ORDINANCE NO. 2026-29

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE V OF THE *MUNICIPAL CODE OF THE CITY OF IRONDALE, ALABAMA* TO REGULATE ELECTRONIC SMOKING DEVICES AND UPDATE PENALTIES

WHEREAS, the City of Irondale regulates smoking in public places as set forth in Chapter 9, Article V of the *Municipal Code of the City of Irondale* (the "Municipal Code"); and

WHEREAS, since the last amendment of Article V, electronic smoking devices, including electronic cigarettes, vaping devices, and heated tobacco products, have come into widespread use and their use are not regulated by the laws of the City; and

WHEREAS, the City Council of the City of Irondale desires to regulate and prohibit electronic smoking devices in outdoor areas of municipally owned parks and public lands, to attempt to accomplish comprehensive coverage and enforcement; and

WHEREAS, the City Council finds that the aerosol emitted by electronic smoking devices and secondhand smoke of all kinds threaten public health, comfort, and welfare, and that the public's interest must be safeguarded.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IRONDALE, ALABAMA, in regular meeting duly assembled, a quorum being present, as follows:

Section 1. Modification of Chapter 9, Nuisances, Article V, Smoking in Public Places. Chapter 9, Article V of the *Municipal Code of the City of Irondale, Alabama* is hereby deleted in its entirety and replaced as follows:

ARTICLE V. SMOKING IN PUBLIC PLACES

Sec. 9-116. Smoking in public places prohibited.

(a) *Definitions.* For purposes of this section, the following terms shall have the meanings ascribed to them below:

Bar and lounge means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to taverns, nightclubs, cocktail lounges, and cabarets.

Electronic smoking device means any device that, when activated, produces an aerosol or vapor that may be inhaled by the user, whether or not the aerosol or vapor contains nicotine, including but not limited to an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, vape pen, or heated tobacco product, and any component, part, or accessory of such a device, and any substance intended to be aerosolized or vaporized during its use.

Employee means any person who is employed for compensation or profit.

Employer means any person, partnership, corporation, association, or other entity that employs one or more persons.

Health care facility means any enclosed area of an office, clinic, hospital (including any acute care hospital providing medical care for persons, including surgical procedures), or other facility in which medical, dental, mental health, or related care or treatment is provided.

Place of employment means any enclosed indoor area under the control of an employer to which employees have access during the course of employment, including but not limited to work areas, employee lounges, employee restrooms, conference rooms, and employee cafeterias. A private residence is not a place of employment.

Private club means a bona fide for-profit or nonprofit organization or association which requires membership applications to be filled out for membership, and that maintains membership records showing the date of application, date of admission after election (if applicable), and the date and amount of initiation fees and dues paid (if applicable). The records shall be kept manually or electronically, indicating the name and address of each member and the serial number (if applicable) of the membership card issued.

Restaurant means an eating establishment, including but not limited to coffee shops, cafeterias, sandwich stands, and private and public-school cafeterias, in which food is prepared on the premises for consumption on or off the premises. The term "restaurant" includes a bar area within the restaurant.

Retail tobacco or vapor store means a retail establishment that derives the majority of its gross revenue from the sale of tobacco products, electronic smoking devices, or related accessories, and in which the sale of other products is merely incidental.

Service line means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoke or smoking means (1) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form; and (2) the use of an electronic smoking device.

(b) *Public places.* Smoking shall be prohibited in all enclosed public places within the City of Irondale, including but not limited to the following places:

(1) Aquariums, galleries, libraries, and museums.

(2) Areas available to and customarily used by the general public in business and nonprofit entities patronized by the public, including but not limited to banks, laundromats, hotels, and motels.

(3) Bingo facilities when a bingo game is in progress.

(4) Convention facilities.

(5) Elevators.

(6) Facilities used for exhibiting a motion picture, stage drama, lecture, musical recital, or other similar performance.

(7) Health care facilities.

(8) Licensed child care and adult care facilities.

(9) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

(10) Polling places.

(11) Public transportation facilities and vehicles, including buses, taxicabs, and vehicles for hire, and the ticket, boarding, and waiting areas of public transit depots.

(12) Restaurants.

(13) Restrooms, lobbies, reception areas, hallways, and other common-use areas.

(14) Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee, or the council of the City of Irondale, to the extent the place is subject to the jurisdiction of the city.

