

1 10A NCAC 39C.0104 is proposed for adoption as follows:

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3 **10A NCAC 39C.0104 CLARIFICATION OF THE DEFINITION OF ENCLOSED AREA**

4 (a) An area is enclosed if it has (1) a roof or other overhead covering and (2) permanent or temporary walls
5 or side coverings on three or more sides that make up 55 percent or more of the total combined perimeter
6 surface area.

7 (b) A roof, overhead covering, wall or side covering includes any permanent or temporary physical barrier
8 or retractable divider. Examples of materials for a roof, overhead covering, wall or side covering include
9 wood, metal, canvas, tarp, cloth, glass, tent material, plastic, vinyl sheeting, fabric shades, lattice, awning
10 material, polyurethane sheeting or any other similar material. Walls or side coverings do not include mesh
11 screening which is 0.011 gauge with an 18 by 16 mesh count or more open mesh size.

12 (c) An opening means a door, a window or any other aperture that is open to the outdoors.

13 (d) If the openings in an unenclosed area are covered, such that the area at that time meets the definition of
14 being enclosed pursuant to paragraph (a), then smoking must be prohibited in the area while the openings
15 are so covered.

16 (e) If windows or doors form any part of the partition between an enclosed area and an unenclosed area
17 that is used for smoking, these openings shall be closed at all times during the operation of the
18 establishment except for ingress and egress to prevent migration of smoke into the enclosed area.

19 (f) Nothing in this rule prohibits a restaurant or bar owner from making an unenclosed area smoke-free.

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21 *History Note: Authority G.S. 130A-497.*