

ORDINANCE NUMBER 05-167

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF KEARNY, PINAL COUNTY, ARIZONA, AMENDING TITLE 9, HEALTH AND SANITATION, OF THE MUNICIPAL CODE BY ADDING A NEW ARTICLE 9-4, SALE OF PSEUDO-EPHEDRINE PRODUCTS.

WHEREAS, the use of pseudo-ephedrine products in a tablet, liquid and/or liquid gel form to manufacture illicit drugs has increased; and

WHEREAS, the manufacture of illicit drugs within the Town of Kearny poses a direct and serious threat to the safety and health of the community; and

WHEREAS, proper security and monitoring of pseudo-ephedrine sales can significantly disrupt the manufacture of illicit drugs; and

WHEREAS, the Town Council has determined that it is in the best interest of the citizens of the Town to monitor the sale of pseudo-ephedrine products in a tablet, liquid and/or liquid gel form to limit its use for the manufacturing of illicit drugs.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF KEARNY, PINAL COUNTY, ARIZONA, THAT TITLE 9, HEALTH AND SANITATION, OF THE MUNICIPAL CODE OF THE TOWN OF KEARNY, IS AMENDED BY ADDING A NEW ARTICLE 9-4 SALE OF PSEUDO-EPHEDRINE PRODUCTS, AS FOLLOWS:

Section 1: That a new Article 9-4 Sale of Pseudo-Ephedrine Products is added to Title9, Health and Sanitation as follows:

Article 9-4.
Sale of Pseudo-Ephedrine Products

Sections:

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| 9-4-1 | Definitions. |
| 9-4-2 | Security of Pseudo-Ephedrine Products. |
| 9-4-3 | Sale by Pharmacist or Licensed Pharmacy Technician. |
| 9-4-4 | Quantity that May be Sold. |

- 9-4-5 Purchaser Identification Requirements.
- 9-4-6 Confidentiality of Identification Information.
- 9-4-7 Requirement to Report Suspicious Sale.

9-4-1 Definitions. For purposes of this chapter, the following words shall have the following meanings:

- A. "Pharmacist" means a person licensed by the state in the art, practice, or profession of preparing, preserving, compounding, and dispensing medical drugs.
- B. "Licensed Pharmacy Technician" is a person licensed by the state to assist a pharmacist.
- C. "Designated person" is person designated by management to implement the requirements of this ordinance.
- D. "Pseudo-ephedrine" is a drug commonly used in decongestants and can be illegally processed to make methamphetamine. Ephedrine, norpseudoephedrine, and phenylpropanolamine shall be included in this definition as pseudo-ephedrine products.
- E. "Proper Identification" shall mean a recognized government issued photo identification of purchaser including, but not limited to, a driver's license, identification card or passport.

9-4-2 Security of Pseudo-Ephedrine Products. Any establishment that sells pseudo-ephedrine products in a tablet, liquid and/or liquid gel form must hold all such products in an area that is not accessible to the public and where such products are continually monitored to prevent theft or unauthorized or uncontrolled purchases.

9-4-3 Sale by Pharmacist, Licensed Pharmacy Technician, or a Designated Person. It shall be required that any compound, mixture or preparation that contains detectable quantities of pseudo-ephedrine in a tablet, liquid and/or liquid gel form be sold by a pharmacist, licensed pharmacy technician or a designated person.

9-4-4 Quantity that May be Sold. It shall be prohibited for a retailer from selling more than a total of 9 grams in tablet, liquid and/or liquid gel form of ephedrine, pseudo-ephedrine, (-)-norpseudoephedrine or phenylpropanolamine to a person within a thirty (30) day period. Provided, this limit shall not apply to any quantity of such tablet, liquid and/or liquid gel form of ephedrine, pseudo-ephedrine, nonpseudoephedrine or phenylpropanolamine dispensed pursuant to a valid prescription.

9-4-5 Purchaser Identification Requirements. It shall be required that any person purchasing pseudo-ephedrine products in a tablet, liquid and/or liquid gel form present proper identification and sign a written log that shows the date of the transaction, the name of the purchaser, and the amount of the compound requested.

9-4-6 Confidentiality of Identification Information. The purchaser log will be retained by the retailer for a period of six (6) months, unless otherwise directed by law enforcement, and will be considered a confidential document that will only be available to the pharmacist, licensed pharmacy technician, designated person and law enforcement.

9-4-7 Requirement to Report Suspicious Sale. The retailer, pharmacy employees and designated persons will be required to report to the police department by telephone any attempt by a purchaser to purchase larger quantities than allowable by this Ordinance or any other suspicious activity or purchases that may be related to the manufacture or possession of illegal drugs.

Section 2: Severability: That if any section, subsection, sentence, clause, phrase or portion of this ordinance adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF KEARNY, PINAL COUNTY, ARIZONA. THIS 14TH DAY OF NOVEMBER, 2005.

Debra Sommers, Mayor

ATTEST:

Margaret Gaston, Town Clerk

APPROVED AS TO FORM:

Stephen R. Cooper, Town Attorney

