

TURKS AND CAICOS ISLANDS

TOBACCO CONTROL ORDINANCE

TOBACCO CONTROL REGULATIONS 2017

(Legal Notice 72 of 2017)

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(Legal Notice 72 of 2017)

MADE by the Minister under section 50 of the Tobacco Control Ordinance.

Citation and commencement

1. These Regulations may be cited as the Tobacco Control Regulations 2017 and shall come into operation on 1 February 2018.

Interpretation

2. In these Regulations—

“entrance” means the point of access to a public place and includes any adjoining enclosed surrounding area; and

“opaque” means, with respect to material used to conceal a tobacco product, such material which is impenetrable enough to sight so that the tobacco product is not visible to the public.

Further requirements for licence

3. (1) An applicant for a licence under the Ordinance must not—

(a) have been convicted of violation of any revenue or tax laws; or

(b) have a licence which has been revoked within the preceding five years of the date of application.

(2) A seller with multiple locations shall obtain a licence for each location he intends to sell or manufacture the tobacco product.

Keeping of records and inspection

4. (1) A seller shall keep records of complete and legible purchase invoices for any cigar, cigarette or tobacco product sold at its premises, for a period of five years.

(2) An authorised officer may at a reasonable time, enter the premises of a seller to inspect any records of a purchase invoice kept under subregulations (1) and in so doing, may utilise any of the powers vested on him under section 8 of the Ordinance.

(3) A person who has in his power or possession any records referred to in subregulation (1) shall—

- (a) produce them at the request of the inspector and permit the inspector to inspect and take copies of or extracts from them;
- (b) at the request of the inspector, give the inspector any information that the inspector may reasonably require in relation to any entries in those records and provide an explanation of any apparent omissions from them or any omission of a record required to be produced; and
- (c) give any other assistance and other information to the inspector that is reasonable in the circumstances.

Allowable distance to smoke from prohibited public places

5. (1) A person shall not smoke any tobacco product within a distance of 35 feet from a window of, ventilation inlet of, doorway to or entrance into any place listed in subregulation (2).

(2) A person may smoke or hold a lighted tobacco product at least 35 feet beyond an enclosed public place, enclosed workplace, public conveyance or any place listed under Schedule 3 of the Ordinance.

(3) The prohibition under subregulation (1) does not apply to a person who is temporarily within the area while actively passing through such area.

(4) The manager, owner or lessee of a public place, or an employer or a person in control at a workplace—

- (a) shall ensure that no ashtrays are placed within any area where smoking is prohibited; and
- (b) shall conspicuously display a “NO SMOKING” sign at each entrance and in appropriate locations and in sufficient numbers to ensure that employees and the public are aware that smoking is not permitted in the area or place.

(5) The sign referred to in subregulation (4) shall—

- (a) have a white background and a graphic of a no smoking symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it and shall be at least 5.5 inches in diameter; and
- (b) bear the warning—“ANY PERSON WHO FAILS TO COMPLY WITH THIS NOTICE SHALL BE PROSECUTED AND MAY BE LIABLE TO A FINE” written in black letters, at least 3.4 inches in height and 1.5 inches in breadth, on a white background.

Designated outdoor smoking area

6. (1) The owner or manager of an outdoor bar or outdoor restaurant, including any such bar or restaurant at a hotel, may designate an outdoor smoking area in the premises.

(2) Smoking shall be permitted in the designated outdoor smoking area only and in no other part of the premises.

(3) More than one designated outdoor smoking area may be permitted at the premises.

(4) The part of an outdoor area of the premises that may be designated as an outdoor smoking area shall be clearly demarcated.

