

CITY OF SHOW LOW ORDINANCE NO. 2006-01

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SHOW LOW, ARIZONA RELATING TO THE SALE OF PRODUCTS CONTAINING PSEUDOEPHEDRINE; REGULATING THE MANNER OF SALE; AMENDING CHAPTER 8, BUSINESS, OF THE SHOW LOW CITY CODE BY ADDING ARTICLE 8-8; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND DESIGNATING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the illicit manufacture of methamphetamine (meth) is a serious and continuing problem in the City of Show Low; and

WHEREAS, due to the flammable and toxic nature of the chemicals used in methamphetamine production, fires, explosions, and hazardous materials contamination are common occurrences associated with meth labs; and

WHEREAS, meth labs are found in houses, apartments, hotel and motel rooms, and trailers, 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 extremely dangerous conditions; and

WHEREAS, pseudoephedrine, ephedrine, norpseudoephedrine, and phenylpropanolamine are key ingredients in methamphetamine production and are found in many over-the-counter cold and allergy medications; and

WHEREAS, these over-the-counter medications, by purchase or theft, are the prime source of pseudoephedrine in methamphetamine production; and

WHEREAS, recently enacted state legislation only restricts access to products containing pseudoephedrine as the only active ingredient; and

WHEREAS, the extraction of pseudoephedrine, ephedrine, norpseudoephedrine, and phenylpropanolamine from these over-the-counter products is not materially different or more difficult in products containing pseudoephedrine, ephedrine, norpseudoephedrine, and phenylpropanolamine with other active ingredients as from products containing pseudoephedrine, ephedrine, norpseudoephedrine, and phenylpropanolamine as the only active ingredients; 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.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Show Low, Navajo County, Arizona:

Section 1

Chapter 8, Business, of the Show Low City Code is hereby amended by adding Article 8.8, as follows:

ARTICLE 8-8. PSEUDOEPHEDRINE PRODUCTS

Sec. 8-8-1. Sale of products containing pseudoephedrine.

(a) Definitions.

In this Article, unless the context otherwise requires:

- 1. "Pseudoephedrine product" means any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product.**
 - 2. "Retail establishment" means any place of business that offers any pseudoephedrine product for sale at retail.**
- (b) The operator of a retail establishment shall keep all products containing pseudoephedrine behind a store counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the establishment.**
- (c) A person making a retail sale of a product containing pseudoephedrine shall require a government-issued, photo identification from the purchaser and shall record the purchaser's name, date of birth, quantity of pseudoephedrine product purchased, transaction date and the initials of the seller.**
- (d) The information required to be obtained by subsection (c) will be retained by the retail establishment for a period of ninety (90) days, and will be considered a confidential document that will only be available to the operator of the retail establishment, and shall be available to the City of Show Low police department officers, Arizona Department of Public Safety**

officers, Navajo County sheriff's department officers and other law enforcement officers.

(e) The operator of a retail establishment shall be responsible for training all employees of the requirements and penalties hereunder and otherwise require employee compliance of this Article.

Sec. 8-8-2 Violations, penalties.

(a) A first violation of this Article shall be cited as a civil violation, punishable as provided in section 1-8-1(a) of this Code.

(b) A person who commits a violation of this Article after having previously been found responsible for committing a violation of this Article within a twenty-four (24) month period, whether by admission, payment of the fine, by default or by judgment after hearing, may be cited for a criminal violation of this Article, punishable as provided in section 1-8-1(b) of this Code.

Section 2

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of Article 8-8 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 portions thereof.

PASSED AND ADOPTED this 17th day of January, 2006, by the Mayor and Council of the City of Show Low, Arizona.

Rick Fernau, Mayor

ATTEST:

Ann Kurasaki, City Clerk

APPROVED AS TO CONTENT:

Michael D. Maag, City Manager

APPROVED AS TO FORM:

K. Kane Graves, City Attorney