ORDINANCE NUMBER 26-2713

AN ORDINANCE TO REGULATE THE SALE, POSSESSION, STORAGE, AND USE OF FIREWORKS, NOVELTIES, AND SPARKLING DEVICES WITHIN THE CITY OF HOOVER; TO ESTABLISH A PERMIT REQUIREMENT FOR SEASONAL RETAILERS; TO PROVIDE FOR INSPECTION, ENFORCEMENT, SEIZURE, AND PENALTIES FOR VIOLATIONS; AND TO PROVIDE FOR RELATED MATTERS

WHEREAS, pursuant to § 11-51-90, Code of Alabama 1975, the City of Hoover has authority to license and regulate businesses within the City; and

WHEREAS, pursuant to § 11-47-130, Code of Alabama 1975, the City of Hoover has authority to enact ordinances for the safety, health, prosperity, morals, order, comfort, and convenience of the City and its inhabitants; and

WHEREAS, Act 2021-399 amended Alabama law governing fireworks by recognizing categories including aerial devices, audible ground devices, sparkling devices, and novelties, and preserving municipal authority under § 8-17-226, Code of Alabama 1975, to further restrict the sale or use of those devices as provided by law; and

WHEREAS, the City Council of the City of Hoover has determined that local regulation of the sale, possession, storage, and use of fireworks is necessary to protect public safety and welfare within the City of Hoover.

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

Section I. Permit Required

1. It shall be unlawful for any person to throw any fireballs, set off, discharge, or throw any fireworks including, but without limitation, any rockets, firecrackers, torpedoes, squibs, or other fireworks within the City except by permit.

2. It shall be unlawful for any person to possess, keep, store, use, manufacture, sell, offer for sale, give away, or handle any fireworks within the corporate limits of the City except by permit.

3. The City will consider or allow only Seasonal Retailers, as that term is defined by Act 2021-399 and Article 8 of Chapter 17 of Title 8, Code of Alabama 1975.

4. Annual retailers, manufactures, permanent year-round retail sales, and all other fireworks for retail classifications or activities, including temporary or moveable stands, are not authorized in the City.

5. Applications for the seasonal retail sale of Novelties may be submitted to the City for consideration.

6. No application shall be submitted for consideration by the City Council unless the proposed sales or fireworks display exists, as confirmed by the City Fire Chief or his designee, entirely inside buildings protected by automatic fire sprinkler systems and only during Fireworks Seasons as defined by Act 2021-399.

7. Any City permit, license, or approval for a Seasonal Retailer shall authorize retail sales only during Fireworks Seasons as defined by Act 2021-399 and shall not authorize the storage, stockpiling, warehousing, or accumulation of fireworks, novelties, sparkling devices, or related items of any type at any time.

8. Approved permits are valid for the two seasonal sales windows as defined in item 6, for the current calendar year.

9. No person or permit holder shall keep, store, stockpile, warehouse, or otherwise maintain fireworks, novelties, sparkling devices, or related items of any type within the City except for the limited quantity reasonably necessary for permitted retail sales, not to exceed 400 square feet of floor space and on display, during the then-current Fireworks Season and only at the permitted retail location approved by the City.

10. Possession of all required permits and approvals is a condition precedent to any activity allowed by this ordinance. No City permit shall be issued to a person under the age of 18 years.

11. Permits issued to Seasonal Retailers must be displayed at the permitted place of business.

12. No permit shall be transferable, and no person may operate under a permit issued to any other person or any other location unless approved by the City.

13. The City Fire Marshal, Fire Chief, or designee may impose reasonable conditions on any City permit, license, inspection, or approval to protect safety and to ensure compliance with this ordinance, state law or regulation.

14. Records of sales by any approved Seasonal Retailer shall be maintained as required by state law and shall be made available for inspection by the City Fire Marshal, Fire Chief, or his designee when reasonably necessary to enforce this ordinance. The City Fire Chief may designate a fireworks enforcement officer responsible for directing enforcement of this ordinance.

Section II. Evidence Of Permit Prerequisite To Transaction; Records

No person shall deliver, sell, or ship fireworks into or within the City of Hoover unless the consignee produces the required state permit and any required City permit, license, or approval. No person shall purchase fireworks from another person without first requiring proof that the seller has obtained and currently holds all permits required by state law and this ordinance. Permit holders shall maintain clear, legible, and accurate

records as required by law, and such records shall be subject to examination by the City Fire Marshal, Fire Chief, or designee at any reasonable time.

