

# Smoke-free Places Act Consultation on Regulation

**The Yukon *Smoke-free Places Act* came into effect on May 15, 2008. Smoke-free places protect the health of Yukoners by reducing exposure to second-hand smoke in public places, workplaces, work vehicles, and all vehicles carrying children under 18 years of age. A Regulation is needed to address key components of the *Smoke-free Places Act*.**

Consultation on the *Smoke-free Places Regulation* will take place in phases. Phase One will address smoking near doors, windows and air intake vents, the posting of no-smoking signs, the sale of candy resembling tobacco products, and penalties for offences under the Act. Phase Two will look at issues related to the sale, display and advertising of tobacco products.

The purpose of this discussion paper is to outline the issues and options for Phase One of the consultation, and to seek your input. You can provide input by:

- attending the consultation meeting in your community (dates to be announced in local newspapers and radio)
- emailing your comments to [hss@gov.yk.ca](mailto:hss@gov.yk.ca)
- calling Daniela Meier, Health Promotion Coordinator at 867-667-8392 or Lauren Muir, Policy Analyst at 867-456-6518 (toll-free from Yukon communities: 1-800-661-0408, ext. 8392 or ext. 6518)
- mailing your written comments to:  
Government of Yukon  
PO Box 2703 (HP305)  
Whitehorse, Yukon Y1A 2C6

**All comments must be received by 4:30 p.m., November 14, 2008. We look forward to hearing from you.**

## No smoking near doorways, windows and air intake vents

The *Smoke-free Places Act* prohibits smoking near doorways, windows, and air intake vents. The purpose of this provision is to ensure that people can enter and exit buildings without being exposed to second-hand smoke. Prohibiting smoking near doorways, windows and air vents also minimizes the amount of smoke that can drift into a building through these openings.

The *Smoke-free Places Act* does not define the terms "doorway" or "window". Definitions are needed to provide clarity to building managers, employers, and members of the public about where smoking is prohibited. For the purposes of this Act,

A **doorway** is defined as a doorway between the inside and the outside of a building.

A **window** is defined as a window that can be opened to admit air.

It is proposed that smoking be prohibited within **5 metres** of doorways, windows, and air intake vents.

### To think about:

#### Do you agree with the proposed distance?

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined above.

*On peut obtenir la version française de ce document en communiquant avec notre bureau au 667-8392 (sans frais, au 1-800-661-0408, poste 8392) ou en la téléchargeant à partir du site [www.hss.gov.yk.ca/programs/health\\_promotion/smokefree\\_places\\_act/](http://www.hss.gov.yk.ca/programs/health_promotion/smokefree_places_act/).*

## Posting no smoking signs

Signs are needed to clearly identify places where smoking is not permitted. To be helpful, signs must be clearly visible and easy to understand. It is proposed that signs be posted in enclosed places, outdoor eating and drinking areas, and workplaces in sufficient numbers to ensure that people — both smokers and non-smokers — are aware that smoking is prohibited. To provide greater clarity, “outdoor eating or drinking area” is defined as:

- An **outdoor eating or drinking area** is any outdoor area under the control of a person who provides food or drink to members of the public for consumption the same day within that area.

Signs are also needed to inform people that smoking is not allowed outside near doorways, windows, and air intake vents. These signs can be posted indoors or outdoors, but in all cases must be clearly visible from the outside of the place where smoking is prohibited.

Proposed signage requirements	
Size of the signs	At least 21.6 cm by 21.6 cm (8.5" by 8.5")
Background colour	White
Graphic requirements	International no smoking sign in black or red at least 10 cm in diameter
Text requirements	<b>“NO SMOKING”</b> at the top of the sign in letters at least 1.7 cm high, and <b>“The Smoke-free Places Act prohibits smoking in enclosed public places, places of employment, and outdoor eating or drinking areas. Smoking is also prohibited outdoors, within 5 metres of doorways, windows, and air intake vents”</b> in letters at least 1 cm high

### To think about:

**Do you agree with the proposed signage requirements for public places, places of employment, and outdoor eating and drinking areas?**

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.

The *Smoke-free Places Act* allows hotels, motels, and bed-and-breakfast establishments to permit smoking in some rooms used primarily for sleeping. It is important to distinguish sleeping rooms in which smoking is allowed from sleeping rooms in which smoking is not allowed.

For these sections, a “non-smoking room” is defined as a room designed primarily as sleeping accommodation that has not been designated as a smoking room by the manager of the hotel, motel, or bed-and-breakfast.

It is proposed that in each non-smoking room, a sign be posted on or beside the door to the room that displays a red or black graphic of the international no-smoking symbol at least 10 cm in diameter on a white background.

