

CHAPTER 39 – ADULT HEALTH

SUBCHAPTER 39C – SMOKING PROHIBITED IN RESTAURANTS AND BARS

SECTION .0100 – GENERAL

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), 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.

Authority G.S. 130A-497.