

ORDINANCE NO. 821

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 130.25 OF THE CODE OF THE TOWN OF PAYSON, PROHIBITING THE SALE, DISPLAY, OR POSSESSION FOR SALE OF INTENTIONALLY MISUSED PRODUCTS.

WHEREAS, various products (commonly referred to as ‘designer drugs’) are being sold under the names ‘bath salts’ and ‘potpourri’ and are labeled “not for human consumption;” and

WHEREAS, such products are commonly misused for obtaining a high, hallucinogenic, psychoactive, psychotropic, or other mind altering effects; and

WHEREAS, such products, being unregulated, have various potencies and have resulted in deleterious effects, including the hospitalization of minors; and

WHEREAS, on February 16, 2012, the Town Council directed Staff to determine what, if anything, could be done on the local level to protect persons from the sale and use of such products; and

WHEREAS, the Town has the authority under A.R.S. §9-240(B)(10) to establish markets and marketplaces and regulate the same; and

WHEREAS, the Town has the authority under A.R.S. §9-240(B)(21) to define, abate, and remove nuisances; and

WHEREAS, the Town has the authority under A.R.S. §9-240(B)(22) to perform acts and prescribe regulations for the prevention or suppression of disease; and

WHEREAS, Black’s Legal Dictionary defines disease as any deviation from the healthy and normal functioning of the body; and

WHEREAS, the Town has the authority under A.R.S. §9-240(B)(29) to adopt ordinances for the good government and order of the municipality; and

WHEREAS, the Town finds that this Ordinance assists in the civil government and regulates and administers the local and internal affairs of the community; and

WHEREAS, the Town additionally finds that this Ordinance is necessary for the health, safety, and welfare of the Town of Payson and its citizens; and

WHEREAS, it is the desire of the Mayor and Common Council to add Section 130.25 of the Code of the Town of Payson to prohibit the sale, display, or possession for sale of intentionally misused products,

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FIRST READING AND PUBLIC HEARING

SECOND READING AND PUBLIC HEARING

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That Section 130.25 of the Code of the Town of Payson is hereby added shall read as follows:

130.25 SALE, DISPLAY, OR POSSESSION FOR SALE OF INTENTIONALLY MISUSED PRODUCTS.

- (A) It is unlawful for any person to possess for sale, offer for sale, or sell any product that is not intended or labeled for human consumption, knowing or having reason to know that the purchasers and/or end users of such product commonly intentionally misuse such product.
- (B) For the purposes of this section:
 - (1) *Intentional misuse of a product* means the consumption, ingestion, smoking, or other introduction of a product into the human body for the purpose of obtaining a high, hallucinogenic, psychoactive, psychotropic, or other mind altering effect.
 - (2) If an employee of the federal, state, county, or local government, acting in his/her official capacity, provides a person with information documenting the common intentional misuse of a product, such person shall be deemed to know or have reason to know of the common intentional misuse of the product.

Section 2. That if any section, subsection, or portion of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Common Council of the Town of Payson declares that it would have adopted this Ordinance and each section, subsection, or portion thereof despite the fact that any one or more sections, subsections, or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this ____ day of _____, 2012, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:



Timothy M. Wright, Town Attorney