

# DAVIS COUNTY BOARD OF HEALTH REGULATION ON SMOKING IN OUTDOOR PUBLIC PLACES

Under Authority of Section 26A-1-121  
Utah Code Annotated, 2002



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## **1.0 PURPOSE**

- 1.1 The purposes of this regulation are to:
  - 1.1.1 Protect public health, safety and general welfare by prohibiting smoking in OUTDOOR PUBLIC PLACES under circumstances where other persons will be exposed to the toxic effects of SECONDHAND SMOKE.
  - 1.1.2 Protect the public and the environment from tobacco related litter and pollution.
  - 1.1.3 Recognize the right of residents and visitors to the County to be free from unwelcome SECONDHAND SMOKE and affirm a family-friendly atmosphere in the County's public places.
  - 1.1.4 Reduce the potential for children to associate SMOKING with a healthy lifestyle.

## **2.0 APPLICABLE LAWS AND REGULATIONS**

- 2.1 Municipalities/Businesses/Organizations are required to comply with the following applicable laws and regulations which are referenced below:
  - 2.1.1 Utah Indoor Clean Air Act 26-38-1 to 9
  - 2.1.2 Utah Indoor Clean Air Act Rule 392-510-1 to16
  - 2.1.3 Utah Secondhand Smoke Amendments 57-8-16-7(b) & 57-22-5-1(h)
  - 2.1.4 Utah Code for Local Health Authorities 26A-1-121

## **3.0 DEFINITIONS**

- 3.1 COMMON AREA – Any outdoor COMMON AREA accessible to and useable by the occupants or customers of the establishment, including but not limited to outdoor eating areas, play areas and covered shelters.
- 3.2 EMPLOYEES – Any person who is employed or retained as an independent contractor by any employer.
- 3.3 PLAYGROUND – Any park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designed or

landscaped for play, swimming or sports activities, or any similar facility located on public or private grounds.

- 3.4 PRIVATELY-OWNED – Any privately-owned business that is open to the general public regardless of any fee or age requirement.
- 3.5 PUBLICLY-OWNED – Any outdoor place or portion of a place owned, leased, or rented by any state, county, or city government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or city taxes.
- 3.6 OUTDOOR PUBLIC PLACE – Any outdoor public or private place open to the general public regardless of any fee or age requirement. Examples of OUTDOOR PUBLIC PLACES include but are not limited to: parks, PLAYGROUNDS, recreational areas, golf courses, amphitheaters, fair grounds, sports fields, amusement parks, swimming pools, concession stands, boweries, bleachers, plazas, cemeteries, public gardens, outdoor eating areas, COMMON AREAS, walking/running trails and pathways and skate parks.
- 3.7 OUTDOOR PLACES OF INCIDENTAL PUBLIC GATHERING – Any outdoor place, public or private, where people congregate while waiting for service, entry, or to conduct a transaction. Examples of OUTDOOR PLACES OF INCIDENTAL PUBLIC GATHERING include but are not limited to: automatic teller machines (ATM's), bank teller windows, bus stops, fast food lines, public telephones, restroom facilities, ticket lines and train stations.
- 3.8 SECONDHAND SMOKE (SHS) – The combustion of two forms of smoke from burning tobacco products. Side stream smoke comes from the burning end of a cigarette, cigar or pipe. Mainstream smoke is exhaled by the smoker.
- 3.9 SMOKING – Means the possession of any lighted tobacco product in any form.

#### **4.0 CREATION OF SMOKE-FREE OUTDOOR PUBLIC PLACES**

- 4.1 SMOKING is prohibited in PUBLICLY-OWNED and PRIVATELY-OWNED OUTDOOR PUBLIC PLACES.
- 4.2 SMOKING is prohibited within 25 feet of OUTDOOR PLACES OF INCIDENTAL PUBLIC GATHERING.

#### **5.0 EXCEPTIONS**

- 5.1 Business owners may apply for a permit from the Davis County Health Department to install a marked “Designated Smoking Area” within an OUTDOOR PUBLIC PLACE. The Department shall grant the permit if the designated SMOKING area is:
  - 1. Clearly marked as a SMOKING area;

2. Is located at least 50 feet from any path of travel, doorway, shelter, service line, or outdoor place where people gather and minimizes the risk of SHS exposure to other users of the OUTDOOR PUBLIC PLACE. However, The Department may approve a designated SMOKING area located less than 50 feet when circumstances don't allow for a 50 foot separation.
- 5.2 This regulation does not apply to SMOKING areas for EMPLOYEES. Designated employee SMOKING areas are subject to the Utah Indoor Clean Air Act 26-38-1-9.
- 5.3 Golf course practice greens, driving ranges and COMMON AREAS around the clubhouse are considered OUTDOOR PUBLIC PLACES and are subject to the SMOKING restriction outlined in section 4.1. However, all other golf course areas including fairways and tee areas are exempt.

## **6.0 PENALTIES AND ENFORCEMENT**

### **6.1 Penalties**

- 6.1.1 The Davis County Board of Health recommends the penalty for violating this regulation be \$25.00 for the first offense and \$100.00 for subsequent offenses within a two year period of the first violation.

### **6.2 Enforcement**

- 6.2.1 Any peace officer or city code enforcement officer may enforce this regulation.

## **7.0 POSTING OF SIGNS**

- 7.1 No Smoking Signs shall be clearly posted in every OUTDOOR PUBLIC PLACE.
- 7.2 Signs shall include the international "No Smoking" symbol.
- 7.3 Signs shall be posted by June 1, 2009.

## **8.0 SEVERABILITY**

- 8.1 In the event any court of competent jurisdiction should declare any particular clause or sentence of this regulation invalid or unconstitutional, the remaining portions shall remain in full force and effect. Toward that end the provisions of these regulations are declared to be severable.

## **9.0 EFFECTIVE DATE**

- 9.1 This regulation shall take effect on January 1, 2008.

IN WITNESS WHEREOF, the Davis County Board of Health has passed, approved and adopted this regulation this \_\_\_\_\_ day of \_\_\_\_\_, 2007

ATTEST:

DAVIS COUNTY BOARD OF HEALTH

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Lewis R. Garrett M.P.H  
Director of Health

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Ann Benson  
Chairperson