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**1. PREAMBLE**

This Policy standardizes the Council’s position in relation to smoking on Council owned land and facilities including reserves, sports grounds, clubrooms, community centres, libraries and civic buildings within the City of Holdfast Bay area.

**1.1 Background**

As the owner of land and facilities, the City of Holdfast Bay plays an important role in ensuring these facilities are safe and welcoming for all visitors. Council recognises that smoking is a health hazard and that there is a need to reduce the incidence and exposure of smoking, especially in young people. Promoting a smoke free environment reduces the harmful impact of second-hand smoke on non-smokers and helps encourage the reduction of overall consumption.

As community leaders and advocates for a healthy, active community, Council has recognised a change in attitude towards smoking and has a responsibility to promote healthy behaviour within our community. The implementation of a Smoke Free Council Facilities policy is evidence that Council is promoting a healthy, active community and supports the provision of welcoming and accessible facilities in line with *Our Place 2030 Strategic Plan* objectives.

This Smoke Free Council Facilities Policy provides a rationale and framework for the management of smoking on Council owned land and facilities. By working within a consistent process to identify places where the policy will apply, the Policy works to ensure all Council owned facilities are welcoming and accessible with low risk of secondary smoke and cigarette butt pollution.

Promoting smoke free facilities and grounds is one of the healthiest messages sporting clubs, community groups and Council can share with its community and visitors. This Policy standardizes the rules for smoking on Council owned land and facilities within the City of Holdfast Bay area.

**1.2 Purpose**

The purpose of this Policy is to promote and encourage the health and wellbeing of occupiers of Council land by way of providing a consistent position and guiding principles for a smoke free environment on Council owned land and facilities.

**1.3 Scope**

# SMOKE FREE COUNCIL FACILITIES POLICY

The restrictions upon smoking envisaged in this Policy can be applied to any Local Government land (being land owned or under the Council's care, control or management, excluding roads). This includes designated community land and facilities including reserves, sports grounds, clubrooms, community centres, libraries and civic buildings within the City of Holdfast Bay area.

## 1.4 Definitions

**Act** means the *Tobacco and E-Cigarette Products Act 1997*;

**1.4.1 Council:** means the City of Holdfast Bay, being a council established under the *Local Government Act 1999*;

**1.4.2 Local Government land:** all land owned by the Council or under the Council's care, control and management (except roads).

**1.4.3 Council owned facility:** Any improvements constructed on Local Government land, including sports fields, sports clubrooms, community centres, libraries, civic buildings, public shelters, playgrounds, on-site car parks, other structures or paved areas.

**1.4.4 Council owned building:** A structure, building or improvement on Local Government land (whether leased or not) that is an enclosed space.

**1.4.6 Tobacco product:** is defined under the *Act* as any of the following:

- a cigarette
- a cigar
- cigarette or pipe tobacco
- shisha tobacco
- tobacco prepared for chewing or sucking
- snuff
- any other product, of a kind prescribed by regulation, that is comprised of or contains tobacco
- any product (other than an e-cigarette product) that does not contain tobacco but is designed for smoking and includes any packet, carton, shipper or other device in which any of the above is contained.

**1.4.7 E-cigarette:** as defined under the *Act* as:

- a device that is designed to generate or release an aerosol or vapour for inhalation by its user in a manner similar to the inhalation of smoke from an ignited tobacco product; or
- a device of a kind declared by the Minister by notice in the *Gazette* to be an e-cigarette.

**1.4.8 Regulations** means the *Tobacco and E-Cigarette Products Regulations 2019*;

**1.4.9 Smoke:** (a) in relation to a tobacco product—smoke, hold or otherwise have control over, an ignited tobacco product; or (b) in relation to an e-cigarette—inhalation from, hold or otherwise have control over, an e-cigarette that is in use;

# SMOKE FREE COUNCIL FACILITIES POLICY

**1.4.10 Smoking:** smoking of any tobacco product such as a cigarette, cigar, pipe tobacco or any product that does not contain tobacco but is designed for smoking including e-cigarettes and vaping.

