

ORDINANCE NO. 2005-2686

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 11 OF THE GOODYEAR CITY CODE ADDING SECTION 11-1-23 RELATING TO THE SALE OF PRODUCTS CONTAINING EPHEDRINE, PSEUDOEPHEDRINE, NORPSEUDOEPHEDRINE, AND/OR PHENYLPROPANOLAMINE; IMPOSING REQUIREMENTS FOR THE DISPLAY OF SUCH PRODUCTS, REQUIRING IDENTIFICATION FROM PURCHASERS; REQUIRING A LOG OF ALL SALES OF SUCH PRODUCTS TO BE MAINTAINED AND MADE AVAILABLE TO LAW ENFORCEMENT, PROVIDING FOR PENALTIES; PROVIDING FOR SEPARABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the illicit manufacture of methamphetamine (meth labs) is a serious problem in Arizona; and

WHEREAS, fires, explosions, and hazardous materials contamination are common occurrences associated with meth labs because of the flammable and toxic nature of the chemicals used in methamphetamine production; 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, children of persons operating meth labs, and other persons in physical proximity of meth labs to extremely dangerous conditions; and

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

WHEREAS, by purchase or theft, these over-the-counter cold and allergy products are a prime source in the production of methamphetamine; and

WHEREAS, the unrestricted access to products containing ephedrine, pseudoephedrine, norpseudoephedrine, and/or phenylpropanolamine is a nuisance that endangers the public, health safety, and welfare; and

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

WHEREAS, the Mayor and Council of the City of Goodyear, believe that it is in the best interest of the City to amend Chapter 11 of the Goodyear City Code to regulate the sale of products containing ephedrine, pseudoephedrine, norpseudoephedrine;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona as follows:

SECTION I: AMENDMENT OF CHAPTER 11 OF THE GOODYEAR CITY CODE.

Chapter 11 of the Goodyear City Code is amended by adding the following new offense,

Sec. 11-1-23 Sale of products containing ephedrine or pseudoephedrine.

A. Person(s) selling products containing ephedrine, pseudoephedrine, norpseudoephedrine, and/or phenylpropanolamine shall keep such products behind a counter or otherwise in a manner that is inaccessible to the public and in an area where such products are monitored to prevent theft, or unauthorized or uncontrolled purchases.

B. Person(s) making a retail sale of a product containing ephedrine, pseudo ephedrine, norpseudoephedrine, and/or phenylpropanolamine shall require acceptable photo identification from the purchaser and shall record in a Purchaser's Log, the purchaser's name, date of birth, address, and quantity of ephedrine, pseudoephedrine, norpseudoephedrine, and/or phenylpropanolamine product purchased.

1. For purpose of this subsection, acceptable photo identification means any of the following:
 - a. Current drivers license or picture identification card issued by this or any other state;
 - b. A current passport;
 - c. A current tribal identification card; or
 - d. A current military identification card.
2. The Purchaser Log shall be kept confidential and made available, upon written request, only to law enforcement personnel (local, state, or federal) and others authorized by law or court order to receive such information. The Purchaser Log shall be maintained for a period of six (6) months unless otherwise directed by law enforcement personnel, law, or court order.

C. For purposes of this article, a product containing ephedrine or pseudoephedrine includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine, and/or phenylpropanolamine. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine, and/or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that it is a product containing ephedrine or pseudoephedrine.

D. A violation of this section is subject to the penalties set forth in Goodyear City Code § 1-1-8.

SECTION II: PROVIDING FOR SEPARABILITY

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion

shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of the ordinance or parts thereof.

SECTION III: EFFECTIVE DATE

The provisions of this Ordinance shall take effect ninety days after passage.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona this _____ day of _____, 2005.

Mayor

Date

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney