



FACT
SHEET

4 | Victorian sample council report and policy

A report to council proposing to introduce smoke-free outdoor areas should take into account the negative health effects of second-hand tobacco smoke as well as the adverse social and environmental impact smoking in outdoor areas has on the community.

This fact sheet provides a sample report to council and a draft policy.
Please refer to the enclosed CD-Rom for an electronic copy.





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Sample Report

Smoking is banned in most enclosed workplaces in Victoria.¹ This includes restaurants, cafes, shopping centres and licensed venues. Since January 2010, smoking has also been banned in cars carrying persons under the age of 18 years.

However, state legislation does not extend to outdoor drinking and dining areasⁱ and other outdoor public areas. This is where councils can provide for better public health for its residents by implementing additional smoking bans in public places not yet covered by state legislation.

There is substantial evidence linking exposure to second-hand smoke with a range of serious and life threatening health impacts including heart disease, cancer, asthma and other respiratory problems. Children exposed to second-hand smoke are at an increased risk of asthma, sudden infant death syndrome (SIDS), acute respiratory infections and ear problems.²

While most of the evidence relates to indoor exposure, there is emerging evidence showing how smoking affects air quality in outdoor locations such as alfresco dining areas and children's playgrounds.³⁻⁶

A study which measured cigarette smoke levels in a variety of outdoor locations found that a person sitting near a person smoking in an outdoor area could be exposed to levels of cigarette smoke similar to the exposure of someone sitting in an indoor tavern where smoking is allowed.⁷ Exposure to SHS is significantly increased where people are under an overhead cover, and as the number of nearby smokers increase.⁸ Therefore, in outdoor areas where people tend to congregate (such as alfresco dining areas, sporting fields, concert venues, etc.) the presence of people smoking can present a health risk to patrons and staff.

In addition to the health impacts, cigarettes are an environmental issue. Cigarette butts take up to five years to break down, and are one of the most common items found during Clean Up Australia Day.⁹

There is strong public support in Victoria for smoke-free areas. A 2009 survey¹⁰ of 4,501 Victorian adults by the Cancer Council Victoria found that the majority of those surveyed supported smoking bans:

- at outdoor places where children are present (parks and playgrounds) - 77%;
- at outdoor restaurant dining areas (alfresco dining) - 71%;
- within hospital grounds - 84%;
- at beaches - 63%.

There is also evidence to suggest that smoking bans support smokers who are attempting to quit as well as reduce their overall cigarette consumption.¹¹

It is proposed that in the interests of the health of our local community and environment, council adopt a comprehensive smoke-free outdoor areas policy. This policy will also help to further denormalise smoking.

Sample Resolution

That council adopt the attached Smoke-free Outdoor Areas Policy which includes banning smoking in the outdoor areas on council land specified in the policy.

Further, this policy be enforced in any leases, licenses or other estates that apply to council owned and managed lands and properties and that internationally recognised signage be erected to indicate these areas are smoke-free.

Sample Victorian Council Smoke-free Outdoor Areas Policy

Objectives

The objectives of (*name*) Council in banning smoking in various council areas are to:

- Improve the health of the community;
- Improve public amenity and maintenance of council property;
- Raise community awareness of the negative health impact of smoking and denormalise smoking;
- Provide community leadership to protect the health and social wellbeing of the community;
- Minimise cigarette butt pollution on council owned beaches, waterways, parks and other outdoor areas.

ⁱ Smoking is only banned in outdoor dining or drinking areas if the area has a roof and walls in place and the total actual area of the wall surfaces exceeds 75% of the total notional wall area.

Principles

This policy recognises that council has:

- An obligation to promote public health outcomes where council provides assets and services intended to be of benefit to children and other members of the community;
- An understanding that scientific evidence indicates there is no risk-free level of exposure to second-hand smoke. Emerging research indicates that outdoor second-hand smoke levels can be comparable to indoor levels under specific conditions while smoking is taking place;
- An acknowledgement that the consequences of people smoking in certain outdoor areas may result in children playing with and swallowing discarded cigarette butts that can lead to vomiting and other symptoms of nicotine poisoning;
- A commitment to improve the natural environment and the amenity of the local area by reducing the amount of cigarette butt litter found in outdoor spaces and reduce fire risk from discarded butts in bushland, parks and reserves.

Victorian legislation

In Victoria, the *Local Government Act 1989* (Vic) (the "Act") gives a very

general power to council to do "all things necessary or convenient to be done in connection with the achievement of its objectives and the performance of its functions" (section 3F(1)).