**1.4.11 E-cigarette product:** (a) an e-cigarette; or (b) any part comprising an e-cigarette; or (c) a cartridge, capsule or other container designed to contain a liquid, aerosol, gas, vapour or other substance for use in an e-cigarette; or (d) a heating element designed for use in an e-cigarette; or (e) a battery designed for use in an e-cigarette; or (f) a product of a kind prescribed by the regulations;

## 1.5 Strategic Reference

Placemaking: Creating vibrant and safe places

Community: Building a healthy, active and resilient community

Community: Providing welcoming and accessible facilities

## 2. PRINCIPLES

### 2.1 Council owned buildings

**2.1.1** No person shall smoke within a Council owned building. This includes the smoking of any tobacco product including E-cigarettes.

**2.1.2** If the building is leased or licensed, the prohibition against smoking in the building will be included as a term of the lease/licence agreement if the lease/licence is entered into after the date of this Policy, or where renewal of an existing lease/licence occurs after the date of this Policy, the restriction will be incorporated into the renewal insofar as this is permissible under the lease or licence

**2.1.3** Council will support lessees, licensees and facility managers with signage and information to implement this Policy.

### 2.2 Council Owned Land

**2.2.1** Council may designate any area of Local Government land as Smoke Free In accordance with By-Law No.3. In such instances, the principles of this Policy shall apply.

**2.2.2** Council may choose to designate areas of Local Government land as a designated smoking area in recognition that some community members may still choose to smoke. Any such designation should be informed by dialogue with any lessee, licensee or manager of the Council owned facility. Any designated smoking area should be located to ensure the safety of users and reduce the risk of secondary smoke impacts.

**2.2.3** If Local Government land is subject to a lease or licence, a prohibition against smoking will be included as a term of the lease/licence agreement if the lease/licence is entered into after the date of this Policy, or where renewal of an

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existing lease/licence occurs after the date of this Policy, the restriction will be incorporated into the renewal insofar as this is permissible under the lease or licence.

### 2.3 Enforcement

**2.3.1** Where Council owned land is declared Smoke Free (by resolution of Council as per By Law No.3), Council can enforce the prohibition under the By Law.

**2.3.2** Where the Smoke Free provisions of this Policy have been included into a lease or licence applicable to a Council owned facility, the lessee, licensee and/or facility manager shall assist to enforce this Smoke Free Council Facilities Policy. Non-compliance with this Policy will be handled in accordance with the following process:

- a) staff, members, visitors, and clients will be informed of the Policy through signs posted throughout the property and defined in any hire agreement or lease terms and conditions of use;
- b) in the first instance, an explanation of the Policy is to be provided by an official of the club or association to the person / people who are infringing the Policy;
- c) continued non-compliance will result in the offender being asked to leave the facility; and
- d) in the event of further non-compliance in respect of conduct occurring on Local Government land to which the Council has resolved to apply a smoking prohibition under the By-law, a person appointed by the Council as an authorised person under section 260 of the *Local Government Act 1999* may order that the person to immediately cease the conduct under section 262 of the *Local Government Act 1999*. Failure to comply with such an order is a criminal offence.

**2.3.3** Where this Policy applies to Council owned facilities which are operated by Council (e.g. libraries, civic centres or shelters), Council is responsible for enforcing provisions of this Policy.

**2.4** If Local Government land and/or Council owned facilities have, subsequent to this Policy, been declared as smoke free under the Act, then enforcement action can be undertaken by an officer authorised under the Act where a person acts contrary to the declaration

**2.5** This Policy does not apply to Council owned roads (including footpaths and nature strips) as Council's powers to make by-laws regarding the use of roads is largely limited to the particular uses set out in section 239 of the *Local Government Act 1999* and does not include prohibiting smoking. The Council may, however, when holding any event on a road, impose a prohibition upon smoking at the event as a condition of entry.

## 3. POLICY RESTRICTIONS / LIMITATION

## SMOKE FREE COUNCIL FACILITIES POLICY

- 3.1 This Policy is in all respects, subject to the operation of the Act *and the Regulations*. Therefore, the Act or Regulations take precedent in the event of any inconsistency arising between the provisions of the Act or Regulations and this Policy.

### 4. ASSOCIATED POLICIES

#### 4.1 Sporting and Community Leasing Policy

4.1.1 The principles contained in this Policy will form part of the conditions in any new lease or licence or lease/licence renewal agreement.

### 5. REFERENCES

#### 5.1 Legislation

*Tobacco and E-Cigarette Products Act 1997*

*Local Government Act 1999*

*Work Health and Safety Act 2012*

By-law No. 3 - Local Government Land By-law (By-law No.3)

#### 5.2 Other References

SA Health Guidelines