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**STATE OF ALABAMA
COUNTY OF COVINGTON**

**ANDALUSIA, ALABAMA
ANDALUSIA CITY HALL
December 15, 2020**

REGULAR WORK SESSION MEETING

PRESENT:

Earl V. Johnson, Mayor
Joe Nix, Councilmember
Kenneth C. Mount, Councilmember
Hazel Griffin, Councilmember
Ralph Wells, Councilmember
Terry Powell, Councilmember
Mark Christensen, City Attorney

ABSENT:

The City Council of the City of Andalusia, Alabama, met in the auditorium at the city hall for a work session at 5:30 p.m. for the purpose of planning and finalizing the agenda. Mayor Johnson called the work session adjourned and announced that there would be a short meeting to inform the council about a personnel matter prior to the official meeting.

REGULAR COUNCIL MEETING

PRESENT:

Earl V. Johnson, Mayor
Joe Nix, Councilmember
Kenneth C. Mount, Councilmember
Hazel Griffin, Councilmember
Ralph Wells, Councilmember
Terry Powell, Councilmember
Mark Christensen, City Attorney

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ABSENT:

Mayor Johnson called the meeting to order and welcomed all. Councilmember Mount led the prayer and Pledge of Allegiance to the flag.

APPROVAL OF MINUTES:

Mayor Johnson presented the minutes from the regular meeting on December 15, 2020. Councilmember Griffin moved to approve the minutes. Councilmember Mount seconded the motion which passed unanimously.

COUNCIL APPROVES ORDINANCE NO. 2020-10, BUSINESS LICENSE ISSUE FEE :

Mayor Johnson presented Ordinance No. 2020-10, Business license issue fee.

**THE CITY OF ANDALUSIA
ANDALUSIA, ALABAMA**

**AN ORDINANCE REGARDING THE ISSUANCE FEES FOR BUSINESS LICENCES
ORDINANCE NO. 2020 - 10**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANDALUSIA, ALABAMA:

WHEREAS, the City Council of the City of Andalusia, Alabama finds that there are significant administrative costs involved in the issuance of business licenses; and

WHEREAS, Code of Alabama § 11-51-90 sets limits on the maximum issuance fees that can be charged by municipalities for the issuance of business licenses but also provides for the Department of Revenue to increase the maximum amount from time to time based upon the increase in the Producer's Price Index published by the U.S. Department of Labor; and

WHEREAS, the current amount determined by the Department of Revenue is \$12.00 for a regular business license; and

WHEREAS, Code of Alabama § 11-51-194(a)(2) provides that the maximum issuance fee permitted for a business delivery license shall be \$10.00; and

WHEREAS, the City Council of the City of Andalusia, Alabama also finds that increasing the issuance fees to the amounts set forth above will more truly reflect the administrative costs incurred by

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the City of Andalusia in issuing business licenses;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Andalusia, Alabama, as follows:

The issuance fee charged for a regular business license issued by the City of Andalusia shall be \$12.00, and the issuance fee charged for a business delivery license shall be \$10.00.

This Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED AND APPROVED this 15th day of December, 2020.

EARL V. JOHNSON, MAYOR

ATTEST:

JOHN THOMPSON,
CITY CLERK AND TREASURER

Councilmember Powell moved to approve Ordinance No. 2020-10. Councilmember Nix seconded the motion which passed unanimously.

COUNCIL APPROVES ORDINANCE NO. 2020-11, AMENDMENT TO CLEAN AIR IN PUBLIC PLACES ORDINANCE:

Mayor Johnson presented Ordinance No. 2020-11, Amendment to clean air in public places Ordinance.

**THE CITY OF ANDALUSIA
ANDALUSIA, ALABAMA**

ORDINANCE NO. 2020-11

**AN ORDINANCE REGARDING CLEAN AIR IN PUBLIC
PLACES WITHIN THE CITY OF ANDALUSIA, ALABAMA**

WHEREAS, the City of Andalusia adopted Ordinance 2007-01 (codified in

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Sections 13-151 through 13-157 of the Code of Andalusia) to regulate smoking within public places within the City of Andalusia; and

WHEREAS, the use of electronic devices as substitutes for smoking cigarettes, cigars, pipes, and other tobacco products was nearly unknown at the time of the adoption of Ordinance 2007-01; and

WHEREAS, the use of such electronic devices has now become widespread; and

WHEREAS, the City Council of the City of Andalusia finds that the use of electronic smoking devices or “vaping” poses similar risks to the public as traditional means of smoking tobacco products and ought to be similarly regulated;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Andalusia, Alabama, that Ordinance No. 2007-01 is hereby repealed and is replaced by the following:

ARTICLE V. - CLEAN AIR IN PUBLIC PLACES

Sec. 13-151. - Definitions and guidelines. The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Business agent. An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

City. The City of Andalusia, Alabama.