The objectives and functions of council set out in the Act encompass the making of local laws which protect council's community.

Part 5 of the Act details the power council has in relation to making local laws and includes provisions that cover penalties and infringement notices. Specifically, section 111 gives council the power to make local laws and section 119 outlines the procedure that council must follow when making local laws.

The Act also gives council the power to make local laws that may:

- Prescribe a penalty not exceeding 20 penalty unitsⁱⁱ for a contravention of a local law (s.115);
- Provide for the issue of Infringement notices stating the amount of the fixed penalty for an offence against the local law as an alternative to a prosecution for the offence (s.117). The local law must specify the person or class of persons who are authorised to issue a notice of infringement.



ii 1 penalty unit in Victoria is \$119.42 in the 2010/2011 financial year (1 July 2010 to 30 June 2011). The State Treasurer revises the value of a statutory penalty unit annually.

Smoke-free areas

Councils may choose to include some or all of the points listed 1-10 below. We encourage councils to include the first 5 points as a minimum.

Smoking will be banned in the following council open space areas:

1. Within ten (10) metres of all children's playground equipment;
2. On all playing fields, sporting grounds and sporting facilities (i.e. swimming pools, outdoor sports centres);
3. At all events run or sponsored by council;
4. In alfresco dining areas;
5. Within 10 metres of council owned building entrances;
6. In council's pedestrian malls/plazas;
7. On patrolled/all beaches;
8. In all bushland, parks and reserves;
9. Within five metres of any covered bus or tram stop or taxi rank;
10. Within council car parks.

Signage

Signs will be installed in prominent places in the outdoor areas listed above.

The signs will include the international No Smoking symbol and the wording:

WARNING: Penalties apply.
Regulated under the *Local Government Act 1989* (Vic).

Leases, licenses and other council agreements

Council buildings and outdoor dining areas that are leased, licensed or hired by council will have smoke-free clauses inserted into their agreements for use.

Enforcement of policy

In implementing council's Smoke-free Outdoor Areas Policy, a program of community education and awareness, specifically targeting residents and day visitors, will be undertaken.

Enforcement of this policy will be supported by persuasion and self-policing, rather than punitive enforcement (although the power to issue penalties/infringement notices will be available).

Related Victorian legislation

Local Government Act 1989 (Vic).

REFERENCES

- 1 *Tobacco Act 1987*. (Vic)
- 2 U.S. Department of Health and Human Services. *The health consequences of involuntary exposure to tobacco smoke: a report of the Surgeon General*. Atlanta, Ga.: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2006.
- 3 Repace JL. Banning Outdoor Smoking is scientifically justifiable. *Tobacco Control* 2000; 9:98 (Spring).
- 4 Repace J. Measurements of outdoor air pollution from second hand smoke on the UMBC campus. Available from: <http://www.repace.com/pdf/outdoorair.pdf> Accessed 19 October 2010.
- 5 Boffi R, Ruprecht A, Mazza R, et al. A day at the European Respiratory Society Congress: passive smoking influences both outdoor and indoor quality (letter). *European Respiratory Journal*. 2006 ; 27:862-863.
- 6 Brennan E, Cameron M, Warne C, et al. Secondhand smoke drift: examining the influence of indoor smoking bans on indoor and outdoor air quality at pubs and bars. *Nicotine Tob Res*. 2010; 12(3):271-7.
- 7 Klepeis NE, Ott WR, Switzer P. Real-Time Measurement of Outdoor Tobacco Smoke Particles. *Journal of the Air and Waste Management Association* 2007; 57:522-534.
- 8 Cameron M, Brennan E, Durkin S, et al. Secondhand smoke exposure (PM2.5) in outdoor dining areas and its correlates. *Tobacco Control*. 2010; 19(1):19-23.
- 9 Clean Up Australia Day, Rubbish Report 2009. Available from: http://www.cleanup.org.au/download/cuad_rubbish_report_2009.pdf Accessed 19 October 2010
- 10 Centre for Behavioural Research in Cancer, Attitudes towards smoking in outdoor areas: findings from the 2009 population survey, 2009, Unpublished report by the Cancer Council Victoria.
- 11 Chapman S, Borland R, Scollo M, et al. The impact of smoke-free workplaces on declining cigarette consumption in Australia and the United States. *Am J Pub Health* 1999; 89:1018-23. IARC Working Group on the Evaluation of the Effectiveness of Smoke-free Policies. Evaluating the effectiveness of smoke-free policies. Available from: <http://www.iarc.fr/en/publications/pdfs-online/prev/handbook13/index.php>. Published 2009. Accessed 07 June 2010.