



## Frequently asked questions

### What is a Declared Smoke-free Area?

Declared Smoke-free Areas are public outdoor spaces where smoking and vaping have been banned under law (*Tobacco and E-Cigarette Products Act 1997*). These areas can be created to address a passive smoking risk or to support the management of smoking and vaping at an event.

Applicants must identify a smoking issue, show that they represent the area being declared, have community support for a declaration and are able to manage the enforcement of the smoke-free area. Enforcement is likely to require either the support of the local council or complete control of the area, such as an event.

### If an area is declared 'smokefree', will it also be 'vape-free'?

Yes, any reference to smoke-free and no smoking signage includes the requirement to be vape-free. Accordingly, all reference to smoke-free/smoking is inclusive of vape-free and vaping within this factsheet.

### What type of areas does the application apply to?

Outdoor areas where there is an identified need. It could apply to music festivals, sporting events, sporting clubs, street festivals, multicultural festivals, outside of hospitals, pageants, town squares, plazas, public celebrations, and outside of council buildings. Private, residential property will not be declared smoke-free.

### **We would like to make our event/area smoke-free. Where do we start?**

1. Contact the Tobacco and E-cigarette Unit, Preventive Health SA via email [PreventiveHealthSA.TobaccoControlUnit@sa.gov.au](mailto:PreventiveHealthSA.TobaccoControlUnit@sa.gov.au) to request a time to discuss your proposal.
2. Consult with business and the community on the proposed area.
3. Applications by incorporated bodies should coordinate their application with council where they do not have control of the area. In these circumstances, a commitment by the council to enforce the ban is required.
4. If officers have not been authorised, then an application needs to be made by completing an application form called "Authorisation of a Local Government Officer Form", that can be downloaded from the SA Health website, search for declared Smoke-free Areas.
5. Prepare an application. The same application form is used for areas and events declared smoke-free for up to 90 days and for longer term areas and events also. See Application Guide.
6. Application guidelines are available from the SA Health website, search for: Declared smoke-free areas. Lodge an application for a smoke-free area for up to 90 days, at least 8 weeks before the event, or 6 months before for all other smoke-free areas.

### **Why does the process take so long?**

Applications for smoke-free areas lasting longer than 90 days take 6 months for approval. This is because the legislation requires a Regulation to be made. A Regulation is a law and must be approved by Cabinet and the Governor, before being made.

### **How will council or business enforce the smoke-free area?**

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

enforced. Organisers of events will be expected to either show that the local council supports and will enforce the smoke-free area, or that an event organiser has control of the area, and that staff and security officers will ask people smoking to stop or leave. Staff and security officers cannot issue expiation notices. For incorporated bodies, council commitment to enforce the ban is required if the body does not have control of the area. A ticketed event does not require support of the council, because they can enforce the ban through ejection. Authorised officers from the council and SA Police have the ability to issue expiation notices. An expiation fee of \$315 can be issued by an authorised officer or a police officer. However, enforcement cannot be left to the SA Police alone, unless they have agreed.

The enforcement plan should include guidelines describing how smoking breaches will be addressed. An educative approach to enforcement is recommended. In this scenario people found smoking 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 high level of community support usually ensures bans are self-enforced by community members. In the event of a complaint, the council or business can determine the appropriate level of response.







### Why does the council need authorised officers for enforcement?

Councils that apply for a declared smoke-free area or event are expected to also apply for their officers to be authorised (under section 63 of the Tobacco and E-Cigarette Products Act 1997) to enforce the smoke-free area. A smoke-free area will not be declared without the council having authorised officers. These officers will be authorised to issue fines under Sections 49, 50, 51 and 52, which relate to the Declared Smokefree Area, playgrounds and covered transport waiting areas.

### What are the costs involved if I apply?

There are no fees to lodge an application for an area to be declared smoke-free. In addition, there are no fees to apply for an officer to be authorised. Any fees collected through Expiation Notices issued by Council Officers, will be treated as revenue for the issuing authority. An expiation notice of \$315 can be issued. The maximum fine is \$5,000 for a prosecution.

### Costs may be incurred by:

- Consultation process required for the application
- The signage required if the application is successful
- Enforcement of the legislation
- Community education.

### What are the costs involved if you don't apply?

- Cleaning up of butt litter
- Potential hazards
  - Unpleasant atmosphere for children and nonsmoking adults
- Harder for smokers to quit
- Normalises smoking and vaping in your community.

### What sort of signage is required in a smoke-free area?

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 smokefree area. To ensure that people are aware of the smoke-free area, councils or businesses should install suitably worded and placed signage. The internationally recognised symbol for 'No Smoking' is used by a number of councils and can be easily affixed to existing signage. An inexpensive way of informing the community of the policy is to order the free stickers and signs available from SA Health and to use these with other signs.

Free downloadable 'smoke-free and vape-free' signage is available on the [clearingtheair.sa.gov.au](http://clearingtheair.sa.gov.au) webpage.

Temporary signs can be used where appropriate, such as at events. Signage should be placed at entrances and throughout the venue.



**Can't we just put up 'No Smoking' signs without applying for a smoke-free area declaration?**

Signs may be used to indicate that the council or event, and the community do not want smoking in the area. This approach is educative only and would rely on self-enforcement by community. In the event of a complaint, the council, business and police would not be able to issue a fine and the smoke-free policy may not have any legal authority. Councils might choose to use signs to gauge community acceptance, before applying for a smoke-free area.



**Do I need to submit an application every year for an annual event?**

A short-term application for a smoke-free event may be rolled over for the next year, on request, under some circumstances. An application covering multiple years may also be negotiated.

**Will a by-law do the same thing?**

No. The Local Government Act 1999 does not provide powers to create by-laws to restrict smoking.

