

Part 2. Local Government Regulation of Smoking.

§ 130A-498. Local governments may restrict smoking in public places.

(a) Except as otherwise provided in subsection (b1) of this section, and notwithstanding any other provision of Article 64 of Chapter 143 of the General Statutes to the contrary, a local government may adopt and enforce ordinances, board of health rules, and policies restricting or prohibiting smoking that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places. A rule or policy adopted on and after July 1, 2009 pursuant to this subsection by a local board of health or an entity exercising the powers of a local board of health must be approved by an ordinance adopted by the Board of County Commissioners of the county to which the rule applies. The definitions set forth in G.S. 130A-492 in Part 1A of this Article apply to this section and shall apply to any local ordinance, rule, or law adopted by a local government under this section.

(b) Repealed by Session Laws 2009-27, s. 1, effective January 2, 2010.

(b1) A local ordinance or other rules, laws, or policies adopted under this section may not restrict or prohibit smoking in the following places:

- (1) A private residence.
- (2) A private vehicle.
- (3) A tobacco shop if smoke from the business does not migrate into an enclosed area where smoking is prohibited pursuant to this Article. A tobacco shop that begins operation after July 1, 2009, may only allow smoking if it is located in a freestanding structure occupied solely by the tobacco shop and smoke from the shop does not migrate into an enclosed area where smoking is prohibited pursuant to this Article.
- (4) All of the premises, facilities, and vehicles owned, operated, or leased by any tobacco products processor or manufacturer, or any tobacco leaf grower, processor, or dealer.
- (5) A designated smoking guest room in a lodging establishment. No greater than twenty percent (20%) of a lodging establishment's guest rooms may be designated smoking guest rooms.
- (6) A cigar bar if smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Article. A cigar bar that begins operation after July 1, 2009, may only allow smoking if it is located in a freestanding structure occupied solely by the cigar bar and smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Article. To qualify under this subsection, the cigar bar must satisfactorily report on a quarterly basis to the Department, on a form prescribed by the Department, the revenue generated from the sale of alcoholic beverages and cigars as a percentage of quarterly gross revenue. The Department shall determine whether any additional documentation is required of the cigar bar to authenticate or verify revenue data submitted by the cigar bar. This subdivision shall not apply to any business that is established for the purpose of avoiding compliance with this Article.
- (7) A private club.
- (8) A motion picture, television, theater, or other live production set. This exemption applies only to the actor or performer portraying the use of tobacco products during the production.

(c) Repealed by Session Laws 2009-27, s. 1, effective January 2, 2010.

(c1) Continuing to smoke in violation of a local ordinance or other rules, laws, or policies adopted under this section constitutes an infraction, and the person committing the

infraction may be punished by a fine of not more than fifty dollars (\$50.00). Conviction of an infraction under this section has no consequence other than payment of a penalty. A person smoking in violation of a local ordinance or other rules, laws, or policies adopted under this section may not be assessed court costs.

(d) Repealed by Session Laws 2009-27, s. 1, effective January 2, 2010.

(d1) Notwithstanding G.S. 130A-25 or any other provision of law, a violation of a local ordinance, rule, law, or policy adopted under this section shall not be punishable as a misdemeanor.

(d2) A local government may enforce an ordinance, rule, law, or policy under this section against a person who manages, operates, or controls a public place only as provided in G.S. 130A-22(h1).

(e) A county ordinance adopted under this section is subject to the provisions of G.S. 153A-122. (2007-193, ss. 2, 3.1; 2007-484, s. 31.7; 2008-95, s. 1; 2008-149, s. 4; 2009-27, s. 1.)