

BOROUGH OF ALBA
COUNTY OF BRADFORD
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 2020-01

AN ORDINANCE OF THE BOROUGH OF ALBA, BRADFORD COUNTY, PENNSYLVANIA, PROHIBITING THE USE OF TOBACCO PRODUCTS IN THE BOROUGH OF ALBA RECREATIONAL AREAS, PARKS PLAYGROUNDS, ATHLETIC FIELDS AND SIMILAR FACILITIES AND PROVIDING PENALTY FOR VIOLATION THEROF.

WHEREAS, the borough of Alba (hereinafter "Borough") is a duly organized and existing municipality and political subdivision with the county of Bradford, Commonwealth of Pennsylvania, and,

WHEREAS, the borough of Alba is subject to the PA Borough Code as found in 8 Pa C.S.A Section 101 et seq.; and,

WHEREAS, and pursuant to said Borough Code, the borough has the authority to make regulations as may be necessary for inter alia the health, safety and general welfare of the borough. See 8 Pa C.S.A. Section 1202(5).

WHEREAS, and pursuant to said Borough Code, the borough has the authority to inter alia prohibit and/or regulate smoking. See. 8 PA C.S.A. Section 1202(16).

WHEREAS, and pursuant to said Borough Code, the Borough has the authority to inter alia provide, improve, maintain and regulate recreational places within the Borough whereby "recreational places" includes inter alia public parks, playgrounds and playfields. See. PA 8 C.S.A. Section 2701(a).

WHEREAS, the borough of Alba's Recreational Areas, Parks, Playgrounds, Athletic Fields and Facilities are intended for the healthy enjoyment of all residents, especially the children and youth of the Borough of Alba; and,

WHEREAS, the annoyance to others, the litter and second-hand smoke associated with smoking and tobacco use in the Borough of Alba's Recreational Areas, Parks, Playgrounds and Athletic Fields and Facilities can pose health risks to the residents of the Borough, and especially to children and youth, as determined by the United States Surgeon General; and,

WHEREAS, the Alba Borough Council desires to discourage tobacco use and promote clean public health by making Borough owned Recreational Areas, Parks, Playgrounds, Athletic Fields and Similar Facilities “Tobacco Free Zones”; and,

THEREFORE BE IT ORDAINED AND ENACTED, AND IT IS HEREBY ORDAINED AND ENACTED, by the Council of the Borough of Alba, County of Bradford and Commonwealth of Pennsylvania, as follows:

SECTION 1. Prohibition Against the Use of Tobacco Products in Borough owned Recreational Areas, Parks, Playground, Athletic Fields and Similar Facilities.

- A. Borough owned Recreational Areas, Parks, Playgrounds, Athletic Fields and Similar Facilities are hereby designated “Tobacco Free Zones” and the use of any tobacco product in any form is, and shall be, prohibited on those marked designated areas.
- B. Appropriate signage will be posted at all subject sites delineating them as “Tobacco Free Zone” or “Tobacco Use Zone”.
- C. Alba Borough Council hereby authorizes its council members, the Alba Borough Manager; the Bradford County Code Enforcement Officer, any member of the Pennsylvania State Police Department and any other duly authorized agent or representative of the borough of Alba to take whatever steps are necessary for full participation in and compliance with, this ordinance and/or any such other programs of the Commonwealth of Pennsylvania pertaining to the prohibition against the use of tobacco products as set forth in the Ordinance.
- D. Any person who violates any provision of this Ordinance shall be forced to leave the Borough owned Recreational Areas, Parks, Playgrounds, Athletic Fields and Facilities may also be fined up to Fifty Dollars (\$50.00) per violation.

SECTION 2. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise:

- A. BOROUGH- means the municipal corporate entity known as the Borough of Alba, Bradford County, Pennsylvania and/or where applicable, the geographical confines and land owned by the Borough of Alba situate in Bradford County, Pennsylvania and its duly elected or appointed public officials designated representatives, agents, servants or employees.

- B. PERSON- means a natural person, agent, firm, operator, corporation, partnership organization, association, institution or other legal entity.
- C. PUBLIC OFFICER- means any member of the Alba Borough Council, the Alba Borough Manager, the Bradford County Code Enforcement Officer, any member of the Pennsylvania State Police Department and any other duly authorized agent or representative of the Borough of Alba.
- D. TOBACCO PRODUCT- includes all of the following:
 - (1) Any product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, snuffed, dipped or ingested by any means including, but not limited to, cigarettes, cigars, chewing tobacco, pipe tobacco and snuff, or dipping tobacco; and,
 - (2) Any electronic device that delivers nicotine or other substances to the person inhaling from the device including, but not limited to, electronic cigarettes (e-cigarettes), vape pens, juul devices, pipes, hookah pipes or devices and any other similar electronic tobacco devices which ignite tobacco and/or emit smoke, aerosol or vapor;
 - (3) Notwithstanding any provision of Sections 2(D)(1) and 2(D)(2) above, to the contrary, "tobacco product" further includes any component, part or accessory of a tobacco product whether or not sold separately. "Tobacco Products" does not include any product that has been approved by the United States Food & Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is made and sold for such use; and,
 - (4) The list identified in Sections 2(D)(1) and 2(D)(2) above are subject to adjustment to conform to terms used in federal, state or local laws.

SECTION 3. Penalties and Enforcement.

- A. Any person who violates any provision of this Ordinance shall be forced to leave the Borough owned Recreational Areas, Park, Playground, Athletic Field and Facilities and is subject to a fine up to Fifty Dollars (\$50.00) per violation.
- B. The provisions of the Ordinance shall be enforced (in the same manner as a summary offence within the Commonwealth of Pennsylvania) by the Bradford County Code Enforcement Officer,

the Alba Borough Manager, any Police officer of the Pennsylvania State Police Department, or any other duly authorized agent or representative of the Borough of Alba as designated by the Alba Borough Council.

- C. Any Violation of the provisions of the Ordinance may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to any person violating the provisions of this Ordinance.

SECTION 4. Severability. If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction remaining provisions, paragraphs, words, sections, or subsections shall not be affected and shall remain in full force and effect.

SECTION 5. Reservation of Right to Amend. The Borough of Alba reserves the right to amend this Ordinance, or any portion thereof, from time to time as the Alba Borough Council shall deem advisable in the best interests of the promotion of the purposes and intent of this Ordinance and the effective administration thereof.

SECTION 6. Effect Upon Other Ordinances. All relevant ordinances, regulations, and policies of the Borough of Alba, Pennsylvania not specifically amended or affected by the provisions of this Ordinance shall remain in full force and effect. Any Ordinance or part of any Ordinance conflicting with the provisions of this Ordinance shall be, and the same is, hereby repealed to the extent of such conflict.


SECTION 7. Effective Date. This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into an Ordinance this 10 day of August, 2020

ATTEST:

BOROUGH OF ALBA



Tricia Hojnowski, Secretary

By: 
Gordon Matson, President

APPROVED this 10 day of August, 2020

ATTEST:


Tricia Hojnowski, Secretary

By: 
Dale Palmer, Mayor