Employee. Any individual who performs services for an employer in return for wages or profit.

Employer. Any person, partnership, corporation, limited liability company, association, or other entity, that employs five (5) or more persons.

Enclosed. A space, structure, facility or any portion thereof, bounded by walls (with or without windows) continuous from floor to ceiling or deck above and served by heating, ventilating and air conditioning (HVAC) system(s), and through which air can circulate from one portion to another, including but not limited to, offices, rooms, hallways, customer service areas, foyers, common areas, waiting areas, restrooms, lounges, and eating areas.

Place of employment. Any indoor area under the control of an employer to which

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employees have access during the course of employment, including but not limited to, stores, factories, offices and other commercial establishments, restaurants, public and private educational institutions, health care facilities, daycare facilities, nursing and convalescent homes, government buildings, public transportation vehicles, elevators, restrooms, and other areas as described in this Ordinance.

Smoking. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or other tobacco or plant product intended for inhalation, in any manner or in any form, and smoking also includes "vaping" or the inhaling or exhaling of the smoke or vapor generated by any electronic smoking device or the use of any oral smoking device that generates smoke or which creates a vapor, in any manner or in any form, as well as the carrying of such a device in a public place while it is emitting smoke or vapor.

"Vaping" or use of an electronic smoking device. "Electronic smoking device" means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. "Electronic smoking device" does not include any product specifically approved by the United States Food & Drug Administration for the use in the mitigation, treatment or prevention of disease. It shall be a violation of this article to use an electronic smoking device in any place within the city where smoking of tobacco products is prohibited by law.

Sec. 13-152. - Responsibilities of Owners.

(a) It shall be the responsibility of the owner or person in charge of a public place where smoking is prohibited to provide signage that shall be posted conspicuously on or adjacent to each and every door to the establishment that is generally accessed by patrons or employees, plainly visible from the exterior of the building to persons entering through the door.

(b) Signage shall be no smaller than eight and one-half (8.5) inches by eleven (11) inches, with white lettering on a red or black background, and include the following statements; "This establishment is a SMOKE-FREE facility" with letters no smaller than five-eighths (5/8) inch tall (approximately sixty-six (66) points); "Smoking is prohibited throughout this facility at all times" with letters no smaller than one-quarter (1/4) inch

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tall (approximately thirty-six (36) points); and "City of Andalusia Ordinance Number 2020-11" with letters no smaller than one-eighth (1/8) inch tall (approximately twenty (20) points).

(c) It shall also be the responsibility of the owner or any person in charge of a public place where smoking is prohibited to request that any person in or upon such public place who is in violation of this article to stop smoking immediately.

Sec. 13-153. - Specific places where smoking is to be regulated.

(a) *Public places where smoking is prohibited.*

(1) Libraries, schools or other educational facilities, museums, auditoriums, and art galleries.

(2) Governmental facilities and vehicles.

(3) Hotel and motel areas that serve the public except in rooms that are rented to guests and are not designated as "Smoking" rooms.

(4) Any public area of healthcare facilities, health clinics or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals, rest homes, nursing homes, doctors' offices, and dentists' offices.

(5) Sports arenas, both indoor and outdoor, including but not limited to, gymnasiums and stadiums.

(6) Any indoor places of entertainment or recreation, including but not limited to, theaters, concert halls, and auditoriums.

(7) Any commercial establishments, including but not limited to, retail and service facilities such as restaurants, banks, car dealerships, supermarkets, department stores, convenience stores and other retail stores, day care facilities, industrial buildings, laundromats, and office buildings in areas that are used by the public.

(8) Elevators.

(9) Restrooms.

(10) Any other enclosed areas used by the public or serving as a place of employment.

(11) Any vehicles of public transportation, including but not limited to buses, taxicabs, limousines, and ride-share vehicles.

(12) Within twenty-five (25) feet of a public doorway to a building where smoking is prohibited or within twenty-five (25) feet of an air-intake for such building.

