

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, RELATING TO THE SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE; REGULATING THE MANNER OF SALE; PROVIDING FOR THE SEIZURE AND FORFEITURE OF IMPROPERLY DISPLAYED PRODUCTS; REQUIRING IDENTIFICATION OF PURCHASERS; AND REQUIRING THAT PURCHASES BE REPORTED TO THE BENSON POLICE DEPARTMENT; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AMENDING THE BENSON CITY CODE, CHAPTER 9, REGARDING HEALTH AND SANITATION BY ADOPTING AS A NEW ARTICLE, THAT CERTAIN PUBLIC RECORD ENTITLED, “BENSON CITY CODE, CHAPTER 9, “HEALTH AND SANITATION”, ARTICLE 9-4, “SALE OF PRODUCTS CONTAINING EPHEDRINE OR PSEUDOEPHEDRINE””; ESTABLISHING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, the use of pseudoephedrine products to manufacture illicit drugs is a serious and continuing problem in the City of Benson; and,

WHEREAS, the flammable and toxic nature of the chemicals used in methamphetamine production can result in fires, explosions and the release of hazardous materials and contamination; and,

WHEREAS, meth labs are found in houses, trailers, apartments, hotel and motel rooms, in both residential and commercial areas, exposing law enforcement personnel, other first responders, the children of the persons operating the meth labs and any other persons in physical proximity to the extremely dangerous conditions;

WHEREAS, Pseudoephedrine, ephedrine and norpseudoephedrine are key ingredients in methamphetamine production, and are found in many over-the-counter cold and allergy medications, these over-the-counter medications, by purchase or theft, being the prime source of norpseudoephedrine in methamphetamine production; and,

WHEREAS, recently enacted State legislation, Senate Bill 1473, only restricts access to products containing Pseudoephedrine as the only active ingredient and does not require restricted access to products that contain pseudoephedrine, ephedrine and norpseudoephedrine in combination with other active ingredients; and,

WHEREAS, the extraction of pseudoephedrine, ephedrine and norpseudoephedrine from many over-the-counter cold and allergy medications is not materially different or more difficult in products containing pseudoephedrine, ephedrine and norpseudoephedrine with other active ingredients as from products containing pseudoephedrine, ephedrine and norpseudoephedrine as the only active ingredient; and,

WHEREAS, other jurisdictions in the Country have found that the restriction of open access to these products and requiring identification of buyers has substantially reduced the number of meth labs discovered in those jurisdictions; and,

WHEREAS, the unrestricted access to products containing pseudoephedrine, ephedrine and norpseudoephedrine in retail establishments further the illicit manufacture and sale of methamphetamine representing a significant health, safety and welfare threat to the people of the City of Benson;

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF BENSON, ARIZONA:

SECTION I: That certain document entitled "Benson City Code, Chapter 9 "Health and Safety", Article 9-4 "Sale of Products Containing Ephedrine and Pseudoephedrine", three (3) copies of which are on file in the Office of the City Clerk of the City of Benson, Arizona, said document having been made a public record by Resolution No. _____ of the City of Benson, Arizona, is hereby adopted by reference, and made a part hereof as if fully set forth in this Ordinance;

SECTION III: All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the public record adopted by reference are hereby repealed;

SECTION III: If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the public record adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion thereof.

SECTION IV: Whereas, it is necessary for the preservation of the peace, health and safety of the citizens of the City of Benson, Arizona, this ordinance shall become immediately operative and in force from and after the date of posting.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, this 13th day of March, 2006.

GEORGE SCOTT, MAYOR

ATTEST:

APPROVED AS TO FORM:

VICKI L. VIVIAN
CITY CLERK

ANN P. ROBERTS
CITY ATTORNEY