

## **Chatham County Tobacco-Free Ordinance**

### **ORDINANCE PROHIBITING SMOKING AND THE USE OF TOBACCO PRODUCTS IN CHATHAM COUNTY BUILDINGS, VEHICLES, AND ON COUNTY GROUNDS**

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), tobacco use and secondhand smoke exposure are the leading preventable causes of illness and premature death in North Carolina and the nation;<sup>1</sup> and

WHEREAS, tobacco is a recognized carcinogen in humans, and health risks associated with the use of tobacco products include heart attack, stroke, adverse reproductive outcomes, lung cancer and diabetes;<sup>2</sup> and

WHEREAS, in 2009, the United States Food and Drug Administration (FDA) announced that an analysis of e-cigarette samples indicated that the e-cigarettes contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals and that the emitted aerosol contains nicotine and potentially other additional toxins, making it harmful to the nearby non-user;<sup>3</sup> and

WHEREAS, experimentation with and use of e-cigarettes have risen sharply among young people according to the recently released Youth Tobacco Survey. Current use of electronic cigarettes among North Carolina high school students jumped by 888 percent from 1.7 percent in 2011 to 16.8 percent in 2015. Twenty-seven 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 27.5 percent from 2011 to 2015;<sup>4</sup> and

WHEREAS, the CDC reports that nearly 90% of smoking and smokeless tobacco use are initiated and established before age 18, that most people who begin smoking during

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<sup>1</sup> Centers for Disease Control and Prevention, Smoking and Tobacco Use Fast Facts, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/fast\\_facts/#toll](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/#toll) (last visited July 24, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> Memorandum from B.J. Westenberg, Deputy Director, CDER/OPS/OTR, Division of Pharmaceutical Analysis to Michael Levy, Supervisor Regulatory Counsel, CDER, Office of Compliance Division of New Drugs and Labeling Compliance (May 4, 2009), available at <http://www.fda.gov/downloads/Drugs/ScienceResearch/UCM173250.pdf>; see also Press Release, United States Food and Drug Administration, FDA & Public Health Experts Warn About Electronic Cigarettes (July 22, 2009), available at <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm>.

<sup>4</sup> North Carolina Division of Public Health, Tobacco Prevention and Control Branch, 2015 Youth Tobacco Survey Factsheet, available at <http://www.tobaccopreventionandcontrol.ncdhhs.gov/data/yts/docs/2015-NC-YTSFactSheet-WEBFINAL-v2.pdf>.

adolescence are addicted by the age of 20, and that adolescent smokeless tobacco users are more likely than nonusers to become adult cigarette smokers<sup>5</sup>; and

WHEREAS, children model adult behavior and benefit from positive models of non-smoking behavior and positive reinforcement of healthy lifestyle messages through exposure to smoke and tobacco free public areas<sup>6</sup>; and

WHEREAS, Chatham 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

WHEREAS, Chatham County wishes to minimize the harmful effects of tobacco use among employees and eliminate secondhand smoke exposure for employees and the public in and on those buildings, vehicles and grounds controlled by the county; and

WHEREAS, according to NCGS 153A-121(a) county commissioners may find and declare that, in order to protect the public health and welfare, it is in the best interest of the residents of the County to adopt an ordinance prohibiting smoking and the use of tobacco products in County buildings, grounds, and vehicles; and

WHEREAS, the Chatham County Board of Health voted to send a formal request to the Chair of the Chatham County Board of County Commissioners on March 25<sup>th</sup>, 2019 recommending that Chatham County adopt an ordinance to prohibit smoking and the use of tobacco products in County buildings, grounds, and vehicles; and

WHEREAS, the Chatham County Board of Commissioners has determined that it is in the best interest of Chatham County citizens and residents to prohibit smoking and the use of tobacco products in County buildings, grounds, and vehicles;

NOW THEREFORE, be it ordained by the Chatham County Board of Commissioners;

### **Section 1. Authority**

This ordinance is enacted pursuant to NCGS 130A-498 and 153A-121(a).