(5) A designated outdoor smoking area shall—

- (a) not be adjacent to an entrance to the premises;
- (b) not be adjacent to walkways and other areas where persons generally congregate or walk, and must be at least 35 feet from any such place, including any public sidewalk or playground;
- (c) not be within a distance of 35 feet from an enclosed public place;
- (d) be 35 feet from any property or facility that dispenses or stores gasoline, propane, and other petroleum based products, other flammable or combustible products.
- (e) not exceed 50% of the total outdoor eating and drinking area of the premises;
- (f) be less than 75% enclosed;
- (g) be set aside exclusively as a smoking area;
- (h) be clearly marked as an area in which smoking is permitted; and

(i) be in a position that minimises smoke from the entrance of any area where smoking is prohibited.

(6) The owner or manager of an outdoor bar or restaurant, including any such bar or restaurant at a hotel shall ensure that, in the designated outdoor smoking area—

(a) no person under the age of 18 years is present;

(b) no staff service will be available to patrons;

(c) no entertainment is provided;

(d) ashtrays are installed and the area regularly cleaned; and

(e) smokers are discouraged from remaining in the area longer than is necessary to smoke.

Designated in-store smoking area

7. (1) The owner or manager of a tobacco specialty store may designate an area for smoking within the store.

(2) Smoking shall be permitted in the designated smoking area only and in no other part of the premises.

(3) Only one smoking area shall be designated in the store and shall be the only area where smoking is permitted in the store.

(4) A designated in-store smoking area shall—

(a) be fitted with a smoke extractor or air cleaning system;

(b) have fixed and airtight walls;

(c) not allow smoke from the smoking area to infiltrate into other areas of the indoor area;

(d) be clearly identifiable as a smoking room;

(e) not exceed 30% of the establishment's total surface area, that is, only the areas where customers are allowed;

(f) not be accessed by minors; and

(g) not be a transit area.

Designated smoking area at airport

8. (1) The manager or person in charge of an airport may designate a smoking area at the airport.

(2) Smoking shall be permitted in the designated smoking area only and in no other part of the airport.

(3) Subject to subregulation (4), a designated smoking area can either be inside or outside the airport terminal building.

(4) The provisions for a designated in-store smoking area for a tobacco specialty store shall apply to the designated smoking area inside the terminal building and such designated smoking area shall be set up in the same manner as that of the in-store designated smoking area.

(5) The provisions for a designated outdoor smoking area for an outdoor bar and restaurant shall apply to the designated smoking area outside the terminal building and such designated smoking area shall be set up in the same manner as the designated outdoor smoking area.

Configuration of smoking area and maintenance

9. The owner or manager of an outdoor bar or restaurant, including any such bar or restaurant at a hotel, the owner or manager of a tobacco specialty store manager or the person in charge of an airport shall—

- (a) take every precaution to ensure that smoke is properly contained and eliminated in accordance with these Regulations; and
- (b) conduct maintenance checks to ensure that health and safety criteria and all other relevant codes and standards are observed.

Approval of structure for smoking area

10. (1) Before constructing a structure for a designated smoking area, an application for approval of that structure shall be submitted in the Form set out in Schedule 1, to the Department of Planning and the Environmental Health Department.

(2) An application in subregulation (1) shall be submitted—

- (a) for an outdoor bar or restaurant, including such a bar or restaurant at a hotel, by the owner or manager of that bar, restaurant or the hotel;
- (b) for a tobacco specialty store, by the owner or manager of that store; and
- (c) for an airport, by the manager or person in charge of the airport.

(3) To obtain approval under subregulation (1), the owner, manager or person in charge shall submit the plan, both in hard copy and digital format, of the proposed structure for the

designated smoking area and information about the structure or designated smoking area which shall show—

- (a) the place where the designated smoking area will be situated in the premises; and
- (b) in the case of an outdoor smoking area, the distance the designated area would be situated from the enclosed public place.

(4) In addition to subregulation (3), the minimum requirements for submitting an application for the structure and configuration of a smoking area are set out in Schedule 2.

(5) The Director of Planning and Director of Environmental Health Department may impose additional restrictions or requirements if they determine that the location for the designated smoking area does not adequately protect the public from second hand smoking.

