

Frequently Asked Questions (FAQs) on “Enclosed” Areas N.C. Smoke-Free Restaurants and Bars Law

What is the new rule to clarify the definition of enclosed areas in the smoke-free law?

The North Carolina state law (G.S. 130a-496) prohibits smoking in “enclosed” areas of restaurants and bars. An area in a restaurant or bar is **enclosed** if it has a roof or other overhead covering, **and** 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.

In other words, for an area with roof to be considered **unenclosed**, two or more of the four permanent or temporary walls or side coverings must be open to the outdoors and the walls or side covering must make up **less than 55 percent** of the total combined perimeter surface area.

What is considered a roof or overhead covering, according to the rule?

A roof or overhead covering includes any permanent or temporary physical barrier or retractable divider. Materials that make a roof or overhead 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. Mesh screens that allow free movement of air and are 0.011 gauge with an 18 x 16 mesh count or more open mesh size are not considered overhead coverings.

What is considered a wall or side covering, according to the rule?

The criteria are the same as for a roof or overhead covering. A wall or side covering includes any permanent or temporary physical barrier or retractable divider. Materials that make a 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. Mesh screens that allow free movement of air and are 0.011 gauge with an 18 x 16 mesh count or more open mesh size are not considered walls or side coverings.

How does the rule define an opening?

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

What happens if openings need to be closed due to cold weather, rain, or because the restaurant is closing up for the day?

If the openings in an unenclosed area are covered, such that the area at the time meets the definition of being enclosed, then smoking must be prohibited in the area while the openings are covered, the ashtrays must be removed from the area and no smoking signs must be posted.

Does the rule address the situation of having windows or doors that form part of the partition between an enclosed area and an unenclosed area? In other words, can a door between the outdoor patio and indoor restaurant remain open when weather permits?

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.

Is smoking allowed in the outdoor section of a restaurant/bar?

If the outdoor section meets the definition of an “unenclosed” area, then smoking is not prohibited by law. However, restaurant /bar owners and managers may voluntarily put into place a policy that prohibits smoking in these unenclosed areas.

How do you measure the total combined perimeter surface area?

- Step 1: Measure the **WIDTH** and **HEIGHT** of each wall or side forming the perimeter of the area under consideration. (Use only vertical and horizontal sides; roof and floor are not included)
- Step 2: Multiply the **WIDTH** times the **HEIGHT** of each wall or side to determine the **Square Footage** of each wall or side.
- Step 3: Add the **Square Footage** of each wall or side to find the **Total Combined Perimeter Surface Area**.
- Step 4: Measure the **WIDTH** and **HEIGHT** of the openings to the outdoors in each wall or side.
- Step 5: Multiply the **WIDTH** times the **HEIGHT** of each opening to the outdoors in the walls or sides to determine the Square Footage of each opening(s).
- Step 6: Add the Square Footage of each opening to the outdoors in the walls or sides to find the **Open Surface Area**.
- Step 7: Divide the **Open Surface Area** by the **Total Combined Perimeter Surface Area** to determine the percentage of the walls or sides that are open to the outdoors.
- Step 8: Determine if the area in the restaurant or bar is **enclosed** if it has a roof or other overhead covering, **and** 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.

Examples can be viewed at <http://tobaccopreventionandcontrol.ncdhhs.gov/smokefreenc/rules.htm>, “How to Measure if an Area is Enclosed.”

Why was the rule adopted?

The legislative intent behind the Smoke-Free Restaurants and Bars law was to prohibit smoking indoors in enclosed areas of restaurants and bars to protect workers and customers alike from the proven dangers of secondhand smoke. The rule was adopted to specifically clarify the definition of **enclosed areas**. It provides objective and quantifiable measurements to ensure consistent interpretation and enforcement of the law statewide.

How will the rule be enforced?

The owner or manager of the establishment is responsible for compliance with the law. 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. The required plan review for new restaurants and bars undergoing a change in ownership shall include review for compliance with this rule.

How can I file a complaint if someone is smoking in a restaurant or bar?

A violation can be reported online at www.SmokeFree.NC.gov or by contacting your local health department. Contact information for local health departments can be found at www.ncalhd.org/county.htm. Ultimately, businesses that are not following the smoke-free law may be issued warnings and/or fines for violating the law.



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