

**DAVIS COUNTY BOARD OF HEALTH**

**SMOKING AND VAPING IN OUTDOOR PUBLIC PLACES REGULATION**



**Davis**

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**C O U N T Y**

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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 and Vaping in Outdoor Public Places under circumstances where other persons will be exposed to the toxic effects of Secondhand Smoke and Secondhand Vapor.
  - 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 be free from unwelcome Secondhand Smoke or Secondhand Vapor and affirm a family-friendly atmosphere in the County's Outdoor Public Places.
  - 1.1.4 Reduce the potential for children to associate Smoking and Vaping with a healthy lifestyle or normalization.

## **2.0 SCOPE**

This regulation applies to all Publicly and Privately Owned Public Places within all incorporated and unincorporated areas of Davis County.

- 2.1 Exemptions
  - 2.1.1 This regulation does not apply to employee smoking areas as designated by the Utah Indoor Clean Air Act 26-38-1-9.
  - 2.1.2 Golf course fairways and tee areas are exempt.

## **3.0 AUTHORITY AND APPLICABLE LAWS**

This regulation is adopted under the authority of the Davis County Board of Health in accordance with Utah Code Annotated (UCA) Section 26A-1-121.

The following provisions of Utah Administrative Code (UAC) are hereby adopted and incorporated by reference subject to the additions, clarifications, exceptions, and modifications set forth in this regulation:

Utah Indoor Clean Air Act 26-38-1 to 9;

Utah Indoor Clean Air Act Rule 392-510-1 to 16;

Utah Secondhand Smoke Amendments 57-8-16-7(b) & 57-22-5-1(h).

## **4.0 DEFINITIONS**

- 4.1 **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.
- 4.2 **DEPARTMENT:** The Davis County Health Department.
- 4.3 **DESIGNATED SMOKING/VAPING AREA:** Department approved Smoking/Vaping area.
- 4.4 **EMPLOYEE:** Any person who is employed or retained as an independent contractor by any employer.
- 4.5 **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.
- 4.6 **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.
- 4.7 **OWNER:** Any Person who alone, jointly, or severally with others:
- 4.7.1 has legal title to any property, with or without accompanying actual possession thereof;
  - 4.7.2 has care, charge, or control of any property, as Owner, agent of the Owner, or other Person;
  - 4.7.3 is executor, administrator, trustee, or guardian of the estate of the Owner;
  - 4.7.4 is a mortgagee in possession.
- 4.8 **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.
- 4.9 **PRIVATELY OWNED:** Any privately-owned business that is open to the general public regardless of any fee or age requirement.
- 4.10 **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.

- 4.11 **SECONDHAND SMOKE (SHS):** The combination of two forms of smoke from heated tobacco products. Side stream smoke comes from the burning end of a cigarette, cigar or pipe. Mainstream smoke is exhaled by the smoker.
- 4.12 **SECONDHAND VAPOR (SHV):** Secondhand vapor that is exhaled from an electronic cigarette device.
- 4.13 **SMOKING:** The possession of any lighted tobacco product in any form.
- 4.14 **VAPING:** The use of any electronic cigarette product.

## **5.0 REGULATION**

### **5.1 PROHIBITIONS**

- 5.1.1 **Smoking and Vaping are prohibited in Publicly Owned and Privately Owned Outdoor Public Places.**
- 5.1.2 **Smoking and Vaping are prohibited within 25 feet of Outdoor Places of Incidental Public Gathering.**

### **5.2 DESIGNATED SMOKING/VAPING AREA PERMITS**

- 5.2.1 **Owners may apply for a permit from the Department to allow Smoking/Vaping in an approved designated area. The Department shall grant the permit if the Designated Smoking Area is:**
  - 5.2.1.1 **Clearly marked as a Smoking/Vaping area.**
  - 5.2.1.2 **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/SHV 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 do not allow for a 50 foot separation.**
- 5.2.2 **Permits shall be reviewed every 5 years by the Department.**
- 5.2.3 **Permits may be reassessed when a Publicly Owned business or Privately Owned place undergoes a change of ownership, the layout of the Outdoor Public Space has been modified, or complaints are received by the Department.**

### **5.3 POSTING OF SIGNS**

5.3.1 No Smoking/Vaping signs shall be clearly posted in every Outdoor Public Place.

5.3.2 Signs shall include the international “No Smoking” and “No Vaping” symbols.

5.3.3 Signs shall be posted by January 1, 2019.

### **5.4 ENFORCEMENT**

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

5.4.2 Enforcement action by Owners

5.4.2.1 An Owner or the agent or employee of the Owner of an Outdoor Public Place where Smoking and Vaping are prohibited as outlined in 5.0, who observes an individual Smoking or Vaping in apparent violation of this regulation shall request the individual to stop Smoking or Vaping.

5.4.2.2 If the individual fails to comply, the Owner, the agent or employee of the Owner shall ask the individual to leave the premises

## **6.0 PENALTY**

6.1 Criminal Penalties Pursuant to UCA Section 26A-1-123

6.1.1 Any Person who is found guilty by a court having proper jurisdiction of violating any of the provisions of this regulation; or violating, disobeying, or disregarding any Notice or Order issued under this regulation is guilty of a class B misdemeanor;

6.1.2 Any Person who is found guilty of a subsequent similar violation within two years of the initial violation is guilty of a class A misdemeanor;

6.1.3 Each day such violation is committed or permitted to continue shall constitute a separate violation;

6.1.4 Conviction under this section does not relieve the Person convicted from civil liability.

6.2 Civil and Administrative Penalties

The Exercise of civil and administrative penalties shall be subject to the Board of Health’s Adjudicative Hearing Procedures Regulation.

6.3.1 Any Person who violates any of the provisions of the regulation or violates, disobeys, or disregards any Notice or Order issued under this regulation shall be subject to:

6.3.1.1 the payment of costs incurred in the enforcement of any violation or notice issued, including costs attributable to any involved local agencies;

6.3.1.2 a penalty pursuant to the provisions of UCA Subsection 26-23-6(2).

## 7.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this regulation or the application or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this regulation. The valid part of any clause, sentence, or paragraph of this regulation shall be given independence from the invalid provisions or application, and to this end, the provisions of this regulation are declared to be severable.

## 8.0 FEES

Not Applicable.

IN WITNESS WHEREOF, the Davis County Board of Health has passed, approved and adopted this regulation this 11<sup>th</sup> day of September, 2007.

**Effective date: 1<sup>st</sup> day of January, 2008.**

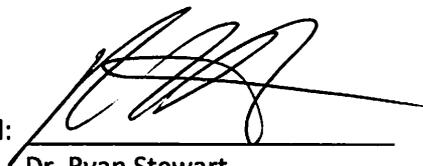
**Revised and Amended: August 9, 2011.**

**Revised and Amended: February 13, 2018.**

**Revised and Amended: May 8, 2018.**

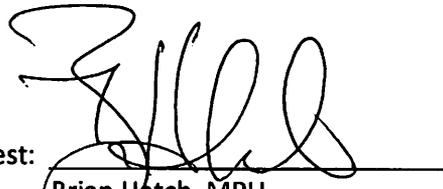
Davis County Board of Health

Signed:



Dr. Ryan Stewart  
Board Chairman

Attest:



Brian Hatch, MPH  
Director of Health