, butyl acetate, amyl acetate;
  - d. Ketone, to include but not limited to acetone, methyl ethyl ketone, methyl isobutyl ketone,
  - e. Halogenated hydrocarbons, to include but not limited to cholorm, ethylenedichloride, freon;
  - f. Halogenatedderives of hydrocarbons, to include but not limited to pentchlorophenol;
  - g. Ethers, to include but not limited to ethyl ethers;
  - h. Any elements, compounds that produce a condition of intoxication, hallucination, inebriation, excitement, stupefaction or the dulling of his or her brain or nervous systems.

7. PENALTY. Any person violating any section of this article, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) or imprisonment for not more that One (1) Year, or both such fine and imprisonment.

**Section 3.** This ordinance shall be in full force and effective from and after its passage, and publication in the official city newspaper.

Approved by the City council this 15th day of August 2005.

Approved by the Mayor this 15th day of August, 2005



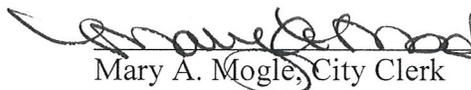
Chris Garcia, Mayor

Approved for Content:

---

John F. Thompson, City Attorney

Attest:



Mary A. Mogle, City Clerk