Section III. Revocation Of Permit

1. The City may revoke any City permit, license, or approval issued under this ordinance upon evidence that the holder has purchased, received, sold, used, shipped, or caused to be shipped any fireworks or pyrotechnics in violation of this ordinance or applicable state law. Written notice shall be given to the permit holder stating the cause of revocation prior thereto.

2. The City may refuse to issue another City permit, license, or approval to a person whose permit has been cancelled or revoked for violation of this ordinance or state fireworks law for a period not to exceed three years.

Section IV. Consumer Fireworks; Permitted And Prohibited Items

1. The term "fireworks" shall be defined by the International Fire Code, as adopted by the City.

2. The term "fireworks" shall not include "novelties" and "sparkling devices" as defined by this section; the sale and use of such novelties and sparkling devices shall be allowed only during seasonal sales during Fireworks Seasons as defined by State law.

3. Novelties shall be defined as any device listed in APA 87-1, Section 3.2 (i.e. Section 8-17-210 of the Code of Alabama), including, without limitation: party poppers; snappers; toy smoke devices; snake; glow worms; wire sparklers; and dipped sticks.

4. Sparkling devices shall be defined as handheld or ground-based sparkling devices that are non-explosive and non-aerial and contain 75 grams or less of chemical compound per tube or a total of 500 grams or less for multiple tubes and other sparkling devices which emit showers of sparks and sometimes a whistling, spinning, or crackling effect when burning, but does not include aerial devices, audible ground devices, or anything that will detonate or explode as defined by Code of Alabama § 8-17-210(15).

5. Unless part of a permitted public fireworks display, excluded fireworks include, without limitation, firecrackers, skyrockets or bottle rockets, reloadable shell devices or roman candles, single-tube devices with reports, aerials, aerial devices, audible ground devices, and anything that will detonate or explode.

Section V. Labeling

No permissible novelty, sparkling device, or related item shall be sold, offered for sale, possessed, or used within the City unless properly named and labeled as required by § 8-17-219, Code of Alabama 1975 or other applicable law. Items must be identified

on shipping cases and on the article, retail sales container, or unit with such appropriate classification or identification as may be required by any federal agency having jurisdiction over fireworks or related items, in a manner readily recognizable by law enforcement authorities.

Section VI. Care And Storage; Inspection Required

1. Placing, storing, locating, or displaying fireworks in any window where sunlight may shine through glass onto the fireworks, or permitting lighted cigars, cigarettes, pipes, or other ignition sources within 50 feet of where fireworks are offered for sale, is unlawful.

2. At all places where fireworks are sold during a permitted Fireworks Season, signs stating "FIREWORKS—NO SMOKING" in letters not less than four inches high shall be posted. Nothing in this subsection shall be construed to authorize storage or stockpiling outside an applicable Fireworks Season.

3. No fireworks shall be sold at any location where paints, oils, or varnishes are for sale or use unless kept in the original unbroken containers, nor within 50 feet of where resin, turpentine, gasoline, or other inflammable substance which may generate inflammable vapors is used, stored, or sold. This subsection does not permit storage or stockpiling of fireworks outside an applicable Fireworks Season.

4. Any fireworks devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by a spark, cigarette ash, or other ignition source.

5. No Seasonal Retailer permit or approval shall be issued until the premises where fireworks are to be sold or displayed during a permitted Fireworks Season have been inspected by the City Fire Marshal, Fire Chief, or designated representative and it has been determined that the proposed sales or fireworks display exists entirely inside buildings protected by automatic fire sprinkler system. Such inspection or approval shall not authorize storage, stockpiling, warehousing, or accumulation of fireworks outside an applicable Fireworks Seasonal Display or the Fireworks Season.

6. No retail fireworks sales shall occur from tents, motor vehicles, trailers, temporary stands, moveable stands, or any outdoor location within the City.

Section VII. Sale And Use Restrictions

1. It shall be unlawful to offer, for retail sale, or to sell any fireworks, novelties, or sparkling devices to any person under the age of 18 years or to any intoxicated or irresponsible person.

