



**ORDINANCE NO. 15**  
**BOARD OF COUNTY COMMISSIONERS**  
**OF THE**  
**COUNTY OF SUMMIT**  
**STATE OF COLORADO**

**A REVISED AND RESTATED ORDINANCE NUMBER 15 PROHIBITING SMOKING IN PUBLIC PLACES IN UNINCORPORATED SUMMIT COUNTY, COLORADO.**

**WHEREAS**, pursuant to § 25-14-105 of the Colorado Revised Statutes, the Board of County Commissioners previously adopted Ordinance # 15 on January 16, 2004, enacting regulations controlling smoking in certain areas described therein, primarily both public and indoors, within the unincorporated territory of Summit County, Colorado; and

**WHEREAS**, the Colorado legislature adopted and the Governor signed into law effective July 1, 2006, the “Colorado Clean Indoor Air Act”, §§ 25-14-201 et seq., C.R.S., which declared the regulation of smoking to be a matter of statewide concern and provided laws for statewide regulation of smoking; and

**WHEREAS**, pursuant to § 25-14-207(2)(a) of the Colorado Clean Indoor Air Act, counties may enact, adopt and enforce smoking regulations that cover the same subject matter as the Colorado Clean Indoor Air Act, however, county smoking regulations may not be less stringent than those of the Colorado Clean Indoor Air Act – except that counties may specify a radius of less than fifteen feet for the area included in an “Entryway”; and

**WHEREAS**, the Board of County Commissioners of Summit County, Colorado hereby finds and declares that it is necessary and in the best interests of the health, safety and welfare of the citizens of and visitors to Summit County that the Summit County Ordinance #15 is revised and restated to harmonize it with the requirements and provisions of the Colorado Clean Indoor Air Act.

**NOW, THEREFORE, BE IT ORDAINED**, by the Board of County Commissioners of Summit County:

**A. TITLE:** This ordinance shall be known as Ordinance No. 15, the “Ordinance Prohibiting Smoking in Public Places in Unincorporated Summit County, Colorado” (hereinafter referred to as the “Ordinance”).

**B. DECLARATION OF PURPOSE:** The Board of County Commissioners of Summit County, Colorado (“BOCC”) hereby declares that the purpose of this Ordinance is to preserve and improve the health, comfort, and environment of the people of unincorporated Summit County, Colorado (the “County”) by limiting exposure to tobacco smoke.

**C. FINDINGS:** The BOCC does hereby find, determine and declare that:

1. It has the power to adopt this ordinance pursuant to the provisions of Section 25-14-207(2)(a), C.R.S., and the powers possessed by counties in Colorado; and

2. It is in the best interest of the people of the County to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment; and

3. A balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places; and

4. Smoking is not prohibited in the Entryway of any building or facility in unincorporated Summit County, and such determination is expressly authorized to be made by the BOCC pursuant to Section 25-14-207(2)(a), C.R.S. The specified radius from Entryway wherein smoking is prohibited in unincorporated Summit County, Colorado is determined to be zero (0) feet; and

5. “Cigar-Tobacco Bars”, as defined in Section 25-14-203(4), C.R.S., are not exempted from the County’s smoking regulations as set forth in this Ordinance; and

6. The local smoking regulations set forth in this Ordinance are no less stringent than the provisions of the Colorado Clean Indoor Air Act; and

7. The penalty assessment procedure provided in section 16-2-201, C.R.S., is authorized to be utilized and followed by any arresting law enforcement officer for any violation of this Ordinance.

**D. DEFINITIONS:** As used in this Ordinance, unless the context otherwise requires:

AUDITORIUM: The part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

BAR: Any indoor area that is operated and licensed under article 47 of title 12,

C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

EMPLOYEE:

Means any person who:

1. Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or
2. Provides uncompensated work or services to a business or nonprofit entity.

"Employee" includes every person described above in this definition regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

EMPLOYER:

Any person, partnership, association, corporation, or nonprofit entity that employs one or more persons.

"Employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

ENTRYWAY:

The area of public or private property located outside of the front or main doorway leading into a building or facility whether or not specifically listed in section E.

ENVIRONMENTAL TOBACCO SMOKE:

The complex mixture formed from the escaping smoke of a burning tobacco product, also known as "sidestream smoke", and smoke exhaled by the

	smoker.
FOOD SERVICE ESTABLISHMENT:	Any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.
GONDOLA:	An aerial tramway carrier primarily used to convey persons and property to, from and/or within a ski area.
INDOOR AREA:	Any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.
PLACE OF EMPLOYMENT:	Any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.
PUBLIC BUILDING:	Any building owned or operated by: <ol style="list-style-type: none"> <li>1. The state, including the legislative, executive, and judicial branches of state government;</li> <li>2. Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or</li> <li>3. Any other separate corporate instrumentality or unit of state or local government.</li> </ol>
PUBLIC MEETING:	Any meeting open to the public pursuant to part 4 of article 6 of title 24, C.R.S., or any other law of the state or the County.
SMOKE-FREE WORK AREA:	An indoor area in a place of employment

SMOKING:

where smoking is prohibited under this Ordinance.

