

ORDINANCE NO. 2006-07**AN ORDINANCE TO AMEND ORDINANCE 895-92, SECTION 9-116 OF THE CITY OF IRONDALE CODE OF ORDINANCES, 1990, AS AMENDED.**

WHEREAS, the Council of the City of Irondale Ordinance Committee, held a public hearing on the matter of smoking regulation for the City of Irondale on August 9, 2005, and the City Council held a Public Hearing on January 17, 2006; and,

WHEREAS, at the public hearings on the matter of smoking in public places, numerous witnesses, including representatives from the American Cancer Society, Jefferson County Department of Health, business owners, and private individuals testified regarding the harmful effects of secondhand smoke in restaurants and other public places; and,

WHEREAS, the American Cancer Society and Jefferson County Department of Health has provided medical studies, medical testing, and other documentation to the Council related to the injurious effects of secondhand smoke on children, the elderly, individuals with cardiovascular disease and impaired respiratory function, including bronchospasm;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Irondale as follows:

SECTION 1.

That Section 9-116 of the Code of Ordinances of the City of Irondale, 1990, as amended, is hereby amended by striking the language of the current ordinance and substituting the following provisions to provide for more limitations on smoking in public places and set forth the penalty therefor as follows:

Sec. 9-116. Smoking in public places,**(A) Definitions:**

- (1) *Employee* means any person who is employed for compensation or profit;
- (2) *Employer* means any person, partnership, corporation, association or other entity that employs one (1) or more persons;
- (3) *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;
- (4) *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;
- (5) *Restaurant* means an eating establishment, including but not limited to coffee shops, cafeterias, sandwich stands and private and public school cafeterias, which gives or offers facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the restaurant;

(6) *Service Line* means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involved the exchange of money;

(7) Smoke or smoking includes the carrying or holding of lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or device, and the lighting, emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

(8) *Acute care hospital* means any enclosed area included in a hospital, which hospital provides medical care for persons including surgical procedures.

(9) *Private Club* means a bona fide for profit or non-profit organization or association which requires membership applications to be filled out for membership, that maintains membership records that show the date of application, date of admission after election (if applicable), date the initiation fees and dues are paid and the amounts paid (if dues are 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.

(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 non-profit 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, 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, including busses and taxicabs, under the city of Irondale and 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 City of Irondale.
- (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 area, gazebos, tennis courts, pools, playing fields, skate parks and track areas;

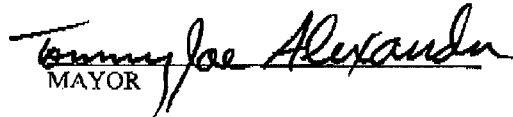
- (C) **Exemptions.** Notwithstanding any other provisions of this article to the contrary, the following areas shall be exempted from the provisions of this section:
- (1) Private residences, except when used as a licensed child care, adult day care or health care facility;
 - (2) Hotel and Motel rooms that are rented to guests and are designated as smoking rooms by the management of the hotel or motel.
 - (3) Retail tobacco stores; provided that smoke from these places do 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 25 feet away from any general public entrance or exit.
 - (6) Private clubs, including veterans associations;
 - (7) Restaurants that separate their smoking and non-smoking sections with a solid wall that goes from the floor to the ceiling and ventilation that prevents smoke from traveling to the non-smoking section;
- (D) **Offenses: a person violates this section and commits an offense if he or she:**
- (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 or public passenger carrier, except a taxicab, 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 knowingly or intentionally smoking in a public place which is not designated as a smoking area under this section is proscribed behavior.
- (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 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;
 - (3) Contain ashtrays, containers or other facilities for extinguishment 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 visible in the front entrance to the premises thereby notifying persons entering the premises that smoking is prohibited.
- (G) **Regulation of Smoking in the Place of Employment:** An employer may designate his place of business or any portion thereof as a non-smoking area. It shall be unlawful for any person to smoke in a place of employment unless, in compliance with all laws and regulation, the employer, employer representative, or other person in charge or control of a place of employment has declared in a posted writing that smoking is allowed.
- (H) **Enforcement:** The provisions of this section are enforceable by any duly sworn police officer employed by the city of Irondale, or as otherwise allowed by law.
- (I) **Miscellaneous:** nothing in this section excuses noncompliance with any federal or state law, Irondale city ordinance, or any rule or regulation which prohibits smoking.

- (J) **City Buildings, Vehicles:** It shall be unlawful for any person to smoke in any city-owned or operated building, vehicle or other facility.
- (K) **Penalty:** The penalty for violation of the provisions contained herein shall be a fine of not less than \$25.00 and not more than \$100.00 per offense.

Section 2. Severability. If any word, phrase, sentence of subsection of this ordinance is found to be invalid or unconstitutional by a court of complete jurisdiction then the remaining provisions of this ordinance shall be in full force and effect.

Section 3. Publication. This ordinance shall become effective upon approval by the City Council and publication as required by law showing the effective date of the 1st day of May, 2006.

ADOPTED AND APPROVED this the 7th day of March, 2006.


MAYOR

ATTEST:


CITY CLERK/TREASURER