

ORDINANCE NO. 12-6-

**AN ORDINANCE PROHIBITING SMOKING AND THE USE OF TOBACCO PRODUCTS  
IN THE CITY OF POTTSVILLE PARKS AND BALL COMPLEX.**

**THE CITY COUNCIL OF THE CITY OF POTTSVILLE DOES HEREBY ORDAIN  
AS FOLLOWS:**

**Section 1: Title.** This Ordinance shall be titled and referred to as the “ No Smoking and Tobacco Products Use Ordinance”.

**Section 2: Findings and Purpose.** The City Council of the City of Pottsville hereby finds and declares that:

- (a) Smoking and use of tobacco products are hazardous to health.
- (b) Numerous studies have shown that second-hand smoke is a significant public health hazard.

**Section 3: Definitions.**

- (a) **Tobacco Products.** For purposes of this Ordinance, “tobacco products” means a cigarette, stogie, cigar, snuff, chew, dip or other preparations of pulverized tobacco; smoking tobacco, including but not limited to granulated, plug-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette; chewing tobacco, including Twist, plug, and any kind of tobacco suitable for chewing; and any article product made of tobacco or a tobacco substitute.
- (b) **Smoking.** For purposes of this Ordinance “smoking” means inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner in any form.
- (c) **City of Pottsville Parks and Ball Complex.** For the purpose of this Ordinance, the “City of Pottsville Parks and Ball Complex” consists of all of the city property including the walking track, baseball fields and concession stands and any other athletic field or area. Further, “City of Pottsville Parks and Ball Complex” shall also mean any future locations not in existence at the time of the passage of this Ordinance.

**Section 4: Prohibition of Smoking or Use of Tobacco Products in the Thomas G. Morris City Park and Ball Complex with the Exception of Designated Areas.**

- (a) Smoking and use of tobacco products shall be prohibited in any and all present and future areas within the limits of the City of Pottsville Parks and Ball Complex with the exception of the parking lot of said area.

**Section 5: Ordinance not to excuse noncompliance with other laws and regulations; authority for more restrictive requirements.**

- (a) This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law or regulation.
- (b) Punishment under this Ordinance shall not preclude any other law proscribing the act of littering. Nothing in this Ordinance shall preclude the City of Pottsville from seeking any other remedies, penalties or procedures provided by law.

**Section 6: Violations; penalties.**

- (a) Any person who violates any provision of the previous section shall be deemed guilty of a misdemeanor and subject to the following penalties:
  - (1) A fine not to exceed One Hundred Dollars (\$100.00) plus the court costs for the first offense;
  - (2) A fine not to exceed Two Hundred Fifty Dollars (\$250.00) plus the court costs for the second offense;
  - (3) A fine not to exceed Five Hundred Dollars (\$500.00) plus the court costs for the third and each subsequent offense.
- (b) Persons who smoke in an area where smoking or use of tobacco products is prohibited and who refuse to extinguish their smoking material when asked, may be required to leave the premises, and shall be subject to prosecution for criminal trespass or any other appropriate criminal offense if they do not leave when asked.
- (c) Each separate occurrence during which the violation occurs shall constitute a separate and distinct offense.

**Section 7: Affirmative Defense.** It shall be an affirmative defense to the prosecution under this section if the person smoking or using tobacco products was doing so on the parking lot of the City of Pottsville Parks and Ball Complex.


**Section 8: Severability.** The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional or if any application of any provision of this Ordinance to any person or circumstance is held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or applications. The City Council hereby declares its intent that it would have adopted this Ordinance and each section, subsection, sentence, clause or phrase not declared invalid or unconstitutional, without regard to whether any portion or application of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 9: Emergency Clause.** This ordinance being necessary for the health, safety, and welfare of the citizens of Pottsville, Arkansas, based upon the reasons stated above, an emergency

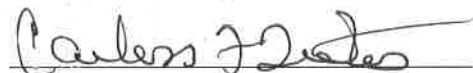
is declared to exist, and this Ordinance shall take effect and be enforced from and after its passage, approval and publication as provided by law.

This Ordinance No. 12-6 will be replacing Ordinance No. 05-01.

Ordained this 26 day of March, 2012.

  
JERRY WILLIAMS, MAYOR

ATTEST:

  
Carless F. Teeter  
City Clerk/Treasurer