

# SMOKING RESTRICTIONS IN OUTDOOR EATING AREAS

Tobacco Products Control Act 2006  
Tobacco Products Control Regulations 2006



CITY OF VINCENT

## FACTSHEET FOR BUSINESSES

Food and beverage businesses in the City of Vincent are required to comply with the provisions of the [Tobacco Products Control Regulations 2006](#). These regulations prohibit smoking in an outdoor eating area (for example restaurants, cafes, delis, lunch-bars and other food outlets) in Western Australia unless the area is designated as a smoking zone. Smoking is also not permitted within five metres of a public entrance to an enclosed public place, or within ten metres of air conditioning intakes.

This fact sheet will assist businesses to implement State tobacco legislation. The City also has a [Public Health Plan](#) which contains a target to have smoke free Town Centres by 2025.

### Smoking in an outdoor eating area

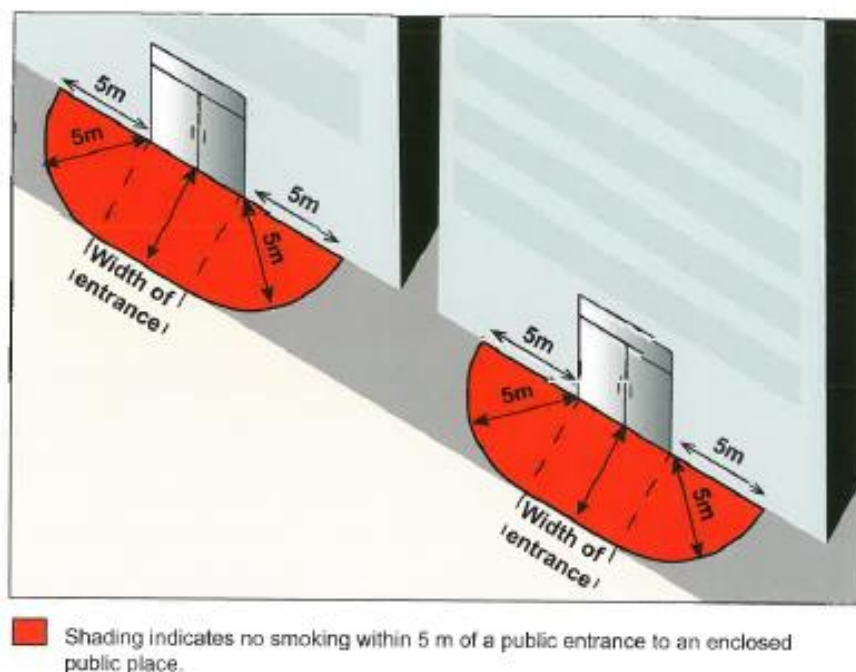
Smoking in an outdoor eating area is not permitted in most circumstances. Some liquor licensed businesses (not restaurant liquor licences) are however able to designate a smoking zone. Up to 50 percent of the outdoor eating area can be designated as a smoking zone. Please note, this area cannot have a ceiling/roof structure and must not have walls that enclose the space by more than 50 percent. For further information about what can and cannot be considered as a permitted space, please see the Department of Health's website [here](#).

Adequate measures, including signage, are to be taken to ensure that all customers can clearly see which areas are smoking zones and which are smoke free.

### Smoking within five metres of a public entrance

Smoking is not permitted within five metres of a public entrance to an enclosed public place, or within ten metres of air conditioning intakes. Premises with a small frontage or that have several public entrances may be unable to have a smoking area.

These restrictions reduce exposure of the public and employees to tobacco smoke, minimise the risk of smoke drift, and contribute to the de-normalisation of smoking in the community.



## Signage required

Business owners are to display 'No Smoking' signs in sufficient numbers and in such positions to indicate smoke free zones. This can include signage which states 'No Smoking', 'Smoking Prohibited' or shows the no smoking symbol. Signage is to be clearly visible to a person when entering, or when within the outdoor dining area. Other words or symbols may be used, so long as it is clearly indicated that smoking is prohibited.

Signs can be ordered by businesses free of charge from the Department of Health. See the different types of signage available – [No Smoking Signage \(PDF 1.23MB\)](#).

## Enforcement

The owner/occupier of a business is responsible for ensuring that patrons do not smoke in a smoke free area of an outdoor eating area. The owner/occupier of a business is however not responsible for ensuring passers-by do not smoke within five metres of a public entrance.

A business can take reasonable steps to prevent smoking in a non-smoking area. These can include:

1. Let the person know they are not able to smoke there, and tell them it is an offence and may be excluded from the premises;
2. Ask them to stop smoking in this area, and to extinguish and dispose of the cigarette; and
3. Ask them to move to an area where smoking is allowed until they finish smoking.

Officers authorised under the [Tobacco Products Control Act 2006](#) first priority is to make sure smokers and owner/occupier of a business understand the smoking restrictions. In some circumstances, enforcement action such as infringement notices may be required.

## Go totally smoke free!

There is strong community support for smoke free areas in Vincent. We encourage all businesses to consider ways you can reduce the level of smoking associated with your business.

An outdoor eating area that is totally smoke free is the best way to protect customers and staff from the harmful effects of second-hand smoke. It will also help reduce the risk of non-compliance with the law and can improve the customer's outdoor dining experience. You may also be interested to know that Vincent parklets are 100 percent smoke free.

## Checklist for a smoking zone in an outdoor eating area

- Ensure your business holds a valid liquor license from the Department of Racing Gaming and Liquor;
- Any smoking zone must not exceed 50 per cent of the total area of all outdoor eating areas (premises that hold a restaurant liquor licence cannot have a 'smoking zone');
- Ensure that smoking is not permitted within five metres of a public entrance to an enclosed public place;
- Ensure that smoking is not permitted within ten metres of air conditioning intakes;
- Put smoke free signage in highly visible areas outside to indicate smoke free areas;
- Remove ashtrays from non-smoking areas;
- Brief your staff on complying with the law and how to approach customers who start smoking in your smoke free zone; and
- Be aware that the smoker can be fined along with the owner/occupier of a business, unless it is deemed reasonable for the owner/occupier to have not been aware of a person smoking.

## For further information please contact:

Tobacco Control Branch  
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or

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