

Gaston County Board of Health Rule

**Prohibiting the Use of Tobacco Products in
Local Government Buildings, Local Government Grounds, Local Government Vehicles, Local
Government Parks, and Indoor Public Places**

WHEREAS, pursuant to the provisions of G.S. 153A-77 and G.S. 130A-43, the consolidated Gaston County Health and Human Services Board has the authority to adopt local health regulations; and

WHEREAS, pursuant to G.S. 130A-43, a consolidated human service board shall have all the powers and duties of a local board of health as provided in G.S. 130A-39; and

WHEREAS, Gaston County Department of Health and Human Services “DHHS” is committed to protecting the health and environment of individuals, children, and employees in Local Government Buildings, Local Government Grounds, Local Government Vehicles, Local Government Parks, and Indoor Public Places by eliminating exposure to secondhand smoke, and e-cigarette aerosol, and eliminating the amount of litter caused by discarded cigarette butts; and

WHEREAS, Gaston County DHHS wishes to minimize the harmful effects of tobacco use among employees and eliminate secondhand smoke and e-cigarette aerosol exposure for employees and the public in and on those buildings, vehicles and grounds controlled by units of local government and in indoor public places within Gaston County; and

WHEREAS, G.S. 130A-498 authorizes local governments to adopt and enforce ordinances “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”; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), tobacco use is the leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity, and some hazard exists beyond 30 feet; and

WHEREAS, in 2006, the Surgeon General concluded that there is no risk-free level of exposure to secondhand tobacco smoke. Establishing smoke-free environments is the only proven way to prevent exposure, and tobacco free rules and ordinances are an evidence-based method of creating smoke-free environments; and

WHEREAS, in 2016, the U.S. Surgeon General issued a report on e-cigarettes and young people stating that emitted e-cigarette aerosol is not just water vapor, but contains nicotine and can contain additional toxins, making it less safe than clean air and e-cigarette use has the potential to involuntarily expose children and adolescents, pregnant women, and non-users to aerosolized nicotine and, if the products are altered, to other psychoactive substances. Therefore, clean air, being free of both smoke and e-cigarette aerosol, remains the standard to protect health; and

WHEREAS, the use of e-cigarettes in places where smoking traditional tobacco products is prohibited could lead to difficulties in enforcing smoke-free policies and renormalize tobacco use, especially among youth; and

WHEREAS, the CDC reports that nearly 90 percent of smoking and smokeless tobacco use are frequently initiated and established before age 18, that most people who begin smoking during adolescence are addicted by the age of 20, and that adolescent smokeless tobacco users are more likely than nonusers to become adult cigarette smokers; and

WHEREAS, children model adult behavior and benefit from positive models of non-tobacco use behavior and positive reinforcement of healthy lifestyle messages through exposure to tobacco-free public areas; and

WHEREAS, experimentation with and use of e-cigarettes have risen sharply among young people according to the 2017 N.C. Youth Tobacco Survey: current use of electronic cigarettes among North Carolina high school students jumped by 894 percent from 1.7 percent in 2011 to 16.9 percent in 2017. A total of 28.3 percent of high school students said they are considering using electronic cigarettes in the next year. Overall tobacco use among NC high school students increased from 25.8 percent to 28.8 percent from 2011 to 2017; and

WHEREAS, in 2018, the U.S. Surgeon General issued an Advisory on the U.S. e-cigarette epidemic among youth, expressing concern that e-cigarettes are addicting youth and that exposure to nicotine can damage the developing brains of young people up to age 25; and

WHEREAS, in 2018 the U.S. Surgeon General issued an Advisory on the U.S. youth e-cigarette epidemic recommending including e-cigarettes in smoke-free indoor air policies as an evidence-based method to reduce e-cigarette use among young people; and

WHEREAS, Gaston County provides support to employees and residents who want to quit the use of tobacco products. Employees and residents are also encouraged to talk to their health care provider about quitting, ask about appropriate pharmacotherapy available through their health insurance plan or employee's insurer, and use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-869); and

NOW, THEREFORE the Gaston County Health and Human Services Board, having the authority cited herein, hereby adopts following Board of Health Rule:

Section 1. Definitions.

“County” means Gaston County government, including all agencies and departments of Gaston County government.

“Electronic Cigarette” or “E-cigarette” means an electronic oral device that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution or any other substance, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.

“Indoor Public Places” means any enclosed area to which the public is invited or which the public is permitted. A private residence is not a public place.

“Local Government Buildings” means a building owned, leased as lessor, or the area leased as lessee and occupied by a Unit of Local Government within Gaston County.

“Local Government Grounds” means an unenclosed area owned, leased, or occupied by a Unit of Local Government within Gaston County.

“Local Government Parks” shall mean any parcel of land or body of water comprising part of any Unit of Local Government’s parks, playgrounds, recreational areas, greenways, or trails.

“Local Government Vehicle” means a passenger-carrying vehicle owned, leased, or otherwise controlled by a Unit of Local Government within Gaston County, being either county owned or municipality owned, and assigned permanently or temporarily by local government to local government employees, agencies, institutions, or facilities for official business.