Smoke-free public place or workplace

11. The following may totally prohibit smoking on the premises—

- (a) the manager, owner or lessee of a public place, or an employer or a person in control at a workplace;
- (b) the owner or manager of an outdoor bar or outdoor restaurant, including any such bar or restaurant at a hotel;
- (c) the owner or manager of a tobacco specialty store may designate an area for smoking within the store; and
- (d) the manager or person in charge of an airport may designate a smoking area at the airport.

Cigarette dispenser

12. (1) A cigarette dispenser shall —

- (a) not bear any trademark, company logo or other identifying mark of a tobacco product; and
- (b) depict a health message as set out in Schedule 3.

(2) No more than one cigarette dispenser shall be provided per outlet.

(3) A cigarette dispenser shall be made of material that is opaque.

Information displayed on tobacco package

13. (1) A person shall not sell a tobacco product unless on each package there is displayed on a principal display surface, a graphic health warning in accordance with the following specifications—

- (a) the text of the warning shall be written in English and shall be legible and clearly visible to the person who sells as well as to the prospective purchaser;
- (b) the graphic and text of the warning shall occupy at least 50% of the display space and be positioned parallel to the top edge of the package;
- (c) the text of the warning shall be so positioned on the package as to ensure that it does not become severed or illegible upon the opening of the package; and
- (d) for locally manufactured tobacco products, the graphic health warning shall be in one of the images set out in Schedule 3.

(2) Every seller shall ensure that there is displayed on a principal display surface of every package of the product that he sells, a list of the constituents and additives which shall be in accordance with the following specifications—

- (a) the list shall be in English; and
- (b) the text of the list shall be so positioned as to ensure that it does not become severed or illegible upon the opening of the package.

(3) A smoked tobacco product sold as an individual unit shall be packaged and the packaging—

- (a) shall bear a health warning; or
- (b) shall have a leaflet containing the health warning or health message.

Display or warning sign

14. (1) Every seller, at the point of sale, shall display in a prominent place in the vicinity of the area where tobacco products are located, a sign—

- (a) to the effect that the legal age at which a tobacco product may be purchased is eighteen years; and
- (b) that shows the health dangers associated with smoking.

- (2) The sign to indicate the age restriction—
- (a) shall not be less than 4 inches in height and 6 inches in width, be on a red background with black and white text and shall state that “TOBACCO PRODUCTS ARE NOT SOLD TO ANYONE UNDER THE AGE OF EIGHTEEN YEARS”; and
 - (b) shall also state that the seller shall require evidence of the age of the prospective buyer.
- (3) The sign to show a health warning—
- (a) shall state that “SMOKING KILLS” or “SMOKING IS DANGEROUS TO YOUR HEALTH”; and
 - (b) shall be prominently displayed on a surface measuring no less than 8.5 inches in height and 14 inches in width containing black and white capitalised font against a red background.
- (4) Any sign to be displayed under this regulation shall be in English and be legible and clearly visible to the person who sells the product as well as to the prospective purchaser of the product.

Proof of age and identity

15. (1) A seller, in attempting to verify that the prospective purchaser of a tobacco product is not a minor, shall require him to produce documentary identification that contains—

- (a) a photograph of the prospective purchaser;
- (b) his date of birth; and
- (c) evidence that the document was issued either by the Government of the Islands or by or on behalf of the Government of any other country.

(2) Subject to subregulation (1) the following types of identification are acceptable—

- (a) a driver’s licence;
- (b) a passport; or
- (c) a voter’s registration card.

Authorisation for promoting brand or business name

16. (1) The owner or manager of a tobacco specialty store shall before promoting the store or business, seek authorisation from the Coordinator in Form 1 set out in Schedule 4.

(2) The Coordinator shall, if satisfied that the promotion proposed is solely for the store and the business and not for the promotion of any tobacco product, issue an authorisation in Form 2 set out in Schedule 4.

