



BOROONDARA
City of Harmony

CITY OF BOROONDARA
SMOKE-FREE AREAS LOCAL LAW 2012

Date Resolved by Council	27 August 2012
Commencement Date	28 August 2012
Revocation Date	27 August 2022
Responsible Directorate	City Planning

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Smoke-free Areas Local Law 2012

Part A - Introductory

1. Title

This Local Law is called the "Smoke-free Areas Local Law 2012".

2. Objectives

The objectives of this Local Law are to:

- (a) prohibit smoking of tobacco products within 10 metres of children's playground equipment, barbeques and picnic tables, and at organised activities taking place at sporting fields, sporting facilities and playing fields on Council-controlled land;
- (b) prohibit smoking of tobacco products within 5 metres of an entrance to a municipal building;
- (c) prohibit smoking of tobacco products within 5 metres of taxi ranks and public transport stops located on Council-controlled land;
- (d) prohibit smoking of tobacco products at events organised or sponsored by Council;
- (e) prohibit smoking in areas prescribed by Council to be a smoke-free area;
- (e) provide for the erection of signs about the smoking of cigarettes;
- (f) protect the health and enjoyment of Council's residents and ratepayers and the amenity of the municipal district; and
- (g) provide for the peace, order and good government of the municipal district.

3. Authorising Provision

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4. Commencement

This Local Law comes into operation the day after it is made.

5. Application

This Local Law applies and operates throughout the entire municipal district of Council.

6. Definitions

acceptable no smoking sign – has the same meaning as in the *Tobacco Act 1987*;

Authorised Officer - means a person appointed by **Council** under section 224 of the *Local Government Act 1989*;

entrance – means any doorway to a **municipal building**;

Council – means Boroondara City Council;

Council-controlled land – means any land which **Council** occupies, manages, has leased or licensed to another person or **Council** otherwise controls;

event – means an organised recreational, cultural, commercial or social event or gathering of people which is held on **Council-controlled land** or a **road** and includes a procession, festival and street party;

exempt area – means an area which **Council** has resolved to be an exempt area in accordance with clause 14;

municipal building – means any building occupied, managed or otherwise controlled by **Council**, and includes **Council's** offices, libraries, recreational centres and community facilities;

organised activity – means any activity or event –

(a) which members of the public attend or participate in; and

(b) which is organized for the purposes of entertainment, sport or recreation or for educational or cultural purposes;

road – has the same meaning as in the *Local Government Act 1989*.

smoke – means to:

(a) inhale, exhale, hold or otherwise have control over an ignited **tobacco product**; or

(b) light a **tobacco product**;

smoke-free area – means any **Council-controlled land**, other than an **exempt area**:

(a) within 10 metres of any children's playground equipment which is located on **Council-controlled land** and is in use or being attended;

(b) within 10 metres of a barbeque or picnic table which is located on **Council-controlled land** and is in use or being attended;

- (c) on which:
 - (i) any sporting grounds, playing fields and sporting facilities including but not limited to swimming pools, recreation facilities and sporting pavilions are located, and within 10 metres of such land; and
 - (ii) an **organised activity** is taking place;
- (d) within 5 metres of an **entrance** to a **municipal building**;
- (e) within 5 metres of any public transport stop or taxi rank located on **Council-controlled land**; and
- (f) prescribed by **Council** to be a **smoke-free area** in accordance with clause 13 of this Local Law.

smoke-free event – means an **event** organised or sponsored by **Council** and about which Council has published notice on its website informing the public that the **event** is a **smoke-free event** for the purposes of clause 12 of this Local Law; and

tobacco product – has the same meaning as in the *Tobacco Act 1987*.

Part B – Administration

7. Powers of Council

Without affecting the operation of any particular provision of this Local Law, everything an **Authorised Officer** or any other specified person is capable of doing under this Local Law is also capable of being done by **Council** or its delegate.

8. Appeals

- 8.1 A person may request **Council** or an **Authorised Officer** to review an order, direction or notice issued in relation to him or her under this Local Law.
- 8.2 Where a request for review has been made under clause 8.1, the person requesting the review must do everything practicable to cooperate in the prompt and speedy review of the order, direction or notice.

Part C – Enforcement

9. Offences

A person is guilty of an offence if the person:

- 9.1 does something which a provision of this Local Law prohibits to be done or makes an offence;
- 9.2 fails to do something which a provision of this Local Law requires to be done; or
- 9.3 fails to comply with a direction of an **Authorised Officer** under this Local Law

and, if no specific penalty is provided for, the person is liable to a penalty of **5 penalty units**.

10. Costs Incurred by Council

A person who is guilty of an offence under this Local Law must pay **Council** all reasonable costs incurred by **Council** in remedying the offence.

11. Infringement Notices

- 11.1 Where an **Authorised Officer** reasonably believes that a person has committed an offence against this Local Law, the **Authorised Officer** may issue and serve on that person an infringement notice as an alternative to a prosecution for the offence.
- 11.2 The penalty fixed for an infringement notice under this Local Law is 2 penalty units for each offence.

Part D – Prohibition on smoking in smoke-free areas and events

12. Prohibition on smoking in smoke-free areas and events

- 12.1 A person must not **smoke a tobacco product**:
 - 12.1.1 in a **smoke-free area**; or
 - 12.1.2 at a **smoke-free event**.

Penalty: 5 Penalty Units

12.2 Where an **Authorised Officer** believes on reasonable grounds that a person is contravening or has contravened clause 12.1, the **Authorised Officer** may direct the person to extinguish the **tobacco product** and dispose of the extinguished **tobacco product**.

12.3 **Council** or an **Authorised Officer** may erect or cause to be erected an **acceptable no smoking sign** in a **smoke-free area** or at a **smoke-free event**.

13. Council may prescribe smoke-free areas

13.1 **Council** may prescribe, by a resolution of **Council**, an area in its municipal district to be a **smoke-free area**.

13.2 When prescribing a **smoke-free area** in accordance with clause 13.1, **Council** must have regard to the factors set out in Schedule A to this Local Law.

13.3 **Council** must publish notice of the resolution in the *Victorian Government Gazette* and make maps indicating the location of prescribed **smoke-free areas** available to the public on its website or at the **Council** offices.

14. Council may prescribe exempt areas

Council may resolve to prescribe, at its absolute discretion, an area in its municipal district to be an **exempt area** for the purposes of this Local Law.

This Local Law was made by Resolution of Boroondara City Council on 27 August 2012

Date of public notice of the making of this Local Law in the Progress Leader newspaper:
4 September 2012

Date of notice of the making of this Local Law in the Victorian Government Gazette:
6 September 2012.

The Common Seal of the Boroondara City Council was hereunto affixed in the presence of:


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Councillor

Chief Executive Officer



Date: 15.10.12

SCHEDULE A

Factors to which Council must have regard when prescribing smoke-free areas

Council must have regard to the following factors when considering whether to prescribe an area to be a **smoke-free area** under clause 13 of this Local Law:

- the results of any community consultation undertaken with respect to the proposed **smoke-free area**;
- any benefits to the community which would be achieved by prescribing the **smoke-free area**; and
- any detriment that would be suffered by the community as a result of prescribing the proposed **smoke-free area**.