

March 31, 2010

**CERTIFIED MAIL
RESTRICTED DELIVERY**

Name, Owner
ABC Business
1234 State Street
Anywhere, NC 27612

Re: Third notice of violation of the Act to Prohibit Smoking in Certain Public Places and Places of Employment

Dear *Insert owner name(s)*:

On January 2, 2010, a new law went into effect prohibiting smoking in restaurants and bars in North Carolina entitled an ACT TO PROHIBIT SMOKING IN CERTAIN PUBLIC PLACES AND CERTAIN PLACES OF EMPLOYMENT (S.L 2009-27) referred to as the NC Smoke-free Restaurants and Bars Law. Your establishment is required to comply with the new law.

Under the new law, smoking is prohibited in enclosed areas of bars and restaurants. Smoking is also not allowed in enclosed areas of many lodging establishments that operate a permitted restaurant. A person in charge of a restaurant, bar or lodging establishment that is subject to the new law must: 1) post the required no-smoking signs, 2) remove indoor ashtrays and other smoking receptacles, and 3) direct any person who is smoking to extinguish the lighted tobacco product.

On DATE, the Pitt County Health Department received initial complaints from the public that alleged that your establishment was violating this law by:

Subsequent complaints were received DATE, DATE, AND DATE. As a follow-up to the complaints, a representative of the local health department conducted an unannounced on-site inspection on (*insert DATE*). During this visit we verified noncompliance with the law. On DATE we issued to you a "First Violation" letter via certified mail/restricted delivery. On DATE we made another on-site inspection during which we again verified noncompliance with the law. On DATE we issued to you a "Second Violation" letter via certified mail/restricted delivery. Both of these violation letters explained the nature of the violations of the law and the consequences of subsequent violations. In addition to issuance of these violation letters, you were provided educational materials on DATE and DATE to assist you with bringing your establishment into compliance.

On DATE we made a third on-site visit at which time we verified continued noncompliance with the law as follows:



Smoking in enclosed areas of the restaurant, bar or lodging facility in which smoking is prohibited

Failure to direct individuals to stop smoking. A person who manages, operates, or controls a restaurant, bar or lodging facility in which smoking is prohibited is required to inform any individual by written or oral notice that smoking in a place where smoking is prohibited is violating the NC Smoke-free Air and direct a person who is smoking to extinguish the lighted tobacco product

No smoking signs not posted. A person who manages, operates, or controls a restaurant, bar or lodging facility in which smoking is prohibited is required to post “no smoking” signs at each public entrance at a height and location easily seen; be at least 24 square inches in size (example 4x6 inches; be legible font type and display the Division’s toll-free information and complaint telephone number 1-800-662-7030, G.S. 130A-497 and www.smokefree.nc.gov.

Remove all indoor ashtrays. A person who manages, operates, or controls a restaurant, bar or lodging facility in which smoking is prohibited shall remove all indoor ashtrays and other smoking receptacles from the enclosed areas of the establishment.

This letter is the third notice of violation of the Act to Prohibit Smoking in Certain Public Places and Certain Places of Employment in accordance with G.S. 130A-22 (h1). In accordance with 130A-22 (h1), I am imposing an administrative penalty beginning **DATE** of **\$200 per day** on you **{insert name of person}**, as the person who manages, operates, or controls **{insert name of business }**.

Pursuant to the law, each day the violation continues is considered a separate and distinct violation. This administrative penalty shall continue at a rate of \$200 per day until:

- 1) you provide notice to the Pitt County Health Department that the violation(s) has been corrected,
- 2) you provide the Pitt County Health Department staff access to the establishment during the establishment’s operating hours, and
- 3) the health department staff verifies that you are in compliance with the law.

You have the right to appeal this decision to the Pitt County Board of Health. To pursue a formal appeal, you must give written notice of an appeal to the Pitt County Health Director **WITHIN 30 DAYS OF THE DATE OF THIS LETTER**. The notice of appeal must be filed in accordance with G.S.130A-24(b). Attached is a copy of G.S. 130A-24 governing the appeal procedures. Administrative penalties shall continue to accrue each day that the violation continues during the appeal.

Enclosed is basic information about provisions of the laws and a Business Guide with a link to the website www.smokefree.nc.gov, where you can find more detailed information on the law.

We are available to assist you in bringing your establishment into compliance with the law. If you have any questions concerning the law or would like to receive additional information, please visit www.smokefree.nc.gov, or call the Pitt County Health Department at (252) 902-2305.

Sincerely,

John Morrow, MD, MPH
Pitt County Health Director

Encl.: (Enclose copy of Business Guide)
(Copy of G.S. 130A-24)

c: Pitt County Legal Department