

ORDINANCE NO. 394

AN ORDINANCE CONCERNING DRUG CRIMES

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

Drug Crimes

Definitions:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Controlled substance- means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

Deliver or delivery- means actual, constructive or attempted transfer from one person to another, whether or not there is an agency relationship.

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, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act. "Drug paraphernalia" shall include, but is not limited to:

- A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.
- B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- C. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance.
- D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- E. Scales and balances used or intended for use in weighing or measuring controlled substances.
- F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances.
- G. Separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana.

- H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances.
- I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances.
- J. Containers and other objects used or intended for use in storing or concealing controlled substances.
- K. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body.
- L. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:
1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls.
 2. Water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device.
 3. Carburation pipes, glass or other heat resistant tubes or any other device used or intended to be used, designed to be used to cause vaporization of a controlled substance for inhalation.
 4. Smoking and Carburation masks.
 5. Roach clips (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).
 6. Miniature cocaine spoons and cocaine vials.
 7. Chamber smoking pipes.
 8. Carburetor smoking pipes.
 9. Electric smoking pipes.
 10. Air-driven smoking pipes.
 11. Chillums.
 12. Bongs.
 13. Ice pipes or chillers.
 14. Any smoking pipe manufactured to disguise its intended purpose.

15. Wired cigarette papers; or

16. Cocaine freebase kits.

“Drug paraphernalia” shall not include any products, chemicals or materials described in subsection (a) of K.S.A. 21-5709, and amendments thereto.

Marijuana - means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. “Marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

Possession - means having joint or exclusive control over an item with knowledge of and intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.

Simulated controlled substance- means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

(K.S.A. 21-5701.; K.S.A. 65-4101)

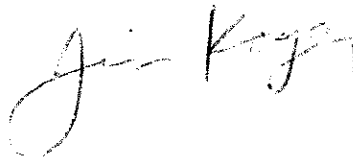
EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

Passed by the Council the 8th day of March, 2017.

Signed

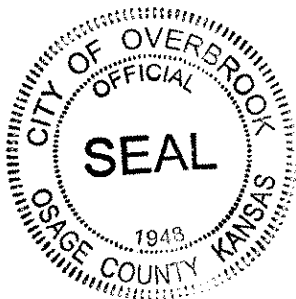


Don Schultz, Mayor



Jim Koger, Clerk

Seal



ORDINANCE NO. 395

AN ORDINANCE CONCERNING FACTORS TO CONSIDER WHEN DETERMINING WHAT IS DRUG PARAPHERNALIA

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

Factors to consider when determining what is drug paraphernalia.

(a) 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 K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto;
- (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 K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto. The innocence of an owner or person in control of the object as to a direct violation of K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, 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 objects 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;
- (15) any evidence that alleged paraphernalia can or has been used to store a controlled substance or to introduce a controlled substance into the human body as opposed to any legitimate use for the alleged paraphernalia; or
- (16) advertising of the item in magazines or other means which specifically glorify, encourage or espouse the illegal use, manufacture, distribution or cultivation of controlled substances.

(b) The fact that an item has not yet been used or did not contain a controlled substance at the time of the seizure is not a defense to a charge that the item was possessed with the intention for use as drug paraphernalia.

K.S.A. § 21-5711;

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

Passed by the Council the 8th day of March, 2017.

Signed



Don Schultz, Mayor



Jim Koger, Clerk

Seal



ORDINANCE NO. 396

AN ORDINANCE CONCERNING UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA

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

Unlawful possession of drug paraphernalia.

It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body.

Violation of this section is a class A nonperson misdemeanor.

(K.S.A. 21-5709)


EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

Passed by the Council the 8th day of March, 2017.

Signed



Don Schultz, Mayor



Jim Koger, Clerk

Seal



ORDINANCE NO. 397

AN ORDINANCE CONCERNING POSSESSION OF MARIJUANA.

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

Possession of marijuana.

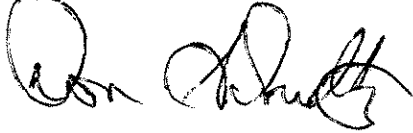
- (1) It shall be unlawful for any person to possess the hallucinogenic drug marijuana and/or its active ingredient, Tetrahydrocannabinol, as set forth as a schedule I drug in K.S.A. 65-4105(h).
- (2) Violation of subsection (1) is a:
 - a. Class B nonperson misdemeanor
 - b. Class A nonperson misdemeanor if that person has a prior conviction under K.S.A. 65-4162, prior to its repeal, under substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.

K.S.A. 21-5706

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

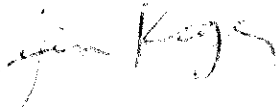
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Signed



Don Schultz, Mayor

Signed



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Seal