(15) Service lines.

(16) Shopping malls.

(17) Sports arenas, including enclosed places in outdoor arenas.

(18) All areas of municipally owned parks or public use lands where the general public congregates, including but not limited to bleacher areas, pavilions, concession areas, playgrounds, outdoor cooking areas, gazebos, tennis courts, pools, playing fields, skate parks, and track areas.

(c) *Exemptions.* Notwithstanding any other provision of this article to the contrary, and except to the extent smoking is prohibited in such areas by state or federal law, the following areas shall be exempted from the provisions of this section:

(1) Private residences, except when used as a licensed child care, adult day care, or health care facility.

(2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms by the management of the hotel or motel; provided that no more than twenty (20) percent of the rooms in any hotel or motel may be so designated.

(3) Retail tobacco or vapor stores; provided that smoke or aerosol from these places does not infiltrate into areas where smoking is prohibited under the provisions of this section.

(4) Bars and lounges not a part of a restaurant.

(5) Outdoor areas of restaurants, if more than twenty-five (25) feet away from any general public entrance or exit.

(6) Private clubs, including veterans' associations, except when open to the general public for a function or event.

(d) *Offenses.* A person violates this section and commits an offense if they:

(1) Knowingly or intentionally smokes in a public place and is not in an area designated as a smoking area;

(2) Knowingly or intentionally smokes in any bus, taxicab, vehicle for hire, or other public passenger carrier that is not engaged in interstate commerce; or

(3) Is the owner, lessee, or other person in charge of a public place and knowingly or intentionally fails to make a reasonable effort to inform those on the premises that smoking in a public place which is not designated as a smoking area under this section is prohibited.

(e) *Designation of smoking areas.* If a smoking area is designated in a public place, each smoking area shall:

(1) Be located in an outside portion of the premises, but not within twenty-five (25) feet of a public entrance or exit;

(2) Be designated by appropriate signs which are clearly visible to patrons in or entering the area; and

(3) Contain ashtrays, containers, or other facilities for the extinguishment and disposal of smoking materials.

(f) *Designation of nonsmoking areas.* Except as provided by subsection (c), the owner, lessee, or other person in charge of a public place shall place a sign, which may include the international "No Smoking" symbol, visible at the front entrance to the premises, notifying persons entering the premises that smoking, including the use of electronic smoking devices, is prohibited.

(g) *Regulation of smoking in the place of employment.* An employer may designate its place of business, or any portion thereof, as a nonsmoking area. It shall be unlawful for any person to smoke in a place of employment unless, in compliance with all applicable laws and regulations, the employer, the employer's representative, or other person in charge or control of the place of employment has declared in a posted writing that smoking is allowed. Nothing in this subsection permits smoking in any area otherwise prohibited under subsection (b) or by state or federal law.

(h) *Enforcement.* The provisions of this section are enforceable by any duly sworn police officer employed by the city, by any authorized code enforcement officer, or as otherwise allowed by law.

(i) *City buildings, vehicles.* It shall be unlawful for any person to smoke in any city-owned or city-operated building, vehicle, or other facility.

(j) *Penalty.* The penalty for violation of the provisions contained herein shall be a fine of not less than fifty dollars ($50.00) and not more than two hundred dollars ($200.00) per offense. Each day on which a violation of subsection (d)(3) or subsection (f) occurs or continues shall constitute a separate offense.

Section 2. ORDINANCES REPEALED. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. SEVERABILITY. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Irondale hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. LEGAL RIGHTS NOT IMPAIRED. Nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS. This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in

addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 6. **PUBLICATION OF ORDINANCE.** The City Clerk of the City of Irondale is hereby ordered and directed to cause this Ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section 7. **EFFECTIVE DATE OF ORDINANCE**. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and publication as provided by law and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT ORDAINED, that the City Council of the City of Irondale does hereby ordain and enact the foregoing Ordinance for the City of Irondale.

ADOPTED & APPROVED: This 20th day of October, 2026.

David Spivey, City Council President

APPROVED:

James D. Stewart, Jr., Mayor

ATTESTED:

Leigh Ann Allison, City Clerk

CERTIFICATION

I, Leigh Ann Allison, City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Irondale at its regular meeting held on the 20th day of October, 2026, as the same appears in the minutes of record of said meeting.

Leigh Ann Allison, City Clerk