SCHEDULE 1

FORM

APPLICATION FOR DESIGNATED SMOKING AREA

(Regulation 10(1))

*(According to the **Tobacco Control Ordinance**, the following persons may complete this Form in order to designate a smoking area: the owner or manager of an outdoor bar or outdoor restaurant, including a bar or restaurant at a hotel; the manager or person in charge of an airport; and the owner or manager of a tobacco specialty store)*

GENERAL INFORMATION (print or type)

Applicant:

Address:

Island: _____

Cell / Other Phone: _____

E-mail: _____

Property Owner: _____

Address: _____

Island: _____

Cell / Other Phone: _____

E-mail: _____

APPLICANT/PROPERTY OWNER CERTIFICATION If applicant is other than the property owner, the owner must also sign consent to fill in the application and the certification listed below.

I/We, the owner(s) of the subject property, consent to the filling in of this application. I have read and understand the "Checklist for Designated Smoking Areas" as shown in the material attached to this application and agree to the criteria as written. I understand that this Checklist is based on the Tobacco Control Ordinance and

Regulations. I also understand that failure to maintain my designated smoking area in accordance with the required standards will be cause for enforcement action by the Tobacco Control Unit and possible revocation of approval.

I further certify that the plans and information provided present all of the data and information required by the Checklist, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief.

Furthermore, I understand that failure to provide the plans and information required by the Checklist may result in this application not being accepted as complete for processing.

TO BE COMPLETED BY PLANNING AND ENVIRONMENTAL HEALTH STAFF

Approved: _____ Denied: _____

Environmental Health Dept. Staff Initials _____ Date: _____

Planning Dept. Staff Initials: _____ Date: _____

Comments/Conditions: _____

SCHEDULE 2
GUIDELINES

(Regulation 10(4))

**MINIMUM APPLICATION FILLING REQUIREMENTS
CHECKLIST AND PLAN PREPARATION GUIDELINES
AN MINIMUM PLAN CONTENTS FOR DESIGNATED
SMOKING AREAS**

DESIGNATED OUTDOOR SMOKING AREA:

The minimum requirements for filling in a Site Plan Review application for a designated outdoor smoking area are listed below. An application that does not include the following plans and information will not be accepted for processing:

- Completed Designated *Smoking Area Application*.
- Two (2) complete sets of plans prepared in accordance with the *Minimum Plan Preparation and Plan Contents Checklist*. Each set shall be stapled together as a single package.
- Any other plans or information that the Planning Director deems necessary to facilitate processing of the application.

PLAN PREPARATION GUIDELINES

Plans not conforming to the following guidelines will not be accepted for processing:

- All plans shall be drawn on uniform sheets, no smaller than 11"X17" and no larger than 24"X36".
- All plans or maps shall be clearly labelled with sheet title, project name and project location.
- A one-sheet master plan shall be provided where the detailed plan or map cannot contain the entire project on a single sheet.
- All plans shall be clear and legible.

MINIMUM PLAN CONTENTS

Site Plan:

- The site plan shall be drawn to an engineering scale no smaller than 1"=40' for large projects, 1/8"=1' for smaller projects,

with the scale clearly labelled, and shall include the following minimum information:

- Name and address of developer, owner, and person who prepared the plan.
- Date of preparation and revisions, if any.
- North arrow oriented towards the top of the sheet and a legend identifying any symbols.
- Property lines and dimensions.
- Nearest cross streets on all sides of the project site, with approximate distances from the site.
- Location of proposed Designated Smoking Area(s) and existing buildings and structures.
- Any entrances to buildings within 35 feet of the Designated Smoking Area.
- A summary with information on the square footage of the Designated Smoking Area

DESIGNATED IN-STORE SMOKING AREA:

The minimum requirements for filling in a Site Plan Review application for a designated in-store smoking area are listed below. An application that does not include the following plans and information will not be accepted for processing:

- Completed Designated Smoking Area Permit Application.
- Two (2) complete sets of plans prepared in accordance with the Minimum Plan Preparation and Plan Contents Checklist. Each set shall be stapled together as a single package.
- Any other plans or information that the Planning Director deems necessary to facilitate processing of the application.

