

ORDINANCE NO. O2006-04

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CAVE CREEK, MARICOPA COUNTY, ARIZONA, AMENDING THE TOWN CODE OF THE TOWN OF CAVE CREEK TITLE XIII, GENERAL OFFENSES BY ADDING A NEW CHAPTER 131, SALE OF PSEUDOEPHEDRINE; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND DESIGNATING AN EFFECTIVE DATE.

WHEREAS, the illicit manufacture of methamphetamine (meth labs) is a serious and continuing problem in this Town; 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, 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, these over-the-counter medications, by purchase or theft, being 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;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF CAVE CREEK AS FOLLOWS:

SECTION 1. The Town Code of the Town of Cave Creek, Article XIII, General Offenses is amended by adding a new Chapter 131, Sale of Pseudoephedrine.

SECTION 2. That Chapter 131 shall read as follows:

A. DEFINITIONS.

IN THIS CHAPTER, 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 TOWN OF CAVE CREEK TOWN MARSHAL DEPARTMENT OFFICERS, ARIZONA DEPARTMENT OF PUBLIC SAFETY OFFICERS, MARICOPA COUNTY SHERIFF'S DEPARTMENT OFFICERS, AND OTHER LAW ENFORCEMENT OFFICERS.
- E. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

SECTION 3. Effective date.

The effective date of this ordinance is 12:01 A.M. ON March 27, 2006.

PASSED by the Mayor and Common Council of the Town of Cave Creek this __ day of _____, 2006.

Vincent Francia, Mayor

ATTEST:

Carrie A. Dyrek, Town Clerk

APPROVED AS TO FORM:

William E. Farrell, Town Attorney