

(Published on the 5th day of June, 2013 in the Official City Newspaper)

**ORDINANCE NO. 13-4**

**Findings.**

The City Council of the City of Galena, has found the manufacture, transportation, possession and sale of methamphetamine to be inherently dangerous and that the chemical precursors of methamphetamine and the byproducts and wastes of methamphetamine production are inherently dangerous and injurious to the public health, safety and welfare of the citizens of the city. Regulation of the sale of the chemical precursors to methamphetamine production, such as ephedrine products and pseudoephedrine products, is necessary to protect the citizens of the city.

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

**Section 1.** 11-301 through 11-306 of the City of Galena is hereby amended by adding the following sections to read as follows:

11-301      DEFINITIONS.

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Ephedrine- All forms of ephedrine, ephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

(b) Pseudoephedrine - All forms of pseudoephedrine, pseudoephedrine hydrochloride and all combinations of these chemicals and any methamphetamine precursor drug containing these chemicals.

(c) Methamphetamine precursor drug - Any drug or substance used to manufacture methamphetamine that contains pseudoephedrine or ephedrine.

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

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

(f) Package – Any number of pills, tablets, capsules, caplets or individual units of a substance held within a container intended for sale.

#### 11- 302 PROHIBITION OF SALE OF METHAMPHETAMINE PRECURSOR DRUGS.

It shall be illegal for any person to sell, deliver or distribute ephedrine, pseudoephedrine, and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers except as set forth in the specific exceptions contained in Section 11-303 of this Ordinance.

#### 11-303 EXCEPTIONS.

(a) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers may be sold by a Kansas licensed pharmacist after being authorized to do so by a written prescription from a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.

(b) Ephedrine, pseudoephedrine and pseudoephedrine or ephedrine containing products, their salts, their optical isomers or salts of their optical isomers may be distributed by a licensed physician within the physician's office, or any clinic, nursing home or other licensed healthcare facility upon the orders of a physician or other healthcare professional licensed by the State of Kansas or any other state to write prescriptions.

(c) This Article regulating ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall not apply to the sale of animal feed

containing ephedrine or dietary supplement products containing naturally occurring or herbal ephedra or extracts of herbal ephedra.

11-304 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 or containing ephedrine or pseudoephedrine.

11-305 REPORTING THEFT OF METHAMPHETAMINE PRECURSOR DRUGS.

(a) All thefts, shortages, disappearances, miscounts or other losses of ephedrine, pseudoephedrine or other methamphetamine precursor drugs shall be reported to the Galena, Kansas, Police Department, within twenty-four (24) hours of discovery.

(b) 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 Galena Police Department within twenty-four (24) hours of discovery.

11-306 PENALTY.

Every act or omission constituting a violation of any of the provisions of this Ordinance by any agency or employee of any person shall be deemed and held to be an act of such person, and said person shall be punishable in the same manner as if said act or omission had been done or omitted by him / her or it personally, provided such an act or omission was within the scope of employment or the scope of authority of such agent or employee. Each such violation of this Ordinance shall be considered a separate offense.

Violation of this Ordinance shall be considered and punished as a class A misdemeanor, wherein the defendant shall be subject to a fine not to exceed \$2500.00 or a term of incarceration in the city jail not to exceed one (1) year, or both such fine and incarceration.

**Section 2. Severability.** In the event that any section, sentence, clause, phrase or portion of this Ordinance is held to be invalid by a court of competent

jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the valid portion.

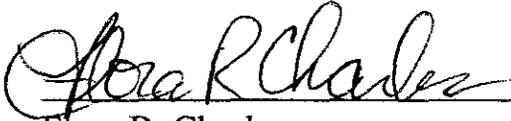
**Section 3.** This ordinance shall take effect upon one publication in the official city newspaper.

Passed and approved of by the City Council of the City of Galena, Kansas, this 3rd day of June, 2013.

Executed by the Mayor of the City of Galena, Kansas, this 3rd day of June, 2013.

  
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Dale Oglesby  
Mayor of Galena, Kansas

Attest:

  
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Flora R. Charles  
City Clerk

Prepared by:  
Kevin Cure, City Attorney