MINIMUM PLAN CONTENTS

Site Plan:

- The site plan shall be drawn to an engineering scale no smaller than 1"=40' for large projects, 1/8"=1' for smaller projects, with the scale clearly labelled, and shall include the following minimum information:
 - Name and address of developer, owner, and person who prepared the plan.
 - Date of preparation and revisions, if any.

- North arrow oriented towards the top of the sheet and a legend identifying any symbols.
- Property lines and dimensions.
- Location of proposed Designated Smoking Area(s) and access point
- Square footage of the Designated Smoking Area

ADDITIONAL REQUIREMENTS FOR DESIGNATED IN-STORE SMOKING AREA:

- Summary specifying the type of ventilation system to be utilised
- Summary specifying method to be used to prevent smoke from infiltrating non-smoking areas when access door is opened

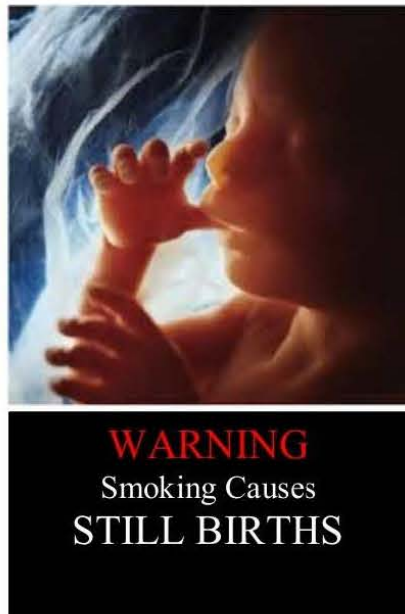
ADDITIONAL REQUIREMENTS FOR ALL SMOKING AREAS

- Any other additional restrictions or requirements as may be imposed by the Director of Planning and Director of Environmental Health Department, where they have determined that the designated smoking area location does not adequately protect the public from second hand smoke

SCHEDULE 3

HEALTH WARNINGS

(Regulations 12(1)(b) and 13(1)(d))





WARNING
Smoking is highly addictive
Don't start



WARNING
Smoking Causes Impotence

SCHEDULE 4

**APPLICATION FOR AUTHORISATION OF PROMOTION
OF STORE OR BUSINESS**

FORM 1

(Regulation 16(1))

APPLICATION FOR AUTHORISATION OF PROMOTION OF STORE OR
BUSINESS

*This application form is to be used solely for promoting a tobacco
speciality store and not for the promotion of tobacco products therein*

Applicant (complete all fields below)

Name of Business: _____

Address of Business: _____

Name of Applicant: _____

Telephone contact: _____

Fax: _____

Email: _____

Type of promotion: () on store sign () ad

Wording for promotion:

FORM 2

**AUTHORISATION OF PROMOTION OF STORE OR
BUSINESS**

(Regulation 16(2))

Authorisation of promotion of store is hereby granted for
_____ (Name of Business)

*Note: this authorisation gives you the right to promote the above
mentioned business only and not the tobacco products sold therein.*

Approved by: _____

Date of approval: _____

MADE this 21st day of November 2017.

**EDWIN A. ASTWOOD
MINISTER RESPONSIBLE FOR HEALTH**

EXPLANATORY NOTE

(This Note is not part of the Regulations)

The Regulations prescribe—

- (a)* further requirements for licensing;
- (b)* for allowable distance for smoking from prohibited areas;
- (c)* for the designation of outdoor-smoking areas, in-store smoking areas and airport smoking areas;
- (d)* for the display of warning signs; either on prohibition of smoking, the legal age of smoking and the health warning related signs;
- (e)* forms of application and authorisation for the various designated smoking areas and the process of application.