DAVIS COUNTY BOARD OF HEALTH

TOBACCO RETAILER REGULATION

Davis

COUNTY

HEALTH

DEPARTMENT

Table of Contents

1.0 PURPOSE **1**
2.0 SCOPE **1**
3.0 AUTHORITY AND APPLICABLE LAWS **1**
4.0 DEFINITIONS **1**
5.0 REGULATION **2**
5.1 Tobacco Retailer Permits 2
5.2 Permit Violations 3
5.3 Enforcement 3
6.0 PENALTY **3**
6.1 Criminal Penalties Pursuant to UCA Section 26A-1-123 3
6.2 Civil and Administrative Penalties 4
7.0 SEVERABILITY **5**
8.0 FEES **5**

1.0 PURPOSE

The purpose of this regulation is to preserve, promote, and protect the public health, safety, and general welfare of the residents and visitors in Davis County by establishing a process to administer and enforce tobacco retailer permits.

2.0 SCOPE

This regulation is applicable to all facilities that sell tobacco products, electronic cigarette products, or nicotine products within all incorporated and unincorporated areas of Davis County.

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 provisions of UCA Title 26B, Chapter 7, Part 5: Regulation of Smoking, Tobacco Products, and Nicotine Products and Utah Administrative Rule R384-324, Tobacco Product, Electronic Cigarette Product, and Nicotine Product Retailer Permit Process, are hereby adopted and incorporated by reference subject to the additions, clarifications, exceptions, and modifications set forth in this regulation.

4.0 DEFINITIONS

4.1 DEPARTMENT: The Davis County Health Department.

4.2 ELECTRONIC CIGARETTE: An electronic oral device that provides an aerosol or a vapor of nicotine or other substance and that simulates smoking through the use or inhalation of the device, a component of the device, or an accessory sold in the same package as the device;
includes an oral device that is composed of a heating element, battery or electronic circuit, and is marketed, manufactured, distributed, or sold as an e-cigarette, an e-cigar, an e-pipe, or any other product name or descriptor, if the function of the product meets this definition;
does not mean a medical cannabis device, as defined in UCA Section 76-9-1101(4).

4.3 ELECTRONIC CIGARETTE PRODUCT: An electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette, includes a non-nicotine inhalation product and a non-nicotine inhalation substance, as defined in UCA Section 76-9-1101(5).

4.4 FLAVORED ELECTRONIC CIGARETTE PRODUCT: An electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product as defined in UCA Section 76-9-1101(7). A flavored electronic cigarette product

includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or mint. A flavored electronic cigarette product does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.

4.5 GENERAL TOBACCO RETAILER: A tobacco retailer that is not a retail tobacco specialty business as defined in UCA Section 26B-7-501(7).

4.6 NICOTINE PRODUCT: An alternative nicotine product or a nontherapeutic nicotine product as defined in UCA Section 76-9-1101(9).

4.7 PLAN REVIEW: The process by which the Department verifies the accuracy of the information provided by a retail tobacco specialty business through the permit application process as defined in Utah Administrative Rule R384-324-2.

4.8 PROPRIETOR: The owner of a retail establishment, or any other place of business that sells, markets, or distributes any tobacco product, electronic cigarette product, or nicotine product as defined in Utah Administrative Rule R384-324-2.

4.9 RETAIL TOBACCO SPECIALTY BUSINESS: A tobacco retailer in which:
The sale of tobacco products, electronic cigarette products, and nicotine products accounts for more than 35% of the total quarterly gross receipts for the establishment;
20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;
the commercial establishment holds itself out as a retail tobacco specialty business and causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or
The retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products as defined in UCA 10-8-41.6(1).

4.10 TOBACCO RETAILER: A general tobacco retailer or a retail tobacco specialty business as defined in UCA Section 76-9-1101(23).

4.11 TOBACCO RETAILER PERMIT: The permit issued by the local health department to general tobacco retailers and retail tobacco specialty businesses for the sale, marketing, or distribution of tobacco products, electronic cigarette products, or nicotine products as defined in Utah Administrative Rule R384-324-2.

5.0 REGULATION

5.1 Tobacco Retailer Permits

5.1.1 All tobacco retailers in Davis County must obtain a valid tobacco retailer permit from the Department.

5.1.2 The Department may issue a tobacco retailer permit in the classification of:

5.1.2.1 a general tobacco retailer; or

5.1.2.2 a retail tobacco specialty business.

5.1.3 A proprietor without a valid permit may not display, advertise, offer for sale, or sell any tobacco products, electronic cigarette products, or nicotine products.

