

SUBCHAPTER 39C – SMOKING PROHIBITED IN RESTAURANTS AND BARS

SECTION .0100 - GENERAL

10A NCAC 39C .0101 GENERAL PROVISIONS

(a) The purpose of the rules in this subchapter is to implement Part 1C of Article 23 of Chapter 130A of the General Statutes.

(b) The definitions in G.S.130A-492 apply throughout this Subchapter. In addition, throughout this Subchapter, "Division" means North Carolina Department of Health and Human Services, Division of Public Health.

*History Note: Authority G.S. 130A-497(f);
Eff. January 2, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

10A NCAC 39C .0102 EXEMPTION OF CIGAR BARS

(a) Cigar bars shall file an affidavit with the Division within thirty days after the end of each quarter stating the establishment meets the statutory requirements set forth for cigar bars by G.S. 130A-492 and G.S. 130A-496. Affidavits shall be sent to the:

Chief, Regulatory and Legal Affairs
N. C. Department of Health and Human Services
Division of Public Health
1931 Mail Service Center
Raleigh, NC 27699-1931.

(b) Affidavits submitted in 2010 and each year thereafter shall be post-marked:

- (1) By January 31st for the quarter ending December 31st.
- (2) By April 30th for the quarter ending March 31st.
- (3) By July 31st for the quarter ending June 30th.
- (4) By October 31st for the quarter ending September 30th.

(c) Within sixty days after receiving the affidavit the Division shall provide written documentation to the cigar bar on its exemption status under G.S. 130A-496.

*History Note: Authority G.S. 130A-492; 130A-496; 130A-497(f);
Eff. January 2, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

10A NCAC 39C .0103 POSTING SIGNS

The signs required to be posted in restaurants and bars by G.S. 130A-497 shall:

- (1) Be posted at each public entrance at a height and location easily seen.
- (2) Be at least 24 square inches in size (for example, 4 by 6 inches).
- (3) Be in legible font type.
- (4) Display:
 - (a) The Division's toll-free complaint line telephone number.
 - (b) "G.S.130A-497".
 - (c) "www.smokefree.nc.gov".

*History Note: Authority G.S. 130A-497(f);
Eff. January 2, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

10A NCAC 39C .0104 CLARIFICATION OF THE DEFINITION OF ENCLOSED AREA

(a) An area is enclosed if it has

- (1) a roof or other overhead covering and
- (2) permanent or temporary walls or side coverings on three or more sides that make up 55 percent or more of the total combined perimeter surface area.

- (b) A roof, overhead covering, wall or side covering includes any permanent or temporary physical barrier or retractable divider. Examples of materials for a roof, overhead covering, wall or side covering include wood, metal, canvas, tarp, cloth, glass, tent material, plastic, vinyl sheeting, fabric shades, lattice, awning material, polyurethane sheeting or any other similar material. Walls or side coverings do not include mesh screening which is 0.011 gauge with an 18 by 16 mesh count or more open mesh size.
- (c) An opening means a door, a window or any other aperture that is open to the outdoors.
- (d) If the openings in an unenclosed area are covered, such that the area at that time meets the definition of being enclosed pursuant to Paragraph (a) of this Rule, then smoking must be prohibited in the area while the openings are so covered.
- (e) If windows or doors form any part of the partition between an enclosed area and an unenclosed area that is used for smoking, these openings shall be closed at all times during the operation of the establishment except for ingress and egress to prevent migration of smoke into the enclosed area.
- (f) Nothing in this Rule prohibits a restaurant or bar owner from making an unenclosed area smoke-free.
- (g) Local health department environmental health staff shall assess compliance with this rule during the next required inspection following the effective date of this rule and subsequently as necessary.
- (h) Required plan review for new restaurants and restaurants undergoing a change in ownership shall include review for compliance with this Rule.

*History Note: Authority G.S. 130A-497;
Eff. August 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*