

ORDINANCE NS264

**AN ORDINANCE OF THE CITY OF WILLCOX, ARIZONA, RELATING TO
RESTRICTION ON THE CONTROL AND SALE OF THE MAIN INGREDIENTS
NECESSARY TO MANUFACTURE METHAMPHETAMINE, MULTIPLE INGREDIENT
PRODUCTS CONTAINING EPHEDRINE, PSEUDO-EPHEDRINE,
NORPSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE**

IT IS THEREFORE RESOLVED, that it is in the public interest to place reasonable restriction on the control and sale of the main ingredient(s) necessary to manufacture methamphetamine, multiple ingredient products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLCOX AS FOLLOWS:

SECTION 1. CARE, CONTROL AND SALE OF PRODUCTS CONTAINING EPHEDRINE, PSEUDO-EPHEDRINE, NORPSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE.

A. Definitions:

1. Products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine shall include any compound, mixture, or preparation that contains a detectable quantity of ephedrine, pseudo-ephedrine, norpseudoephedrine, Phenylpropanolamine or its salts, optical isomers, or salts of optical isomers.
2. Product packaging that lists ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine, as an active ingredient.

B. Sales of products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine.

1. Business owners/operators of retail commercial businesses and/or their designees, shall secure all products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine displayed behind the counter in an area protected and not accessible to customers without sales personnel assistance. The intent is to require controlled access to the products by potential purchases.
2. Business owners/operators of retail commercial businesses and/or their designees shall maintain a written record of all sales or other transfers of products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine. The written record shall contain the name, address, and type of photo identification used by the business owners/operators of retail commercial businesses and/or their designees, to confirm identification of the person purchasing or taking possession of the products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and Phenylpropanolamine, the date and time of sale/transfer, the type of photo identification used and the name and quantity of the product sold/transferred and the name of the sales person selling/transferring the product. The business shall maintain afore described records for one calendar year from the date of sale/transfer.

3. The business shall transfer/send, by paper or electronically, a copy afore described records to the Willcox City Chief of Police by the tenth (10th) day of each month. Additionally, the before described records shall be available for review or reproduction by law enforcement at any time during the aforementioned year.
- C. A person who purchases or otherwise obtains products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and/or Phenylpropanolamine shall be required to provide the sales person selling/transferring the products a current government issued photo identification, containing the person's name and address. Acceptable photo identification shall be one of the following:
1. Current driver's license or picture identification card issued by Arizona or any other state government
 2. Current passport
 3. Current tribal identification card
 4. Current military identification card
- D. Business owners/operators of retail commercial businesses and/or their designees shall not sell/transfer to any one person more than three (3) packages, and/or any other quantity of product containing more than nine (9) grams of ephedrine, pseudo-ephedrine, norpseudoephedrine and/or Phenylpropanolamine without a valid prescription during any calendar day.
- E. Violations of this ordinance shall be classified as a violation of a class one misdemeanor in accordance with A.R.S. Sections 13-601, 602; 13-707; 13-802, 803; 13-902.
1. A law enforcement agency may seize any products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and/or Phenylpropanolamine that are in possession of a person or entity that is in violation of this ordinance.
 - a. Business owners/operators of retail commercial businesses and/or their designees shall be given an opportunity to correct a first offense violation of section B 1 of this ordinance prior to seizure of the products. In the event of subsequent violations the products shall be seized.
 - b. At the time of the seizure the law enforcement agency shall serve the business owners/operators of retail commercial businesses notice of intention to forfeit the seized products. The notice shall include the procedure for filing an objection with the court and the time limits applicable in the matter.
 - c. The business owners/operators of retail commercial businesses may file an objection to the seizure of the products to the City Magistrate Court within fifteen (15) days from the date of the seizure.
 - d. The Court shall set a hearing time within forty-eight (48) hours of receipt of the objection to the seizure, excluding weekends and holidays.
 - e. At the objection hearing the City will have the burden of proving with the preponderance of evidence that the product was subject to seizure and forfeiture.

- f. If the objection period has been waived or the business owners/operators of retail commercial business has exhausted their remedies in the courts, within thirty (30) days the products shall be destroyed
- 2. Any products containing ephedrine, pseudo-ephedrine, norpseudoephedrine and/or Phenylpropanolamine that are seized by a law enforcement agency are subject to forfeiture as an abatement of a public nuisance under A.R.S. Sections 9 & 13.

SECTION 2. If any provision of this ordinance is found to be illegal or void, then and in that event the illegal or void provision shall be stricken and the remaining provisions of the ordinance shall remain in full force and effect.

SECTION 3. Whereas, it is necessary for the preservation of the peace, health and safety of the City of Willcox, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

PASSED AND ADOPTED by the Mayor and Council of the City of Willcox, Arizona, this 19th day of DECEMBER 2005.

MAYOR MARLIN S. EASTHOUSE

ATTEST:

APPROVED AS TO FORM:

City Clerk Cristina G. Whelan, CMC

City Attorney James E. Holland

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