

ORDINANCE NO. 08-4

AN ORDINANCE PROHIBITING THE SALE AND DISTRIBUTION OF NOVELTY LIGHTERS, AS DEFINED BELOW, WITHIN THE CITY LIMITS OF THE CITY OF POTTSVILLE, ARKANSAS, AND FOR OTHER PURPOSES

WHEREAS, prohibiting the sale and distribution of novelty lighters within the city limits of the city of Pottsville, Arkansas, is in the best interest of the residents of the city of Pottsville because of the potential for serious physical injury or death to those children exposed to such devices; and,

WHEREAS, youth fire setting has been identified as a leading cause of accidental fire in the home across the United States; and,

WHEREAS, novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds and toy-like design; and,

WHEREAS, the U. S. Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to the danger posed to public safety; and,

WHEREAS, functions of novelty lighters can be achieved without posing a danger to public health and safety; and,

WHEREAS, many public safety agencies support the prohibition of the sale and distribution of novelty lighters, including the National Fire Protection Association, Western Fire Chiefs Association and the National Association of State Fire Marshals have lent their support to this issue; and,

WHEREAS, surrounding areas of Pottsville have been exposed to the very dangers that are described in this Ordinance; and,

WHEREAS, the Pottsville Rural Fire Department supports this Ordinance to enhance and compliment the current and future editions of the Arkansas Fire Prevention Code in order to protect the lives of the citizens and residents of the city of Pottsville, Arkansas; and,

WHEREAS, it is in the best interests of the citizens and residents of the city of Pottsville, Arkansas, that the sale and distribution of these items be prohibited.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTTSVILLE, ARKANSAS:

Section 1. The title of this Ordinance shall be "The Novelty Lighter Prohibition Ordinance".

Section 2. This Ordinance is passed pursuant to the power granted to the city of Pottsville by Arkansas Code Annotated.

Section 3. For the use of this Ordinance the term "novelty lighter" means a lighter that has entertaining audio or visual effects, or that depicts (logs, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children ten years of age or younger. This includes, but is not limited to lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have

flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.

Section 4. The retail sale, offer of retail sale, gift or distribution of any novelty lighter within the territorial jurisdiction of the city of Pottsville, Arkansas, is prohibited. This prohibition is inapplicable to (1) novelty lighters which are only being actively transported through the city; or (2) novelty lighters located in a warehouse closed to the public for purposes of retail sales.

Section 5. The term "novelty lighter" excludes (1) any lighter manufactured prior to 1980; and/or (2) any lighter which lacks fuel or a device necessary to produce combustion or a flame.

Section 6. The provisions of this Ordinance shall be enforced by the city of Pottsville's fire chief or his designated agent, law enforcement officers, code enforcement officers and/or any other city official authorized to enforce any provision of the city of Pottsville ordinances.

Section 7. Any person or entity violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction therefor shall be subject to a fine or penalty of not less than \$25.00 nor more than \$500.00 plus court costs.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict with this Ordinance.

Section 9. That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

Section 10. It is hereby found and determined that the passage of this Ordinance is necessary in order to insure the proper and orderly growth of this land and of the city of Pottsville, Arkansas, and being necessary for the immediate preservation of the public health, safety and welfare; therefore, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

Passed this 25 day of Feb., 2008.


Jerry Duvall, Mayor

Attest:


City Clerk