2. Any person purchasing permitted novelties or sparkling devices may be required to show a valid driver's license or other government-issued identification.

3. It shall be unlawful to explode or ignite fireworks within 600 feet of any church, hospital, school, enclosed building, or within 200 feet of any location where fireworks are stored, sold, or offered for sale.

4. No person shall ignite, discharge, place, or throw any fireworks from or into a motor vehicle, or at or near any person or group of people.

5. The use of novelties and sparkling devices is allowed only during Fireworks Seasons, except when suspended under this ordinance, and only in a manner that does not violate any permit condition, fire code requirement, or other applicable law.

Section VIII. Certain Uses Restricted Or Prohibited During Drought Warnings And/Or Emergencies

1. Notwithstanding anything written herein this ordinance to the contrary, and without any further approvals of the City Council necessary, the City Fire Chief, City Fire Marshall or their designee may suspend the outdoor use of all sparkling devices and novelties allowed inside the City limits where drought conditions, other weather-related conditions, or the promotion and preservation of safety warrant suspension.

2. It shall be unlawful to use any sparkling devices or novelty devices during any such suspension period after a verbal warning to cease from fire or law enforcement officers, and such novelties and sparkling devices shall be subject to seizure and destruction in accordance with this ordinance.

Section IX. Enforcement

In the event the City Council or Fire Chief imposes a weather-related or similar restriction or ban on the use of novelties or sparkling devices pursuant to this ordinance, or in the event of any other violation of this ordinance, the following enforcement provisions shall apply:

1. *Enforcement by officers.* The City Fire Marshal, Fire Chief or Designee, and any law enforcement officer with jurisdiction in the City shall diligently enforce the provisions of this ordinance.

2. *Contrary use.* No person shall knowingly or intentionally use fireworks or allow the use of fireworks of any kind contrary to the provisions of this article irrespective of whether those fireworks are normally allowed or disallowed by the City.

3. *Violations.* When fireworks of any type are used in violation of this ordinance on or from property within the apparent control of a person, proof that the violation occurred on or originated from such property shall constitute a rebuttable presumption that the person in apparent control of the property committed or allowed the violation. Any such presumption may be rebutted by evidence that the person did not commit, authorize, permit, or knowingly allow the violation. Parents

or legal guardians shall be presumed responsible for violations committed by their minor children on or from property within the parents' or guardians' control; however, such presumption may be rebutted by proof that the parent or legal guardian had previously directed the minor child not to use fireworks in the manner constituting the violation and could not reasonably have known of or prevented the violation. Nothing in this subsection shall be construed to relieve the City of its burden to prove a violation before any penalty may be imposed under this ordinance.

Section X. Seizure Of Contraband

Fireworks possessed, manufactured, kept, stored, stockpiled, warehoused, accumulated, sold, handled, or used in violation of this Article or section shall be subject to seizure and destruction by the City. The City Fire Marshal, Fire Chief, designee, or authorized law enforcement officer may seize as contraband any fireworks, novelties, or sparkling devices sold, displayed, used, possessed, kept, stored, stockpiled, warehoused, accumulated, manufactured, or handled in violation of this ordinance or state law.

Section XI. Application Of Article

Nothing in this article shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor as applying to the military or naval forces of the United States, or of this state or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events.

Section XII. Violations And Penalties

It shall be unlawful to violate any of the terms and provisions of this ordinance. Any person, firm, partnership, corporation, or other legal entity violating any of the said terms and provisions of this ordinance shall, upon conviction, be punished in accordance with Title 11-45-9, Code of Alabama, 1975, for a misdemeanor violation for each such offense. Each day any violation of this ordinance shall continue shall constitute a separate offense.

Section XIII. Repeal

All ordinances, parts of ordinances, and resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section XIV. 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 of Hoover 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 XV. 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 except as set forth herein. 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 a higher protective standard for human health or the environment shall control.

Section XVI. Publication Of Ordinance

That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published according to law, and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section XVII. 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 shall continue in full force and effect from month to month and year to year from its effective date until repealed.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HOOVER, ALABAMA on this 28th day of September, 2026.

ATTESTED BY:

Wendy Dickerson, City Clerk

SIGNED BY:

Casey Middlebrooks, Council President

APPROVED BY:

Nicholas C. Derzis, Mayor