The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

TOBACCO:

Cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

TOBACCO BUSINESS:

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

WORK AREA:

An area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

**E. GENERAL SMOKING RESTRICTIONS:** Except as provided in section F, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

1. Public meeting places;
2. Elevators;

3. Government-owned or -operated means of mass transportation, including, but not limited to, buses, vans, and trains;

4. Taxicabs and limousines;

5. Gondolas;

6. Grocery stores;

7. Gymnasiums;

8. Jury waiting and deliberation rooms;

9. Courtrooms;

10. Child day care facilities;

11. Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;

12. Any place of employment that is not exempted. In the case of employers who own facilities otherwise exempted from this Ordinance, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

13. Food service establishments;

14. Bars;

15. Indoor sports arenas;

16. Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;

17. Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;

18. Bowling alleys;

19. Billiard or pool halls;

20. Facilities in which games of chance are conducted;

21. The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;

22. Public buildings;

23. Auditoria;

24. Theaters;

25. Museums;

26. Libraries;

27. To the extent not otherwise provided in section 25-14-103.5, public and nonpublic schools;

28. Other educational and vocational institutions; and

29. Any partially or fully enclosed structure used by the public to wait for public transit service.

**F. EXCEPTIONS TO SMOKING RESTRICTIONS:** This Ordinance shall not apply to:

1. Private homes, private residences, and private automobiles; except that this Ordinance shall apply if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation;

2. Limousines under private hire;

3. A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent;

4. Any retail tobacco business;

5. The Entryways of all buildings and facilities listed in section E;

6. The outdoor area of any business;

7. A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees; or

8. A private, nonresidential building on a farm or ranch, as defined in section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars;

**G. OPTIONAL PROHIBITIONS:**

1. The owner or manager of any place not specifically listed in section E, including a place otherwise exempted under section F, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Ordinance.

2. If the owner or manager of a place not specifically listed in section E, including a place otherwise exempted under section F, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by section E.12, the owner or manager shall post a sign or signs in the smoke-free work area as provided in paragraph A of this section. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Ordinance.

**H. OTHER APPLICABLE REGULATIONS OF SMOKING:** This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law.

**I. UNLAWFUL ACTS; PENALTY:**

1. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this Ordinance to violate any provision of this Ordinance.

2. It is unlawful for a person to smoke in an area within the County where smoking is prohibited pursuant to this Ordinance.

3. In accordance with § 24-14-208, C.R.S., a person who violates this Ordinance commits a class 2 petty offense. Pursuant to § 18-1.3-503, C.R.S., the penalty assessment procedure provided in section § 16-2-201, C.R.S., is available for violations of for the payment of fines in class 2 petty offense cases. Any arresting law enforcement officer is authorized to use the penalty assessment procedure provided in section § 16-2-201, C.R.S., for violations of this Ordinance. If the penalty assessment procedure is used, the fine schedule shall be as follows:

4. A person who violates this Ordinance is guilty of an infraction, punishable by:
  - a. A fine not exceeding one hundred dollars (\$200) for a first violation within a calendar year.
  - b. A fine not exceeding two hundred dollars (\$300) for a second violation within a calendar year.
  - c. A fine not exceeding five hundred dollars (\$500) for each additional violation of this Ordinance within a calendar year.

5. Each day of continuing violation shall be deemed to be a separate violation.



6. All judges, clerks of a court of record, or other officers imposing or receiving fines collected pursuant to or as a result of a conviction of any persons for a violation of this Ordinance shall transmit all such moneys in the following manner: Seventy five percent (75%) of such fine shall be transmitted to the Summit County Treasurer and the remaining twenty five percent (25%) shall be transmitted to the State Treasurer, who shall credit the same to the State General Fund.

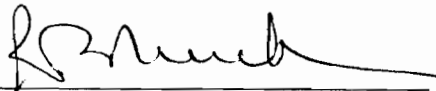
**J. SEVERANCE CLAUSE:** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**K. REPEAL:** Existing or parts of existing ordinances or resolutions covering the same matters as embraced in this Ordinance, including but not limited to the Summit County Ordinance No. 15 originally adopted on January 16, 2004, are hereby repealed and all ordinances or resolutions or parts or ordinances or resolutions inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or resolution hereby repealed prior to the effective date of this ordinance.

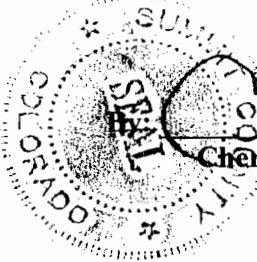
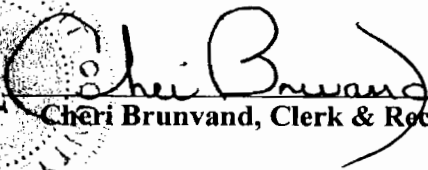
**L. EFFECTIVE DATE.** This ordinance shall be effective immediately after final publication subsequent to the adoption on a second reading.


**INTRODUCED, READ, ORDERED PUBLISHED IN FULL AND SET FOR PUBLIC HEARING THIS 26TH DAY OF SEPTEMBER 2006.**

**BOARD OF COUNTY COMMISSIONERS  
OF SUMMIT COUNTY, COLORADO**

By:   
Robert H.S. French, Chairman

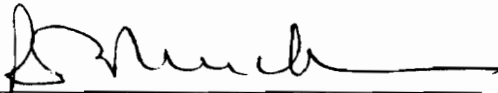
ATTEST:


   
Cheri Brunvand, Clerk & Recorder

Approved as  
to form  
  
Legal

READ, PASSED AND ADOPTED AFTER PUBLIC HEARING AND AFTER PUBLICATION IN FULL IN THE SUMMIT COUNTY JOURNAL ON SEPTEMBER 29, 2006. ORDERED PUBLISHED IN TITLE ONLY THIS 10TH DAY OF OCTOBER 2006.

COUNTY OF SUMMIT  
STATE OF COLORADO  
By and Through its  
BOARD OF COUNTY COMMISSIONERS

By:   
Robert H.S. French, Chairman

  
ATTEST:  
  
Cheri Bruqvand, Clerk & Recorder

Approved as  
to form  
  
Legal