5.1.4 Plan Review
The Department shall complete a plan review for all new retail tobacco specialty businesses.

5.1.5 Change of Ownership
At any time an establishment changes ownership, the new proprietor must obtain a new tobacco retailer permit before operation.

5.1.6 Suspended or Revoked Permits
The Department may not issue a new tobacco retailer permit to a tobacco retailer or proprietor for whom a permit is suspended or revoked as defined in UCA Section 26B-7-518.

5.2 Permit Violations

A tobacco retailer is in violation of the permit issued under this regulation if the tobacco retailer violates:

5.2.1 any provision of UCA Title 26B, Chapter 7, Part 5;

5.2.2 any provision of Utah Administrative Rule R384-324-;

5.2.3 any provision of Utah Administrative Rule R384-415;

5.2.4 a provision of licensing laws under Section 10-8-41.6 or 17-50-333 of the Utah Code;

5.2.5 a provision of UCA Title 76, Chapter 9, Part 11;

5.2.6 a provision of UCA Part 76, Chapter 17, Part 4;

5.2.7 a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

5.2.8 any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

5.3 Enforcement

It is unlawful for any person to interfere with the Department in the performance of its duties or to violate any provision of this regulation.

5.3.1 Oversight
The Department may conduct inspections as part of its oversight process

to determine if a tobacco retailer is in compliance with tobacco retailer permit requirements.

5.3.2 Notice of Violation
A Notice of Violation may be issued for any violation of this regulation.

6.0 PENALTY

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

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 in accordance with UCA Section 26A-1-123;

6.1.2 Any person who is found guilty of a subsequent similar violation occurring 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.

6.2.1 Any tobacco retailer who violates any of the provisions of this regulation or violates, disobeys, or disregards any Notice of Violation or Order issued under this regulation shall be subject to:

6.2.1.1 A civil penalty pursuant to applicable state laws such as UCA Section 26A-1-114, 121, 123 and the Davis County Board of Health Adjudicative Hearing Regulation.

6.2.1.2 A civil penalty pursuant to UCA Section 26B-7-518. The following penalties may be imposed on the tobacco retailer based on the type of tobacco retailer permit violation:

Civil Penalties for Violating the Terms of all Tobacco Retailer Permits	
1st Violation	$1,000 fine
2nd Violation *occurs within one year*	$1,500 fine

of first violation	
3rd Violation *occurs within two years of second violation*	$2,000 fine OR suspension of tobacco retailer permit for 30 consecutive business days
4th Violation *occurs within two years of three previous violations*	$2,000 fine AND revoke tobacco retailer permit

Civil Penalties for a General Tobacco Retailer in a Sale to an Underage Buyer (employee)	
1st Violation	Employee Sale: $1,000 fine
2nd Violation *occurs within one year of previous violation*	Employee Sale: $1,500 fine
3rd Violation *occurs within two years of previous violations*	Employee Sale: $2,000 fine OR 30 consecutive business days permit suspension
4th Violation *occurs within two years of previous violations*	Employee Sale: $2,000 fine AND revoke retailer permit

Civil Penalties for a General Tobacco Retailer in a Sale to an Underage Buyer (proprietor)	
1st Violation	Proprietor Sale: $2,000 fine
2nd Violation *occurs within one year of previous violation*	Proprietor Sale: $5,000 fine AND revoke general tobacco retailer permit

Civil Penalties for a Retail Tobacco Specialty Business in a Sale to an Underage Buyer (proprietor or employee)

1st Violation	$5,000 fine AND suspend the retail tobacco specialty business permit for 30 consecutive days
2nd Violation *occurs within two years of first violation*	$10,000 fine AND revoke the retail tobacco specialty business permit

7.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this regulation or the application or circumstances shall be held to be 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

Fees are determined by UCA Section 26B-7-509 and Utah Administrative Rule R384-324, Tobacco Product, Electronic Cigarette Product, and Nicotine Product Retailer Permit Process. The following tobacco retailer permit fees will be applied:

New Retail Tobacco Specialty Business Plan Review	$250
New Retail Tobacco Specialty Business Permit (1 year)	$30
Renewal Retail Tobacco Specialty Business Permit (1 year)	$20
New General Tobacco Retailer Permit (2 years)	$30
Renewal General Tobacco Retailer Permit (2 years)	$20
Tobacco Retailer Permit Reinstatement	$30

IN WITNESS WHEREOF, the Davis County Board of Health has passed, approved, and adopted this regulation this 10th day of November, 2026.

Effective date: 14th day of August, 2018

Revised and amended: 14th day of November, 2023

Revised and amended: 10th day of November, 2026

Davis County Board of Health

Signed: 

Richard Swanson,
Board Chairman

Attest: 

Brian Hatch,
Director of Health