

# Sample smoke-free bylaw for condos

## Smoke-free bylaw

1. All forms of smoking are prohibited on the property, including:
  - a. inside all condominium units;
  - b. on the interior common property, including, but not limited to, in hallways, elevators, parking garages, electrical and mechanical rooms, stairs, and storage locker areas;
  - c. on patios and balconies; and
  - d. within 8 metres (26 feet) of a door, window or air intake.
2. "Smoking" for the purposes of this bylaw means to inhale, exhale, burn, or have control over a lighted cigarette, cigar, pipe, hookah pipe, or other lighted smoking implement designed to burn tobacco or any other weed or substance for the purpose of inhaling or tasting of its emissions.
3. "Business invitee" for the purposes of this bylaw shall include, but is not limited to, any contractor, tradesperson, agent, household worker, or other person hired by the tenant or resident to provide a service or product.
4. **<Uniform application of policy>** This bylaw takes effect upon approval by the owners of the condominium corporation, and applies to all persons, including, but not limited to, owners, tenants, invitees, business invitees, occupants and visitors.  
**<OR exemption>** This bylaw takes effect upon approval by the board or members of the condominium corporation, and applies to all persons, including, but not limited to, owners, tenants, invitees, business invitees, tradespersons, occupants and visitors, provided that the bylaw does not apply to any owner, tenant or occupant residing in a unit in the building at the time the bylaw is approved by the condominium corporation, and who continues in full-time residence in the condominium after the bylaw takes effect **<or specify length of time of the exemption period>**.
5. **<Remove if exemption provision does not apply. Declaration, rules, bylaws and other legislation still applies>** Notwithstanding the exemption provision in section 4 above, owners, tenants and occupants who qualify for the exemption from the smoke-free bylaw as described herein must still comply with all applicable legislation and are still subject to the declaration, rules and bylaws, including, but not limited to, those with respect to causing a nuisance or hazard to another person and unreasonably interfering with the rights of another person to use and enjoy the real or personal property of the corporation or the common property, or another unit.
6. **<Human rights and reasonable accommodation>** The corporation shall make reasonable accommodation for an owner, tenant or occupant who has proven by medical evidence that they have a physical and/or mental disability and are unable to control their addiction to nicotine. Whether the owner, tenant or occupant has proven the disability will be determined in the sole and absolute discretion of the corporation, acting reasonably. The accommodation will be made based on all of the circumstances and may include, but is not limited to:

- a. allowing smoking in one or more designated areas of the real or personal property of the corporation or the common property (if applicable);
  - b. paying for one or more treatment programs to assist with the cessation of smoking, including, but not limited to, paying for nicotine-replacement therapy; and/or
  - c. the willingness of the owner, tenant or occupant to install and maintain smoke-extraction equipment in any unit or on the common property, as recommended by the board.
7. <Time limit for reasonable accommodation> Reasonable accommodation granted pursuant to section 6 of the policy may be for a fixed period of time at which time the owner, tenant or occupant is free to re-apply to the corporation for further reasonable accommodation to be made.
  8. <Other accommodation> In addition to accommodation made under section 6 of the policy, reasonable accommodation may be made by the corporation if an owner or occupant proves that to prohibit smoking would result in other discrimination prohibited by the Alberta Human Rights Act. The board of directors, in its sole discretion, will determine whether or not the resident has proven that the prohibition of smoking would be discriminatory pursuant to the Alberta Human Rights Act.
  9. <Traditional or cultural smoking activity> The corporation may make reasonable accommodation in the case where an owner, tenant or occupant intends to use tobacco in relation to a traditional aboriginal cultural activity, or smoking is intended to be done by a prescribed group for a prescribed purpose. In making the accommodation, the corporation will only do so in writing and may prescribe in writing when the permission is granted for, the duration of the permission and where smoking will be permitted.

## Sanctions

The corporation may:

10. pursuant to section 35 of the Act, impose monetary or other sanctions on owners, tenants and invitees of the owners or tenants who fail to comply with the smoke-free bylaw and in such cases the range of fines the corporation may impose as monetary sanctions for each violation is as follows:
  - a. for a first offence, a written warning;
  - b. for a second offence, following a written warning, a fine as levied by the board, not to exceed \$###;
  - c. for a third offence, a fine as levied by the board, not to exceed \$###;
  - d. for subsequent offences, a fine as levied by the board, not to exceed the maximum fine of \$###.
11. exercise the powers provided for in section 36 of the Act.

Each day that an owner, tenant or other person residing in or on a unit contravenes these bylaws shall be considered a separate contravention.