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(b) *Public places where smoking is permitted.*

(1) Designated smoking areas for employees that protect other employees and the public from second hand smoke. If an employee lounge is designated for smoking, a comparable area must be designated for non-smoking employees.

(2) Any bar, restaurant or other business open to the general public, the admission to which requires a member of the public to be over the age of twenty-one (21).

(c) *Private clubs.* Private clubs are exempt from this article.

(d) *Other exceptions.* The restrictions imposed by Section 13-153 shall not apply to the following:

- (1) An entire room or hall which is used for private social functions;
- (2) Performers upon the stage, provided that smoking is part of a theatrical production;
- (3) A tobacco or vaping specialty retail shop; or
- (4) Hotel or motel rooms that are rented to guests and are permanently designated as smoking rooms.

Sec. 13-154. - Violations.

(a) It shall be the responsibility of the owner, business agent, manager or other person having control of such public place where smoking is prohibited to ensure compliance with all sections of this article pertaining to his/her place of business. A violator of this article may receive:

(1) In the case of a first violation, a fine of one hundred dollars (\$100.00) plus court costs;

(2) In the case of a second violation, within twenty-four (24) months of the first violation, a fine of five hundred dollars (\$500.00); plus court costs, and,

(3) In the case of three or more violations within twenty-four (24) months of the second or current violation, a fine of five hundred dollars (\$500.00), plus court costs, for each violation.

(b) No provision, clause, or sentence of this article shall be interpreted as prohibiting the city from suspending or revoking any license or permit issued by and within the jurisdiction of the city for repeated violations of this article.

(c) If the owner, business agent, manager, or other person having control of such public place where smoking is prohibited attempts to enforce this article and a patron

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violates it (i.e., by smoking in a smoke-free establishment), then the owner, business agent, manager, or other person having control shall not be deemed to be in violation of this article, and the patron shall be subject to a fine as follows:

(1) In the case of a first violation, a fine of one hundred dollars (\$100.00), plus court costs;

(2) In the case of a second violation, within twenty-four (24) months of the first violation, a fine of five hundred dollars (\$500.00), plus court costs; and,

(3) In the case of three (3) or more violations within twenty-four (24) months of the second or current violation, a fine of five hundred dollars (\$500.00), plus court costs, for each violation.

(4) Each calendar day on which an owner, business agent, manager or other person having control of a public place where smoking is prohibited operates in violation of any provision of this article shall be deemed a separate violation; each calendar day a patron violates this article (i.e., smokes in a smoke-free establishment) shall be deemed a separate violation.

Sec. 13-155. - Enforcement.

(a) Authority to enforce this article shall be held by the City and its subsidiary programs or designees.

(b) An owner, manager, operator, or employee of a place regulated by this article shall inform persons violating this article of the appropriate provisions thereof.

(c) The city's fire department, or its designee, the county health department, or its designee, shall, while in an establishment that is undergoing otherwise mandated inspection, or at any other time deemed necessary by these entities, inspect for compliance with this article.

(d) Any citizen who desires to register a complaint under this article may initiate enforcement with the magistrate of the city.

(e) The police department is responsible for responding to violations of this article by writing citations for noncompliance by either proprietors or patrons of a facility where smoking is restricted.

(f) Any fines or fees collected under this article shall be used for the enforcement of these regulations.

Sec. 13-156. - Non-retaliation.

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No owner, business agent, manager, or other person having control of a public place where smoking is prohibited shall discharge, refuse to hire, refuse to serve, or in any manner retaliate or take any adverse personnel action or other adverse action against any employee, applicant, customer, or person because such employee, applicant, customer, or person takes any action in furtherance of the enforcement of this article or exercises any right conferred by this article.

Sec. 13-157. - Conflict with other laws, Ordinance or regulations.

(a) Nothing in this article shall be deemed to amend or repeal any applicable fire, health, or other law, Ordinance, or regulation so as to permit smoking in areas where it is prohibited by such fire, health or other law, Ordinance, or regulation.

(b) Nothing in this article shall be deemed to preempt the further limitation of smoking in the city by any local regulatory body within the limits of its authority and jurisdiction.

This Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED AND APPROVED this 15th day of December, 2020.

THE CITY OF ANDALUSIA, ALABAMA

Earl V. Johnson, Mayor

ATTEST:

John M. Thompson, City Clerk-Treasurer

Councilmember Wells moved to approve Ordinance No. 2020-11. Councilmember Powell seconded the motion which passed unanimously.