

CITY OF TOLLESON

ORDINANCE NO. 433 N.S.

AN ORDINANCE OF THE CITY OF TOLLESON, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 8, BUSINESS, OF THE TOLLESON CITY CODE BY ADDING ARTICLE 8-7 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 SEVERABILITY; 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 restricted 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 Council finds that it is in the best interest of the City to amend Chapter 8, Business, of the Tolleson City Code to regulate the sale of products containing ephedrine, pseudoephedrine, norpseudoephedrine and/or phenylpropanolamine.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOLLESON,
MARICOPA COUNTY, ARIZONA AS FOLLOWS:**

Section 1: That the Tolleson City Code, Chapter 8, Business, is hereby amended by adding a new Article 8-7, Sale of Products Containing Ephedrine, Pseudo ephedrine, Norpseudoephedrine and/or Pehenylpropanolamine, to provide as follows:

Article 8-7 Sale of Products Containing Ephedrine or Pseudo ephedrine,
Norseudoephedrine and/or Pehenylpropanolamine

A. Person(s) selling products containing ephedrine, pseudo ephedrine, norseudoephedrine and/or pehenylpropanolamine 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, norseudoephedrine and/or pehenylpropanolamine 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, pseudo ephedrine, norseudoephedrine and/or pehenylpropanolamine 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 pseudo ephedrine includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudo ephedrine, norseudoephedrine and/or pehenylpropanolamine. Product packaging that lists ephedrine, pseudo ephedrine, norseudoephedrine and/or pehenylpropanolamine as an active ingredient shall constitute prima facie evidence that it is a product containing ephedrine or pseudo ephedrine.

D. Any person found guilty of violating any provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not to exceed two thousand five hundred dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

Section 2: Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 3: Repeal of conflicting ordinances. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4: Effective date. The provisions of this Ordinance shall take effect ninety (90) days after the date of passage and adoption.

PASSED by the Council of the City of Tolleson this 10th day of January, 2006.

APPROVED by the Mayor this 10th day of January, 2006.

ADOLFO F. GAMEZ, MAYOR

ATTEST:

CHRIS HAGEN, CITY CLERK

APPROVED AS TO FORM:

SCOTT W. RUBY, CITY ATTORNEY