ORDINANCE #05-45

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, ADDING CHAPTER 9.21 TO THE SURPRISE MUNICIPAL CODE, ESTABLISHING REGULATIONS GOVERNING THE SALE OF OVER-THE-COUNTER PHARMACEUTICALS CONTAINING PSEUDO-EPHEDRINE, NORPSEUDOEPHEDRINE, PHENYLPROPA-NOLAMINE AND/OR EPHEDRINE.

WHEREAS, the illicit manufacture and consumption of methamphetamine are continuing problems throughout our community, 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 methamphetamine labs, and;

WHEREAS, pseudoephedrine is a key ingredient in methamphetamine production and is found in many over-the-counter cold and allergy medications, and;

WHEREAS, other jurisdictions throughout the country have found that the restriction of open access to these over-the-counter medications containing pseudoephedrine has substantially reduced the number of methamphetamine labs discovered in those jurisdictions, and;

WHEREAS, reduction in the consumption and production of methamphetamine will help to protect the public health, safety and welfare, and;

WHEREAS, the Mayor and Council of the City of Surprise have determined that it is in the best interests of the citizens of Surprise to monitor and place reasonable restrictions on the sale of pseudoephedrine in order to limit its use in manufacturing methamphetamine;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Surprise that:

Section 1. A new Chapter 9.21 of the Surprise Municipal Code is hereby added as follows.

Chapter 9.21

THE SALE OF OVER-THE-COUNTER PHARMACEUTICALS CONTAINING PSEUDOEPHEDRINE, NORPSEUDOEPHEDRINE, PHENYLPROPANOLAMINE AND/OR EPHEDRINE

Sections:

9.21.010 Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

"Pseudoephedrine" means a drug that is commonly used in decongestants and can be illegally processed to make methamphetamine. Ephedrine, norpseudoephedrine and phenylpropanolomine shall be included in this definition as pseudoephedrine.

"Proper Identification" means a recognized government issued photo identification of purchaser including, but not limited to, a driver's license, identification card or passport.

9.21.020 Security of pseudoephedrine products. Any establishment that sells pseudoephedrine products in a tablet form must hold all such products in an area that is not accessible to the public and where such products are continually monitored to prevent theft or unauthorized or uncontrolled purchases.

9.21.030 Quantity that may be sold. It shall be prohibited for a retailer to sell more than a total of three (3) packages not to exceed nine (9) grams in tablet form of ephedrine, pseudoephedrine, norpseudoephedrine or penylpropanolamine to a person within a thirty (30) day period. This limit shall not apply to any quantity of such tablet form of ephedrine, pseudoephedrine, norpseudoephedrine or penylpropanolamine dispensed pursuant to a valid prescription.

9.21.040 Purchaser identification requirements. It shall be required that any person purchasing pseudoephedrine products in a tablet form present proper identification and sign a written log that shows the date of the transaction, the type and quantity of the purchase, the name of the purchaser, the type of identification and the identifying number on the identification (i.e. driver's license number).

9.21.050 Confidentiality of identification information. The purchaser log will be kept in a secure location by the retailer. The purchaser log will be turned over to the Chief of Police, or designee, for the Surprise Police Department on a quarterly basis, unless otherwise directed by law enforcement, and will be considered a confidential document that will only be available to the retailer and law enforcement, and only for law enforcement purposes.

9.21.060 Requirement to report suspicious sale. The retailer and employee selling the product containing pseudoephedrine will be required to report to the police department by telephone any attempt by a purchaser to purchase larger quantities than allowable by this Ordinance or any other suspicious activity or purchases that may be related to the manufacture or possession of illegal drugs.
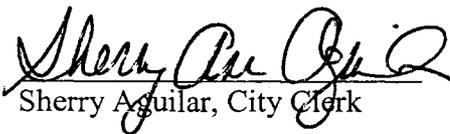
9.21.070 Penalties. Wherever in this chapter an act is prohibited or declared unlawful, and wherever in this Chapter the doing of any act is required or the failure to do any act is declared unlawful, the violation of any such provisions of this Chapter is a misdemeanor, punishable by a fine of not more than two-thousand five hundred dollars or imprisonment for not more than six (6) months or probation of not more than three (3) years, or any combination of such fine, imprisonment and probation. Each day such violation continues shall constitute a separate offense. Officers of any corporation or partners of any firm licensed pursuant to the Surprise Municipal Code which are found to have violated any provision of this Chapter, shall be individually subject to a fine, imprisonment or probation or any combination of such fine, imprisonment and probation. Revocation or suspension of license shall not constitute a defense against prosecution.

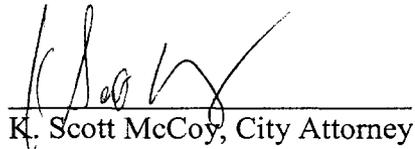**Section 2.** This Ordinance #05-45 shall be codified.

PASSED AND ADOPTED this ___13___ day of _____October_____, 2005.

Joan Shafer, Mayor

ATTEST:

Sherry Aguilar, City Clerk

APPROVED AS TO FORM:

K. Scott McCoy, City Attorney

Yeas: __Mayor Shafer, Vice-Mayor Arismendez, Council Members;__
          Bails, Elkins, Foro, Johnson & Sullivan.
Nays: _____