

## ORDINANCE NO. 642

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, ADOPTING A NEW ARTICLE 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" IN CHAPTER 9 "HEALTH AND SANITATION" OF THE TOWN CODE TO, FURTHER RESTRICT ACCESS TO OVER-THE-COUNTER PRODUCTS CONTAINING PSEUDOEPHEDRINE IN ORDER TO HELP CURB THE ILLICIT MANUFACTURE OF METHAMPHETAMINE; PROVIDING THAT ALL OTHER CHAPTERS, ARTICLES AND SUBSECTIONS OF THE TOWN CODE SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND DECLARING THIS ORDINANCE TO BE AN EMERGENCY MEASURE PURSUANT TO ARS §19-142(B) AND §2-05-060 OF THE PRESCOTT VALLEY TOWN CODE.

WHEREAS, the illicit manufacture of methamphetamine (meth labs) is a serious and continuing problem in Arizona, Yavapai County, and the Town of Prescott Valley; 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, etc. in both residential and commercial areas, exposing law enforcement personnel, other first responders, the children of the persons operating the meth labs, and 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 (said 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 is not materially different or more difficult from 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 Arizona municipalities have determined that the restriction of open access to these products and requiring identification of buyers can substantially reduce the number of meth labs in those municipalities; and

WHEREAS, the League of Arizona Cities and Towns has recently developed a model ordinance based on a number of these municipal ordinances which further restricts open access to these products and requires identification of buyers; and

WHEREAS, Arizona towns are authorized to provide regulations for the prevention of fires, to regulate markets and marketplaces, and to provide **regulations** necessary to suppress or prevent disease [ARS §9-240(B)(7), (10) & (22)]; and

WHEREAS, the Town Council of the Town of Prescott Valley has discussed at work/study sessions held on November 10, 2005 and December 8, 2005 whether to join with other Arizona municipalities in adopting an ordinance which further restricts open access to such products and requires identification of buyers; and

WHEREAS, the Town Council now finds that adoption of an ordinance substantially similar to the League model ordinance will place the Town within the mainstream of other Arizona municipalities that have addressed or are addressing the issue of illicit methamphetamine production, and will otherwise further the health, safety and welfare of the community;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That a new Article 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" be hereby enacted in Chapter 9 "HEALTH AND SANITATION" of the Town Code of the Town of Prescott Valley, Arizona.

SECTION TWO. That a new Section 9-08-010 "Definitions" in Article 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" in Chapter 9 "HEALTH AND SANITATION" of the Prescott Valley Town Code be hereby enacted to read as follows:

**9-08-010 Definitions.**

In this Article, unless the context otherwise requires:

- A. "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.
- B. "Retail Establishment" means any place of business that offers any Pseudoephedrine Product for sale at retail.

SECTION THREE. That a new Section 9-08-020 "Duty to Keep Pseudoephedrine Products Inaccessible" in Article 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" in Chapter 9 "HEALTH AND SANITATION of the Town Code be hereby enacted to read as follows:

**9-08-020 Duty to Keep Pseudoephedrine Products Inaccessible.**

The operator of a Retail Establishment shall keep all Pseudoephedrine Products behind a counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the Retail Establishment.

SECTION FOUR. That a new Section 9-08-030 "Duty to Require Identification From Purchasers" in Article 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" in Chapter 9 "HEALTH AND SANITATION of the Town Code be hereby enacted to read as follows:

**9-08-030 Duty to Require Identification From Purchasers.**

A person making a Retail Sale of a Pseudoephedrine Product shall require a government-issued, photo identification from any purchaser and shall record the purchaser's name, date of birth, quantity of Pseudoephedrine Product purchased, transaction date, and the initials of the seller.

SECTION FIVE. That a new Section 9-08-040 "Duty to Make Information Available to Police" in Article 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" in Chapter 9 "HEALTH AND SANITATION of the Town Code be hereby enacted to read as follows:

**9-08-040 Duty to Make Information Available to Police.**

The information required to be obtained by Section 9-08-030 above shall be retained by the Retail Establishment for a period of ninety (90) days, and will be considered a confidential document that will only be made available upon request to the operator of the Retail Establishment, authorized personnel of the Prescott Valley Police Department, Arizona Department of Public Safety Officers, Yavapai County Sheriffs Department Officers, and other law enforcement officers.

SECTION SIX. That a new Section 9-08-050 "Penalty" in Article 9-08 "SALE OF PSEUDOEPHEDRINE PRODUCTS" in Chapter 9 "HEALTH AND SANITATION of the Town Code be hereby enacted to read as follows:

**9-08-050 Penalty.**

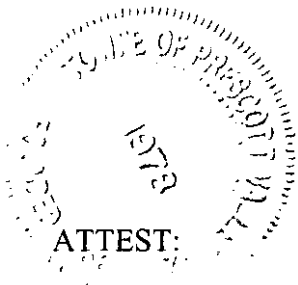
A violation of this Article shall be a Class 1 Misdemeanor.

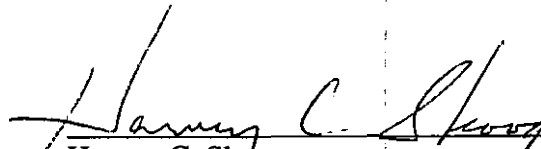
SECTION SEVEN. That all other Chapters, Articles, and Sections of the Town Code shall remain in full force and effect.

SECTION EIGHT. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION NINE. That, inasmuch as it is necessary for the peace, health and safety of the Town of Prescott Valley that this Ordinance be effective upon its passage and approval according to ARS §19-142(B) and §2-05-060 of the Town Code (due to the need to join with other Arizona municipalities to further restrict access to over-the-counter Pseudoephedrine Products to help curb the illicit manufacture of methamphetamine in the area), this Ordinance is hereby declared to be an emergency measure and effective upon its passage and approval.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 15<sup>th</sup> day of December, 2005.



  
Harvey C. Skog, Mayor

  
Diane Russell, Town Clerk

APPROVED AS TO FORM:

  
Ivan Legler, Town Attorney