

**Date: April 12, 2005**

**Ord. #01-05**

**REGULATE THE SALE OF CONTROLLED DANGEROUS SUBSTANCES ORDINANCE**

On motion of Commissioner Ellingson, seconded by Commissioner Cummings, the following Ordinance was unanimously passed and adopted by the Mower County Board of Commissioners at a meeting held April 12, 2005 at the Courthouse, Austin, Minnesota.

**WHEREAS**, a Notice of Intention to consider a new ordinance of the Mower County Code by the Mower County Board of Commissioners was published in the Austin Daily Herald on April 1, 2005.

**WHEREAS**, the County Board held a public hearing on said ordinance on April 12, 2005.

**BE IT ORDAINED** that the following Ordinance of the Mower County Code be adopted as follows:

**CHAPTER 16  
AN ORDINANCE TO REGULATE THE SALE OF CONTROLLED DANGEROUS  
SUBSTANCES**

**ARTICLE I. TITLE**

**SECTION 16.100** This Section shall be known as the Mower County Registration for Controlled Substance Ordinance

**ARTICLE II. DEFINITIONS**

**SECTION 16.200** “Manufacturer” means any person within Mower County, Minnesota who produces, compounds, packages, or in any manner initially prepares for sale or use, any drug product described in this section.

**SECTION 16.210** “Wholesaler” means any person within Mower County, Minnesota, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product in this section to any other person in Mower County, Minnesota for the purpose of being resold.

**SECTION 16.220** “Distributor” means any person within Mower County, Minnesota, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product described in this section to any person.

**SECTION 16.230** “Readily retrievable” means available for inspection without prior notice at the registration address if that address is within Mower County, Minnesota.

**SECTION 16.240** “Business day” means a twenty-four (24) hour period on a specific calendar day; twelve o’clock a.m. (12:00 a.m.) until eleven o’clock and fifty-nine minutes p.m. (11:59 p.m.).

SECTION 16.250 “Misdemeanor” means a crime for which a sentence of not more than 90 days or a fine of not more than \$1,000, or both, may be imposed.

### **ARTICLE III. PROHIBITED CONDUCT**

SECTION 16.300 No person shall purchase, receive, or otherwise acquire more than six (6) grams of any drug product, mixture, or preparation containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers within any business day.

SECTION 16.310 No person shall sell any drug product, mixture, or preparation containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers to a person under the age of eighteen (18) years.

SECTION 16.320 This limit shall not apply to any quantity of such drug product, mixture or preparation containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers dispensed pursuant to a valid prescription.

SECTION 16.330 This section does not apply to compounds, mixtures, or preparations which are in liquid, liquid capsule, or gel capsule form if pseudoephedrine is not the only active ingredient.

### **ARTICLE IV. DISTRIBUTION AND PURCHASE REQUIREMENTS**

SECTION 16.400 Any wholesaler, manufacturer, or distributor of drug products containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall keep complete records of all transactions involving such drug products including the date of transaction, the names of all parties involved in the transaction and amount of the drug products involved.

SECTION 16.410 Any wholesaler, manufacturer, or distributor of drug products containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall ensure that all such products are:

- (a) behind a checkout counter where the public is not permitted; or
- (b) inside a locked display case requiring the assistance of an employee for retrieval; or

SECTION 16.420 Any person purchasing, receiving, or otherwise acquiring any compound, mixture, or preparation shall produce a photo identification showing the date of birth of the person and shall sign a written log, receipt or other program or mechanism showing the date of the transaction, name of the person, and the amount of the compound, mixture or preparation.

SECTION 16.430 The records, logs, programs and mechanisms referred to in this section shall be kept readily retrievable and separate from all other invoices or records of transactions not involving such drug products, and shall be maintained for not less than three (3) years.

SECTION 16.440 The information required by this section shall be confidential and shall not be open to the public. Access shall be limited to:

- (a) State certified Peace Officers;
- (b) The United States Drug Enforcement Administration;
- (c) The Board of Podiatric Medical Examiners;
- (d) The Board of Dentistry;
- (e) The Board of Pharmacy;
- (f) The State Board of Medical Licensure and Supervision;
- (g) The State Board of Osteopathic Examiners; and
- (h) The State Board of Veterinary Medical Examiners.
- (i) The County Coroner

SECTION 16.450 This section shall not prevent the disclosure of investigative information to peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, county attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

#### **ARTICLE V. PENALTY**

SECTION 16.500 The person who is convicted of this section is guilty of a misdemeanor, punishable by a fine of \$1,000.00, 90 days in jail or both.

#### **ARTICLE VI. DEFENSES**

SECTION 16.600 It is an affirmative defense to a charge under this section if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6 of Minnesota Statutes.

#### **ARTICLE VII. EFFECTIVE DATE**

SECTION 16.700 This ordinance shall become effective May 1, 2005.

Passed and approved this 12<sup>th</sup> day of April, 2005.