### To think about:

**Do you agree with the proposed signage requirements for designated non-smoking rooms in motels, hotels, and bed-and-breakfast establishments?**

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.

Finally, no-smoking signs are needed to inform employers, employees, and the public that smoking is not permitted in public vehicles (such as buses, taxis, and other vehicles that are used to transport members of the public for a fee.) It is proposed that a sign displaying a red or black graphic of the international no-smoking symbol at least 10 cm in diameter on a white background be posted in sufficient numbers to advise occupants that smoking is not permitted.

### **To think about:**

#### **Do you agree with the proposed signage requirements for public vehicles?**

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.

## **Candy resembling tobacco products is banned**

Candy that looks like tobacco products with packaging resembling tobacco brands normalize and promote smoking to children long before they have legal access to cigarettes. Banning the sale of these candy products removes this influence on children.

The proposed regulation bans the sale and supply of candy that appear to be cigarettes, cigars, pipes, smokeless tobacco, or any other tobacco product. It is proposed that this regulation come into force on May 15, 2009 to allow businesses time to sell the remainder of their stock and cancel any orders.

### **To think about:**

#### **Do you agree with the ban of sales of candy that look like tobacco products?**

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.

## **Penalties for offences under the Act**

Any person who violates provisions of the *Act* is guilty of an offence and liable on summary conviction. For example, managers and employers of smoke-free places have obligations under the *Act* to post signs, remove ashtrays, and take steps to ensure that customers, employees, and members of the public do not smoke in areas where smoking is prohibited. Customers, employees, and members of the public also have obligations. For example, it is an offence to smoke in a smoke-free place. It is proposed that all offences be liable upon summary conviction to a fine, imprisonment of six months, or both.

As an alternative to prosecution, tickets can be issued by inspectors. A person who is issued a ticket can voluntarily pay a fine.

These penalties are very similar to those used to enforce other Yukon legislation, e.g., the *Liquor Act*. For the *Smoke-free Places Act*, it is proposed that fines be greater for building owners or managers and employers, who have obligations to create and maintain smoke-free places, than for members of the public, who violate other provisions of the *Smoke-free Places Act*. Subsequent convictions would result in increased fines.

The following table outlines the proposed fines upon summary conviction and the voluntary fines when a ticket is issued:

Authority	Description of Offence	Fine upon summary conviction	Voluntary fine upon issuance of a ticket
SFPA 4(1)	Smoking in enclosed place	Up to \$3,000	\$75
SFPA 4(2)(a)	Smoking near doorway, window or air vent	Up to \$3,000	\$75
SFPA 4(2)(b)	Smoking in outdoor eating or drinking area	Up to \$3,000	\$75
SFPA 4(3)	Smoking on school grounds	Up to \$3,000	\$75
SFPA 4(4)	Permitting smoking in a prohibited place	Up to \$10,000	\$250
SFPA 4(5)	Failing to display no-smoking sign	Up to \$10,000	\$250
SFPA 5(3)	Permitting person to smoke in smoking room	Up to \$10,000	\$250
SFPA 5(4)	Underage person in smoking room	Up to \$3,000	\$75
SFPA 5(5)	Permitting underage person in smoking room	Up to \$10,000	\$250
SFPA 5(6)	Failing to request person to stop smoking	Up to \$10,000	\$250
SFPA 5(7)	Smoker refusing to leave premises	Up to \$3,000	\$75
SFPA 6(1)	Smoking in place of employment	Up to \$3,000	\$75
SFPA 6(2)	Permitting smoking in place of employment	Up to \$10,000	\$250
SFPA (3)	Taking adverse action against employee	Up to \$10,000	\$250
SFPA 7	Ashtrays	Up to \$10,000	\$250
SFPA 8	Displaying tobacco products	Up to \$10,000	\$250
SFPA 9(1)(a)	Advertising tobacco indoors	Up to \$10,000	\$250
SFPA 9(1)(b)	Tobacco advertising visible from outside	Up to \$10,000	\$250
SFPA 11(1)	Failing to co-operate with inspector	Up to \$10,000	\$250
SFPA 11(2)	Making false statement to inspector	Up to \$10,000	\$250
SFPA 11(3)	Interfering with sign	Up to \$3,000	\$75
SFPA 11(4)	Failing to comply with an order	Up to \$10,000	\$250
SFPA 12(4)	Harassing informant	Up to \$10,000	\$250

### To think about:

#### Do you agree with the voluntary fines set out for offences?

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.

#### Do you agree with the fines a judge can set out for violations of the Act?

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.

#### Do you support increased penalties for second and subsequent offences?

Why or why not? If not, what do you suggest? Share your comments with us via the methods outlined at the beginning of this document.