

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 18 OF THE CODE OF THE CITY OF KIRKSVILLE, MISSOURI REGARDING OFFENSES AND MISCELLANEOUS PROVISIONS, BY ADDING A NEW ARTICLE VII, TITLED “REGULATING PURCHASES OF METHAMPHETAMINE PRECURSOR DRUGS”.**

WHEREAS, methamphetamine use/abuse is a significant problem in Missouri, as well as Kirksville and Adair County, with long ranging impacts to health and safety beyond the mere use of this powerful illegal drug; and

WHEREAS, no effective statewide initiative has yet been developed; and

WHEREAS, ephedrine/pseudoephedrine are essential chemicals in the production of methamphetamine; and

WHEREAS, ephedrine/pseudoephedrine are currently sold in over-the-counter medications; and

WHEREAS, the regulation of the sale of ephedrine/pseudoephedrine products, and methamphetamine precursors, will help protect the citizens of Kirksville by reducing the activities as described; and

WHEREAS, the proposed changes are recommended to regulate the purchase (and subsequent abuse) of over-the-counter medications containing ephedrine/pseudoephedrine ingredients.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF KIRKSVILLE, MISSOURI AS FOLLOWS:**

Section I. Amend Chapter 18 by adding a new Article VII to be titled:

**REGULATING PURCHASES OF METHAMPHETAMINE PRECURSOR DRUGS**

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

*Ephedrine* – All forms of ephedrine, ephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

*Pseudoephedrine* – All forms of pseudoephedrine, pseudoephedrine hydrochloride, and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

*Methamphetamine Precursor Drug* – Any drug or substance as described in RSMo 195.010.

*Person* – Any individual, corporation, partnership, trust, limited liability company, firm, association, or other entity.

*Sell* – To knowingly furnish, give away, exchange, transfer, deliver, surrender, or supply, whether for monetary gain or not.

(b) Prohibitions. It shall be illegal for any person to sell, deliver, distribute or purchase ephedrine, pseudoephedrine or any other methamphetamine precursor drugs except as set forth in the specific exceptions contained in this ordinance.

(1) Exceptions - The below shall be excepted from the provisions of the aforesaid Section, paragraph (b).

a. Any person purchasing or receiving medications containing ephedrine, pseudoephedrine or other methamphetamine precursor drugs from a retail pharmacy must first obtain a prescription from a physician or other healthcare professional licensed by the State of Missouri to write prescriptions. No retail pharmacy shall dispense, sell or provide these drugs without first having obtained a prescription from a physician or other healthcare professional licensed by the State of Missouri to write prescriptions.

b. Ephedrine, pseudoephedrine, or other methamphetamine precursor drugs may be distributed by a licensed physician, or other healthcare professional licensed by the State of Missouri to write prescriptions, within the physician's/healthcare professional's office, clinic, nursing home or other licensed healthcare facility.

c. The control on these drugs shall not prohibit individual healthcare practitioners, licensed for such authority by the State of Missouri, from issuing orders in their professional practices and licensed healthcare facilities.

d. The sale, delivery, distribution or purchase of animal feed/supplements containing ephedrine or dietary supplement products containing naturally occurring or herbal ephedra or extracts of herbal ephedra as authorized by a licensed veterinarian.

e. The sale, delivery, distribution or purchase of any compound, mixture, or preparation identified by the Federal Drug Administration (FDA) containing any detectable quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, except any dietary supplements, herbs, or natural products, including concentrates or extracts, that are not otherwise prohibited by law and that contain naturally occurring ephedrine alkaloids in a matrix of organic material such that the substances do not exceed fifteen percent of the total weight of the dietary supplement, herb, or natural product.

f. Upon written exemption granted by the Police Chief, either in response to an application of a manufacturer or based on other information received by the Police Chief and for so long as the written exemption is valid, the sale, delivery, distribution or purchase of any product containing any compound, mixture, or preparation of any detectable quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers from the application of all or any part of sections 195.010 to 195.320 RSMo. because the product is proven to not be feasible for the conversion of the active ingredient into methamphetamine or its salts or precursors. No exemption may be granted for any product containing ephedrine or pseudoephedrine that also contains another Schedule V drug pursuant to Missouri law. For purposes of this subdivision, "proven" includes but is not limited to the fact that the compound, mixture, or preparation releases a de minimus amount of the active ingredient used for conversion into methamphetamine or its salts or precursors.

1. A list of exempted products if any will be maintained in the office of the Chief of Police, a copy of which will be provided to the City Clerk.

2. Within 30 days of the granted exemption, the list shall be presented to the City Council.

3. The Police Chief will review and coordinate with local law enforcement agencies with regard to the analysis of product feasibility for use in the manufacture of methamphetamine or its salts or precursors. The Police Chief is authorized to coordinate with such other current state and/or federal agencies which they deem appropriate regarding such analysis. Upon determination by the Police Chief that there is probable cause to believe that a product exempted under this paragraph is feasible for the conversion of an active ingredient into methamphetamine or its salts or precursors, this exemption shall be immediately revoked for the product on a temporary basis and thereafter consider further evidence in order to determine whether the exemption should be revoked permanently.

(c) Prima facie evidence. It shall be prima facie proof that a substance is regulated by this section if the substance is contained in its original packaging and is labeled as being ephedrine, pseudoephedrine or other methamphetamine precursor drugs.

(d) Theft of precursor drugs. Reporting theft of methamphetamine precursor drugs.

(1) All thefts, shortages, disappearances, miscounts or other losses of ephedrine, pseudoephedrine, or other methamphetamine precursor drugs shall be reported to the police department within twenty-four (24) hours of discovery.

(2) Any person selling ephedrine, pseudoephedrine, or other methamphetamine precursor drugs shall report any difference between the quantity of the aforementioned drugs shipped and the quantity received to the police department within twenty-four (24) hours of discovery.

(e) Injunctive relief. The city may seek injunctive relief against any person who is in violation of this section.

(f) Miscellaneous Provisions. If any clause, word, paragraph, section or other part or portion of this Ordinance is held to be invalid, illegal or unconstitutional for any reason, the City Council hereby declares it would nevertheless have enacted the remaining portions thereof and such remaining portions shall remain in full force and effect.

Section II. Effective Date

All of the modifications to this ordinance shall be effective May 1, 2014.

Section III. Incorporation into the City of Kirksville Code of Ordinances

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Kirksville, Missouri as an addition or amendment hereto.

**PASSED BY THE CITY COUNCIL OF KIRKSVILLE, MISSOURI AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

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Richard Detweiler, Mayor

ATTEST:

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Vickie Brumbaugh, City Clerk