“Smoking” means the use of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product as well as Electronic Cigarettes.

“Tobacco” or “Tobacco Product” means any product containing or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, or ingested by any other means, including but not limited to cigarettes; e-cigarettes; cigars; little cigars; snuff; and chewing tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. Electronic Cigarettes are also considered to be a Tobacco Product.

“Unit of Local Government” shall mean Gaston County as well as any municipalities within Gaston County.

Section 2. Prohibition on Use of Tobacco Products.

Use of Tobacco Products is prohibited in all of the following areas:

- (a) Local Government Buildings, including the Gaston County Courthouse and its premises;
- (b) Local Government Grounds, including in private vehicles when those vehicles are located on the grounds of Units of Local Governments;
- (c) Local Government Vehicles;
- (d) Local Government Parks; and
- (e) Indoor Public Places

This prohibition is applicable in the entire geographic bounds of Gaston County, including the municipalities within Gaston County, but excluding property owned, leased, or maintained by the State of North Carolina. This Rule does not apply to the public streets and sidewalks within Gaston County or to public places that are not indoors.

Section 3. Signage and Removal of Ashtrays, Etc.

- (a) Signs giving notice of the prohibition of tobacco use shall be posted in, on or about all Local Government Buildings, Local Government Grounds, Local Government Vehicles, Local Government Parks and Indoor Public Places subject to this Rule.
- (b) As to buildings and grounds identified herein, signs shall be placed at all entrances giving notice of the prohibition of tobacco use under this Rule. Signs must be posted in other areas of buildings and grounds as reasonably calculated to inform employees and the public of the prohibition.
- (c) The signs shall be of sufficient size to be clearly legible to a person of normal vision, and be conspicuously posted.
- (d) The signs shall state the applicable prohibition (e.g. Use of Tobacco Products is Prohibited) and include the applicable universal symbol (e.g. the “No Smoking and Use of Tobacco Products Prohibited” symbol).
- (e) Persons in charge of vehicles identified herein shall post signs in Local Government Vehicles to give notice of the prohibition. The signs must be placed in a manner by which passengers will also be able to see the notice, but shall not interfere with the safe operation of the vehicle.
- (f) Persons in charge of buildings and grounds where tobacco use is prohibited by this Rule shall remove all publicly available ashtrays and other smoking receptacles from places where smoking and tobacco use is prohibited as defined herein.
- (g) The County Manager, or designee, shall determine whether signs should be posted in languages other than English and make the appropriate personnel aware of such need.

Section 4. Compliance and Enforcement.

- (a) Penalty for Violation. After verbal or written notice by the person in charge of an area described herein, or his or her designee, failure to cease smoking or using tobacco products may constitute an infraction punishable by a fine of not more than fifty dollars (\$50.00). A citation may be issued by a sworn law enforcement officer. Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed.
- (b) Violations by persons who manage, operate, or control a public place. The local Health Director may take the following actions and may impose the following administrative penalty on a person who manages, operates, or controls a public place and fails to comply with the provisions of this Rule.
 - i. First violation – Written notice of the person’s first violation and notification of action to be taken in the event of subsequent violations.
 - ii. Second violation – Written notice of the person’s second violation and notification of administrative penalties to be imposed for subsequent violations.
 - iii. Third and subsequent violations – Impose an administrative penalty of not more than two hundred dollars (\$200.00). Each day on which a violation occurs may be considered a separate and distinct violation.

Section 5. Public Education.

The County shall engage in an ongoing program to explain and clarify the purposes and requirements of this Rule to residents and businesses affected by it, and guide operators and managers in their compliance with it. In doing so, the County may rely on materials and information provided by the Gaston County Department of Health and Human Services. The County shall:

- (a) Educate the public about the Rule, and reasons for the Rule, prior to its implementation date through the news media, website and educational media. The education shall include information on resources for quitting tobacco use, including information about the free quitting support services of the North Carolina Tobacco use Quitline, 1-800 QUIT NOW (1-800-784-8669);
- (b) Educate the County's employees about how they can assist with compliance with this Rule as well as providing information about the free quitting support services of the North Carolina Tobacco Use Quitline, 1-800 QUIT NOW (1-800-784-8669);

Section 6. Abrogation.

This Rule supersedes any previous County, City, or Town ordinance regulating tobacco that is less restrictive than the rule as established herein. This Rule is not intended to repeal any greater restriction imposed by any other State law or local government ordinance. Whether the provisions of any other law, ordinance, regulation, or restriction impose higher standards than are required by the provisions of this Rule, this Rule does not prohibit the enforcement of any such law, ordinance, regulation, or restriction.

Section 7. Severability

Should any section of this Rule be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Rule as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 8. Effective Date.

This Rule shall become effective July 1, 2020 following adoption by the Gaston County Health and Human Services Board and approval of this Rule by an Ordinance adopted by the Gaston County Commissioners pursuant to North Carolina General Statute 153A-121(a).

ADOPTED this _____ day of _____, 20_____.

Chair of the Board
Gaston County Health and Human Services Board

ATTEST:

Secretary to the Board
Gaston County Health and Human Services Board