



Application Guide

Declared Smoke-free Area

Declared smoke-free areas

Sections 51 and 52 of the *Tobacco and E-Cigarette Products Act 1997* allow local councils, government departments and other incorporated bodies to apply to have an outdoor area or event declared smoke-free.

Declared smoke-free areas are public outdoor spaces where smoking (including the use of e-cigarettes) has been banned. These areas can be created to address a passive smoking risk or to support the management of smoking at an event.

When an area is declared smoke-free under the legislation, this also means it is declared vape-free.

Areas that can be declared smoke-free

An application can be submitted to declare public outdoor areas smoke-free. Private, residential property cannot be declared smoke-free.

A smoke-free declaration can be used to address a local smoking issue in a public outdoor area, if a clear rationale is provided. The types of areas or events that can be considered include shopping districts, high traffic business districts and congested entrances, car parks, footpaths and streets as well as events such as fetes, sporting events or music and art festivals.

Applications must demonstrate that a risk of passive smoking exists or that smoking impacts on the amenity of an area.

Eligible applicants

Applications will only be accepted from local councils, government departments and other incorporated bodies. Individuals can seek declarations through their local council. Incorporated bodies include groups that run major events, such as festivals and music events.

Applicants must identify a smoking issue, show that they represent the area being declared, have community support for a declaration and be able to manage the enforcement of the smoke-free area. Enforcement likely usually involves the authorisation of officers in the local council, or is carried out by staff and security at an event.

Making an application

There are two types of applications: short term and long term.

Short-term applications

These applications usually relate to events such as festivals. The Minister for Health and Wellbeing has the power to declare a smoke-free area for a period of up to **90 days**. Completed

applications for an event of 90 days or less should be received at least **eight weeks before the event**.

Long-term applications

Some applications relate to areas, particularly squares or precincts that are popular congregation areas for the public, which would suit a long-term or ongoing declaration (of more than 90 days). Due to the approval process required for making a Regulation, a completed application must be received at least **six months before** the declaration is made (not including the lead-in time before commencement).

Developing an application

An application must include:

- > A rationale for the smoke-free area
- > The period that the smoke-free areas will apply, including the lead-in time before commencement.
- > A map and description of the smoke-free area
- > The location of signage
- > Evidence of consultation
- > A risk management plan
- > An enforcement strategy
- > A communications plan
- > An evaluation plan

Rationale

Applicants for declared smoke-free areas must identify an issue in a specific area that a declaration will address. The rationale should include a description of the smoking problem, demonstrate that a risk of passive smoking exists or that smoking impacts on the amenity of an area and show how the declaration of a smoke-free area will address this. The rationale should also include the dates and length of time that the declaration will apply.

Map and description of the smoke-free area

Applications must include a detailed description of the area or event, including a map and the placement of signage.

The smoke-free area is expected to cover the bulk of an area or event, but is not required to be continuous. The location of smoking-permitted areas need to also be specified.

Risk management plan

Applications must include a risk management plan that considers the consequences of a smoke-free area and strategies for addressing potential negative outcomes.

For example, smoking bans tend to create a high density of smokers outside the smoke-free area, such as at entrances that patrons are required to pass through.

Issues that should be considered include:

- > Where will smokers move to?
- > Can smokers easily enter and exit the smoke-free area? Are pass outs required?
- > Will there be any negative responses from patrons and how will these be addressed?

Enforcement plan

Applications must include an enforcement plan describing how the smoke-free area will be enforced.

Local councils that apply for a smoke-free area are expected to also apply for their officers to be authorised to enforce the smoke-free area.

Organisers of events will be expected to either show that the local council supports and will enforce the smoke-free area, or that staff and security officers will ask patrons not to smoke. Staff and security officers cannot issue fines.

The enforcement plan should include guidelines describing how smoking breaches will be addressed. SA Health recommends an educative approach to enforcement. Smokers should be informed about the smoke-free area and politely asked to either stop smoking or leave the area. Confrontation with smokers should be avoided. Most people are prepared to voluntarily comply with a smoke-free area when they are aware of it, providing that the area is clearly sign posted as smoke-free.

The fine for smoking or vaping in a declared smoke-free area is up to \$5,000. An expiation (on-the-spot) fee of \$315 can be issued by authorised officers.

Location of signage

The *Tobacco and E-Cigarette Products Act 1997* requires that signs are posted in numbers and in positions that ensure they are likely to be seen in the smoke-free area. The application should show on a map where signs will be posted and include a copy of the signs that will be used (an example sign is attached to this document). A variety of 'smoke-free and vape-free area' signs designed for use in different smoke-free areas are available from the clearingtheair.sa.gov.au webpage. All you need to do is download the artwork for a selected sign and either print it in-house or take it to a printer or signage company to have it professionally produced.

Communication plan

Applications must include a communication plan. It should describe how the patrons and businesses in the area will be informed about the smoke-free area.

The scale of the communication plan should reflect the impact on the community of declaring the smoke-free area. For example, an outdoor shopping precinct will be expected to undertake a significant communications campaign, while a community fete may only require signage at the event.

Consultation

Applications should include evidence of stakeholder consultation on a scale that reflects the impact of declaring the smoke-free area. For example, an outdoor shopping precinct will be expected to demonstrate significant community and stakeholder support, while a ticketed event may only need to consult with affected businesses and neighbouring properties.

Evaluation plan

Applications should include an evaluation plan. The evaluation should be conducted either at the conclusion of the smoke-free declaration, or at regular intervals in the case of long-term declarations. The evaluation should include an analysis of the effectiveness of the smoke-free area, the number of compliance and enforcement activities, feedback from patrons and community stakeholders, any unintended consequences and recommendations for future or similar declarations.

Applications should be addressed to:

The Manager

Tobacco and E-cigarette Unit

Preventive Health SA

email: PreventiveHealthSA.TobaccoControlUnit@sa.gov.au

It is recommended that applicants contact the Tobacco and E-cigarette Unit, Preventive Health SA via email: PreventiveHealthSA.TobaccoControlUnit@sa.gov.au to arrange a time to discuss a proposed smoke-free area or event before submitting an application.

Declared smoke-free areas and events are made at the discretion of the Minister for Health and Wellbeing and the South Australian Government. A declaration will only be made once an applicant has satisfactorily addressed the requirements for a declared smoke-free area.