# Smoke-Free Education and Enforcement for Buncombe County Policy

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1. **Purpose**
   The purpose of this policy is to ensure smoke-free public places in accordance with North Carolina law. As the county's public health institution, Buncombe County Health and Human Services - Department of Health (BC HHS-DH) is committed to enforcing public health laws, ordinances, policies, rules and regulations which promote a safe, clean, and healthy environment for our clients, workforce, and community.

2. **Applicability**
   This policy applies to BC HHS-DH workforce that is required to carry out public health laws, ordinances, policies, rules and regulations.

3. **Policy**
   This policy ensures the provision of education and enforcement regarding smoke-free regulations as defined by state law.

4. **Policy Non-Compliance**
   BCHHS-DH workforce willfully violating the terms and conditions of this policy may be subject to appropriate disciplinary action, up to and including dismissal.

   BCHHS Board members willfully violating the terms and conditions of this policy may be asked to resign from their board position. If the board member chooses not to resign, the BCHHS Board may vote to remove the member.

5. **Audit**
   All policies for Buncombe County may be subject to audit or review as outlined in the Internal Auditor's Statement.

   All policies for BCHHS-DH are subject to review by the State Accreditation team during

each accreditation cycle visit.

6. **Definitions**

6.1 **Bar**: An establishment with a permit to sell alcoholic beverages pursuant to subdivision (1), (3), (5), or (10) of N.C.G.S. §18B – 1001.

6.2 **Buncombe County Health and Human Services - Department of Health (BCHHS-DH)**: A consolidated human services agency created pursuant to N.C.G.S. §153A-77 that has the responsibility to carry out the duties of a local health department and the authority to administer the local public health programs established in Chapter 130A in the same manner as a local health department.

6.3 **Enclosed area**: 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. For more information on what defines an area as enclosed, see detail in 10A NCAC 39C. 0104 "Clarification of the Definition of Enclosed Area."

6.4 **Ordinance**: Local rules adopted by the Board of County Commissioners. Buncombe County ordinances can be found on the Buncombe County website.

6.5 **Public Place**: An enclosed area to which the public is invited or in which the public is permitted.

6.6 **Restaurant**: A food and lodging establishment that prepares and serves drink or food as regulated by the state's sanitation laws.

6.7 **Second-hand smoke**: Smoke from burning tobacco products, like cigarettes, cigars, hookahs, or pipes.

6.8 **Smoke-free**: A place where smoking is not allowed.

6.9 **Smoking**: The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or other lighted tobacco product.

6.10 **Workforce**: Employees, volunteers, contract staff, and other persons whose conduct, in the performance of work for Buncombe County, is managed by Buncombe County. The County's management of these persons may include training and development, the direction of work activities, provision of resources, and policy oversight.

7. **Approval and Revision History**

| | | |
|---|---|---|
| Policy Origination Date: | February 2, 2010 | |
| Requires Board Approval: | ☒Yes ☐No | |
| Board Approval Date: | Month/DD/YYYY | |
| Chair, HHS Board | Signature Area | |
| Health Director | Ellis Matheson | |
| | | |
| Revision History: | | |
| 05/2025 | • Non-compliance statement related to Board Members added<br>• Added Legal Authority<br>• Added definitions bar, restaurants, public place, enclosed area, and secondhand smoke as described in Background (Section 8) | • 4.<br>• 8.2.<br>• 6. |

| | | |
|---|---|---|
| 09/2023 | • Renumbered to 2001.05; previously 1001.74A<br>• Removed reference to bars and restaurants.<br>• Reformatted<br>• Updated to new template.<br>• Procedures removed from policy and listed in separate document | • Entire document |
| 09/2021 | • Changed title of OA IVs/ASA ills to administrative support<br>• Added definition of Complaint<br>• Updated 'workforce' definition.<br>• Added guidance for community member filing complaint.<br>• Updated links to legal authority<br>• Removed Abbreviations Section; added throughout document | • Entire document<br>• 4.9<br>• 4.11<br>• 6.7<br>• 7.0<br>2.0, 4.10, 5.1, 6.0 |
| 04/2018 | • Added Board signature line | Header |
| 02/2018 | • Removed Medical Director signature line | Header |
| 02/2017 | • Changed agency title to Buncombe County Health and Human Services, Department of Health (BCHHS-DH)<br>• Added Workforce definition.<br>• Transferred policy to new template.<br>• Added statement in section 8 about regulatory authority | • Throughout<br>• 5.10<br>• Entire document<br>• 8.1 |
| 12/2016 | • Changed Buncombe County Department of Health to Buncombe County Health and Human Services, Department of Health<br>• Added Mixed Beverage Private Club definition | • 2.0<br>• 4.5 |
| 09/2015 | • Removed phone number for complaints.<br>• Changed Buncombe County Department of Health to Buncombe County Health and Human Services, Department of Health<br>• Deleted Community Health Improvement<br>• Changed Community Health Improvement Manager to Environmental Health Program Specialist<br>• Changed Health Administration Assistant to Environmental Health OA IV | • 6.1.1, 6.2.1<br>• 3.0<br>• 5.0<br>• 6.2, 6.3, 6.4, 6.5<br>• 6.2, 6.3, 6.4, 6.5 |
| 07/2014 | • Changed definition of enclosed areas<br>• Deleted Lodging Establishment<br>• Added online complaint website.<br>• Clarified staff involved with complaint process | • 4.3<br>• 3.0, 4.5<br>• Throughout<br>• Throughout |

8. **Background/Legal Authority**

8.1. Background

8.1.1. In May of 2009, state law changes created new statewide smoking prohibitions and expanded local authority to adopt local smoking bans. North Carolina's smoke-free law prohibits smoking in enclosed areas of almost all bars and restaurants. Smoking is also not allowed in enclosed areas of lodging establishments if the establishment prepares and serves food or drink. Smoke-free restaurants, bars, and lodging facilities reduce exposure to second-hand smoke, which has been proven to cause cancer, heart disease, and asthma attacks in both smokers and non-smokers.

8.2. Legal Authority

8.2.1. N.C.G.S.§153A-77 Authority of boards of commissioners over commissioners,

boards, agencies, etc.

8.2.2. N.C.G.S.§18B – 1001. (1), (3), (5), (10) Kinds of ABC permits; places eligible.
8.2.3. N.C.G.S.§130A – 491-498 Public Health
8.2.4. 10A NCAC 39C. 0104 Clarification of the Definition of Enclosed Area