

RICHMOND CITY CORPORATION
ORDINANCE 2008-5

WHEREAS, the City of Richmond has an obligation and the authority to protect the public health, welfare, and sanitation within the limits of Richmond City; and

WHEREAS, based on the findings of the Utah Legislature in Utah Code Section 78-38-.5, the City hereby finds that the U. S. Environmental Protection Agency (USEPA) has determined that environmental tobacco smoke is a Group A carcinogen, in the same category as other cancer causing chemicals such as asbestos; and

WHEREAS, the USEPA has determined that there is no acceptable level of exposure to Class A carcinogens; and

WHEREAS, the United State Surgeon General has determined that the scientific evidence indicates that there is no risk-free level of exposure to secondhand tobacco smoke; and

WHEREAS, reliable studies have shown that breathing side stream or secondhand tobacco smoke is a significant health hazard, in particular for elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, the Americans With Disabilities Act, which requires that disabled persons have access to public places and work places, deems impaired respiratory function to be a disability; and

WHEREAS, cigarette butts are not biodegradable and discarding cigarette butts and tobacco onto the ground in places such as city parks, recreational areas, and at the locations of mass gatherings is unsightly, unclean, and particularly hazardous to small children and animals who handle and sometimes ingest them, which can lead to serious health effects; and

WHEREAS, littering in city parks and near mass gatherings, including littering of cigarette butts, shall not be tolerated; and

WHEREAS, tobacco smoke free parks are important for the health of children and adults; and

WHEREAS, because children imitate adult behavior, the elimination of tobacco smoking in places such as city parks, recreation areas, and near mass gatherings furthers the goal of reducing youth tobacco smoking; and

WHEREAS, the Bear River Health Department has deemed it prudent, reasonable, and necessary to support, advocate, and urge that municipal legislative bodies legislate through ordinance: 1) protecting the public health and welfare by prohibiting the smoking of tobacco in public parks, gathering places, and recreational areas; and 2) guarantee the right of non-tobacco smokers to breath tobacco smoke-free air, and to recognize that the need to breathe tobacco

smoke-free air shall have priority over the desire to smoke; and

WHEREAS, the City finds that the prohibition of smoking in the City's parks, recreation facilities, and near mass gatherings serves to protect the health, safety, and welfare of persons in the City.

NOW THEREFORE the City Council of Richmond City, County of Cache, State of Utah, hereby adopts, passes, and publishes the following:

AN ORDINANCE ENACTING A NEW CHAPTER 10-250 OF TITLE 10-000 OF *THE CODE OF REVISED ORDINANCES OF RICHMOND CITY, UTAH (1975, Adopted 1976)* ENTITLED PROHIBITION OF TOBACCO SMOKING IN CITY PARKS, RECREATIONAL AREAS, AND NEAR MASS GATHERINGS.

A. The following Chapter 10-250 shall be added to Title 10-000 of *the Code of Revised Ordinances of Richmond City, Utah (1975, Adopted 1976)*:

CHAPTER 10-250. Tobacco Smoking Prohibited in City Parks, Recreational Areas, and Near Mass Gatherings.

10-251. Definitions.

A. "City park" means and includes city-owned parks, public squares, ball diamonds, soccer fields, and other recreation areas and trails, but not designated smoking areas specified by the City.

B. "Mass gatherings" means an outdoor assembly of 100 or more people on City-owned property than can reasonably be expected to continue for two or more hours.

C. "Smoke" or "smoking" means and includes: possession, carrying, or holding a lighted pipe, cigar, or cigarette of any kind, or any other lighted tobacco smoking equipment, or the lighting or emitting or exhaling of smoke of a pipe, cigar, or cigarette of any kind, or of any other lighted tobacco smoking equipment.

10-252. Prohibitions.

Smoking is hereby prohibited in City parks, within twenty-five (25) feet of bus stops, and within fifty (50) feet of mass gatherings. A violation of this ordinance is an infraction punishable by a fine not to exceed twenty-five dollars (\$25.00) but not by imprisonment. Law enforcement officers shall have the discretion to issue a "warning" if they deem it is in the best interests of the City for the first offense.

10-253. Exceptions.

A. American Indian/Alaska Native Ceremonies.

1. A person is exempt from the restrictions of this chapter if the person:

a. Is a member of an American Indian/Alaska Native tribe whose members are recognized as eligible for the special programs and services provided by the United States to American Indians/Alaska Natives who are members of those tribes;

b. Is an American Indian/Alaska Native who actively practices an American Indian/Alaska Native religion, the origin and interpretation of which is from a traditional American Indian/Alaska Native culture;

c. Is smoking tobacco using the tradition pipe of an American Indian/Alaska Native tribal religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of that ceremony; and

d. The ceremony is conducted by a pipe carrier, American Indian/Alaska Native spiritual person, or medicine person recognized by the tribe of which that person is a member and by the American Indian/Alaska Native community.

2. A religious ceremony using a tradition pipe under this section is subject to any applicable state or local law, except as provided in this section.

B. First Amendment Activities.

A person is exempt from the restriction of this chapter if the person is smoking or using smoking materials to exercise protected First Amendment activity, such as smoking or use of materials for bona fide religious purposes.

10-254. Posting of Signs.

“No Smoking” signs or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar crossing it) shall be clearly and conspicuously posted in every City park.

ADOPTED AND PASSED by the Richmond City Council this 3rd day of September, 2008.

Michael E. Hall
Mayor

ATTEST:

Justin B. Lewis
Recorder

Posting Date: September 3, 2008

CERTIFICATE OF DUE POSTING

I, Justin B. Lewis, City Recorder of Richmond, Cache County, Utah, do hereby certify that on the 3rd day of September, 2008, in the City of Richmond, County of Cache, State of Utah, was posted the foregoing Ordinance 2008-5 in a likely manner, a copy of which is hereunto attached, in each of the three most public places in the said City of Richmond, to wit:

1. Richmond City Office.
2. Richmond Public Library.
3. Richmond City Post Office.

WITNESS my hand this 3rd day of September, 2008.

Justin B. Lewis
Richmond City Recorder