GENERAL ADMINISTRATION
EMPLOYEE

043 GENERAL OFFICE POLICIES

043.2 Smoking Policy

043.2.1 Purpose

The purpose of this policy is to protect the health and health concerns of the employees and public by prohibiting smoking in Human Services Department (HSD) owned or leased vehicles or building areas and requiring designated areas for smoking. The policy adheres to requirements for a smoke free work environment in accordance with standards established in the New Mexico Administrative Code 1.5.3, the Dee Johnson Clean Indoor Air Act, and the Human Services Department.

043.2.2 Definitions

A. "Dee Johnson Clean Indoor Air Act" means 24-16-1 NMSA 1978 (Dee Johnson Clean Indoor Air Act).

B. "Department" means the Human Services Department.

C. "Designated outdoor smoking area" means an area where smoking may be permitted, designated by an employer or manager, outside an indoor workplace or indoor public place provided that the conditions described herein are maintained.

D. "Enclosed" means any interior space predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings or open or closed windows.

E. "Fumes" means any smoke-like or vaporous exhalation from matter or substances, especially of an odorous or harmful nature.

F. "Indoor public place" means the enclosed area within any governmental place to which the public is invited or in which the public is permitted regardless of whether work or public business, meetings or hearings occur at any given time.

G. "Indoor workplace" means any enclosed place where one or more persons engage in work, including lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at any given time.

H. "Reasonable distance" is 25 feet unless the local jurisdiction's legal requirements are longer. If the property line is less than 25 feet, the "smoking permitted" area shall be the furthest point possible away to ensure that persons entering or leaving the building or facility shall not be subjected to breathing fumes and in a location ensuring that fumes do not enter the building or facility through entrances, windows, ventilation systems or any other means.

I. "Secondhand smoke" means vapors or fumes emitted from lighted, smoldering, heated or burning products when the smoker is not inhaling, fumes emitted at the mouthpiece during puff drawing and fumes exhaled by the smoker.

J. "Smoke free area" means any building or other enclosed space where smoking is prohibited.

K. "Smoking" means inhaling, exhaling, burning, carrying or holding any lighted or heated product, including all types of cigarettes, cigars and pipes including electronic cigarettes and any other device that emits fumes.

L. "Smoking-permitted area" means any building or other enclosed space where smoking may be permitted; provided that secondhand smoke does not infiltrate any area where smoking is prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

043.2.3 Prohibition of Smoking

A. Smoking and the use of smokeless products of any type is prohibited in all State owned or operated vehicles.

B. Smoking shall not be permitted in any State owned or HSD leased building or near any building entrance, including a door, window or ventilation system so as to prevent secondhand smoke from entering the indoor workplace or indoor public place regardless of whether work or public business, meetings or hearings occur at any given time.

C. Employees or members of the general public shall not be required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place.

043.2.4 Responsibilities of HSD Managers

A. The owner and local office management of any HSD premise shall work together to establish a smoke free area that extends a reasonable distance from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited.

B. The reasonable distance shall be a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing fumes and to ensure that the fumes do not enter the building or facility through entrances, windows, ventilation systems or any other means.

C. A "NO SMOKING" sign shall be posted where it is clear, conspicuous and easily legible at each public entrance. Posting of "NO SMOKING" signs is the responsibility of the owner and/or local office management having control of the indoor workplace or indoor public place.

D. The owner and local office management of any HSD premise shall work together to designate appropriate outdoor smoking areas and post clear, conspicuous and easily legible signs indicating designated outdoor smoking areas, e.g., "SMOKING PERMITTED".

E. The owner and local office management must follow the specification in The Dee Johnson Clean Indoor Air Act that permits smoking at a site that is being used in connection with the practice of cultural or ceremonial activities by Native Americans and that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

F. HSD management shall not discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer exercises any rights afforded by the Dee Johnson Clean Indoor Air Act or reports or attempts to prosecute a violation of that act.

G. Local HSD management and supervisors are responsible to ensure that "smoking breaks" are in compliance with applicable policies or agreements.

043.2.5 HSD Responsibility for Enforcement of Policy

Complaints of possible violations may be made to the local office management or alternately, to the HSD Office of Human Resources. HSD managers are responsible and accountable for ensuring this policy is implemented and enforced. Violation of this policy is cause for disciplinary action.

043.2.6 Enforcement of the Dee Johnson Clean Indoor Air Act

The local fire, police or sheriff's department shall enforce the act by issuance of a citation and penalties. The owner and/or local office management shall not be subject to a penalty if a person on the premises is in violation as long as the owner and/or local office management has posted signs, implemented the policy and informed the person that the person is in violation of the Dee Johnson Clean Indoor Air Act.

043.2.7 References

House Bill 283, 48th Legislature, State of New Mexico, 2007: the Dee Johnson Clean Indoor Air Act (Section 24-16 NMSA)
NMAC 1.5.3 Authorization and Use of State Vehicles, Nov 1, 2002

APPROVED: DATE:

Sidonie Squier 1/6/14

SIDONIE SQUIER, Secretary