

CITY OF URBANDALE NO SMOKING POLICY

City of Urbandale, Iowa

Amended #2: December 16, 2008 (CL#3557)

Adopted: September 23, 2008 (CL #3535)

Replaces previous "GUIDELINES for NON-SMOKING and SMOKING in CITY OWNED FACILITIES, VEHICLES and EQUIPMENT", Original Adopted: April 11, 1995; and **Replaces previous ADDENDUM** "TOBACCO FREE in CITY PARK and RECREATIONAL AREAS", Original Addendum Adopted: December 20, 2005, Revised Addendum Adopted: May 22, 2007.

I. State Law

Chapter 142D, "Smokefree Air Act" (provisions of the 2008 Iowa Acts, House File 2212), of the Code of Iowa, became effective on July 1, 2008 for the State of Iowa and its political sub-divisions, including the City of Urbandale, Iowa.

1. The State law was created to "...regulate smoking in public places, places of employment, and outdoor areas in order to protect the public health and the health of employees".
 - a. "Public building" means an enclosed area owned, leased, or operated by or under the control of the state government or its political subdivisions.
 - b. "Public place" means "an enclosed area to which the public is invited or in which the public is permitted"; and an "enclosed area" means "all space between a floor and ceiling that is contained on all sides by solid walls or windows, exclusive of doorways, which extended from the floor to the ceiling".
 - c. "Entrance" means "any doorway to an enclosed area used by the public or employees for ingress to any public place or place of employment, but does not include any doorway designated for use as an exit in an emergency only".
2. The purpose of the State law is "to reduce the level of exposure by the general public and employees to environmental tobacco smoke in order to improve the public health of Iowans."
3. "Smoking" means "inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco product in any manner or in any form".

II. City Policy

1. **Indoor Areas:** Smoking inside is not allowed in an enclosed public place, in vehicles and in motorized equipment owned or operated by the City.
 - a. “No Smoking” signs will be posted at each entrance to the public place and place of employment that may be utilized by the public or the employee to enter or exit an enclosed facility.
 - b. “No Smoking” signs will be posted in vehicles and in motorized equipment used to transport the public or the employee, such sign will be visible from the exterior, and smoking is prohibited regardless of where the vehicle or motorized equipment is located.
 - b. 1 Exception: The City excludes unmarked Police vehicles from the requirement to post “No Smoking” signs.
 - c. “No Smoking” signs will be posted in rented enclosed park shelters, and in park restrooms.
 - d. Smoking will continue to be a prohibited activity in all City automotive garages or bays used either for equipment maintenance or storage including the Police sally port; and will continue to be prohibited in all hazardous storage areas, or where flammable or toxic materials or fumes are present.
 - e. “No Smoking” signs will meet the specifications of the State 641 Iowa Administrative Code, Chapter 153, specifically, for buildings at least 24 square inches in size, and for vehicles at least 9 square inches in size; legible font type, contain the words “No Smoking” or the international “no smoking” symbol, the telephone number for reporting complaints, 1-888-944-2247, and the department of public health website, www.iowaSmokefreeAir.gov.

2. **Outdoor Areas:** Smoking is not allowed on the “grounds of any public building” means “an outdoor area of a public building that is used in connection with the building, including but not limited to, a sidewalk or driveway immediately adjacent to the building, but not including a sidewalk in the public right-of-way; a sitting or standing area immediately adjacent to the building; a patio; a deck; a curtilage or courtyard; a swimming or wading pool; or a beach, or any other outdoor area as designated by the person having custody or control of the public building”.
 - a. “No Smoking” signs will be posted at the “entrance” which also “includes the commonly understood points of entry to an outdoor area, subject to the prohibitions of this chapter, such as a driveway, sidewalk, pathway, access road, gate, or dedicated point of entry”, but not including a street, road, highway, or sidewalk in the public right-of-way.
 - a.1 Exception: The City excludes from the designated grounds of any public building the parking lots—and smoking is allowed in the City parking lots, as long as these outdoor areas are not immediately adjacent to the commonly understood points of entry and exit; and smoking is allowed in privately owned vehicles in the City parking lots.
 - a.2. Exception: The City excludes from the designated grounds of any public building the hiking trails—and smoking is allowed on bike or walking trails, and on a sidewalk in the public right-of-way, as long as these outdoor areas are not immediately adjacent to an enclosed City building or commonly understood points of entry and exit, and do not conflict with seating areas.
 - b. “No Smoking” signs will be posted in the “seating areas of outdoor sports arenas, stadiums, amphitheaters and other entertainment venues” means “...the area to be used primarily to witness entertainment events and shall include, but not be limited to, all chairs, seats, and bleachers whether permanent or temporary, standing room only; general admission or festival style seating areas; and any other areas where individuals congregate to witness entertainment events”.
 - c. Signs will not be posted in building facilities that are not enclosed—means all space between a floor and ceiling is not contained on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.
 - c.1 Exception: The City excludes from the designated grounds of any public building the open (not enclosed) shelters in the park system-- and smoking is allowed.
 - c.1.a. Exception: “No Smoking” sign will be posted in the Lions Park Gazebo, which is an open (not enclosed) shelter.
 - d. Smoking will continue to be a prohibited activity in outdoor areas when flammable or toxic materials or fumes are present.

e. Under the definition of “Smoking”, it does not identify chewing tobacco as a regulated product.

a.1 Exception: The skate park shall remain tobacco free at all times.

a.2 Exception: Tobacco products are prohibited in or around any other areas where youth 17 (seventeen) years old and younger are participating in “organized recreational activities”—means those activities that are scheduled by or through the Parks and Recreation Commission or are scheduled by a private organization or association that leases park property from the City. This definition would include both scheduled and non-scheduled athletic practices of any organization or association that is authorized to use the City’s park facilities.

3. Enforcement: The City as the employer, owner, operator, manager, or person having custody or control of a place where smoking is prohibited shall not permit smoking in a public place, place of employment, outdoor area where smoking is prohibited, or an area declared nonsmoking.

a. Inform all current employees and all prospective employees upon application for employment of the prohibitions. The City shall not retaliate against any employee, applicant for employment, or customer that exercises any rights under 2008 Iowa Acts, House File 2212, registers a complaint, or attempts to prosecute a violation of 2008 Iowa Acts, House File 2212.

b. Inform any individual smoking in a place where smoking is prohibited that the individual is violating the Smokefree Air Act and shall request that the individual stop smoking immediately.

c. The Iowa Department of Public Health has designated the law enforcement authorities of the City as a political subdivision of the state to assist with the enforcement of 2008 Iowa Acts, House File 2212. A City Police officer may issue a citation in lieu of arrest pursuant to Iowa Code chapter 805 against a person who smokes in an area where smoking is prohibited pursuant to 2008 Iowa Acts, House File 2212.

1. Any person may register a complaint with the Iowa Department of Public Health by contacting the Department using the methods listed on the “No Smoking” signs.

2. The Iowa Department of Public Health may refer complaints regarding a violation of 2008 Iowa Acts, House File 2212 to the City Police where the alleged violation occurred.

d. The State law does not authorize the City to adopt regulations permitting smoking in designated areas where it is prohibited.