### **Section 2. Definitions**

1. "County Building". –A building or other structure owned, leased as lessor, or the space within a building or structure leased as lessee for use by Chatham County.

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<sup>5</sup> Centers for Disease Control and Prevention, Youth and Tobacco Use, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm) (last visited Oct. 7, 2010).

<sup>6</sup> *Id.* (stating that one factor associated with youth tobacco use is smoking by parents or guardians).

2. "County Parks System". –Any tract of land or body of water comprising part of the Chatham County's parks, playgrounds, natural areas, recreation areas, trails, greenways, and streams or other bodies of water.
3. "County Vehicle". –A passenger-carrying vehicle owned, leased, or otherwise controlled by Chatham County and assigned permanently or temporarily to its employees, agencies, institutions, or facilities for official County business.
4. "E-cigarette". – Any 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.
5. "Employee". – A person who is employed by Chatham County, or who contracts with the County or a third person to perform services for the County, or who otherwise performs services for the County with or without compensation.
6. "Grounds". – An unenclosed area owned, leased to, maintained, or otherwise occupied by Chatham County.
7. "Local Public Health Department". –The County public health department jurisdiction includes all of Chatham County.
8. "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
9. "Tobacco product". – Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part or accessory of a tobacco product, including but not limited to cigarettes; cigars; little cigars; electronic cigarettes and other electronic nicotine delivery systems or nicotine product; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cutting and sweepings of tobacco; and other kinds and forms of 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.
10. "Universal 'No Smoking and Use of Tobacco Products Prohibited' Symbol". – Symbol consisting of a pictorial representation of a burning cigarette and a tobacco product enclosed in a red circle with a red bar across it.

**Section 3. Areas in Which Smoking, the Use of Tobacco Products, and Electronic Cigarettes are Prohibited:**

- (a) Smoking and the use of tobacco products and electronic cigarettes are prohibited:
  - 1) In any County building
  - 2) In any County vehicle
  - 3) On County grounds, including the Chatham County parks system
- (b) The prohibition on smoking, the use of tobacco products, and electronic cigarettes in the places listed in section (a) above includes, without limitation, those times when they are being used for private events.

**Section 4. Implementation Requirements**

- (a) County staff shall post signs that meet all the requirements in Section 5 of this ordinance.
- (b) County staff shall remove all ashtrays and other smoking receptacles from places where smoking and tobacco products are prohibited.
- (c) The person in charge of the County building, vehicle, or grounds, or his or her designee, shall direct a person who is smoking or using a tobacco product in a prohibited area to cease and, if the person does not comply, shall contact the law enforcement having jurisdiction in the area where the violation occurred.

**Section 5. Signage**

The signs required by Section 4 must:

- (a) State in English and Spanish that smoking and the use of tobacco products are prohibited and include the universal “No Smoking and Use of Tobacco Products Prohibited” symbol.
- (b) Be of sufficient size to be clearly legible to a person of normal vision and be conspicuously posted.
- (c) Be posted at the entrance to each County building and in other locations within the building reasonably calculated to inform employees and the public of the prohibition.
- (d) Be posted in each County vehicle in areas visible to passengers, provided that their placement does not interfere with the safe operation of the vehicle. If the vehicle is used for undercover law enforcement operations, a sign is not required to be placed in the vehicle.
- (e) Be posted on County grounds in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.
- (f) Be posted at the entrance to buildings in the County parks system.
- (g) Be posted on the grounds in the County parks system in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.

**Section 6. Enforcement and Penalties**

- (a) Penalty for Violation. Following oral or written notice by the person in charge of an area described in Section 3, or his or her designee, failure to cease smoking or using

tobacco products or e-cigarettes constitutes an infraction punishable by a fine up to fifty dollars (\$50.00). A citation may be issued by a sworn law enforcement officer.

(b) Additional sanctions for employees. In addition to any penalty under subsection (a), employees of Chatham County who violate this ordinance shall be subject to disciplinary action.

#### **Section 7. Public Education**

Chatham County shall engage in an ongoing program to explain and clarify the purposes and requirements of this ordinance to employees and residents affected by it and to guide operators and managers in their compliance with it. In doing so, the County may rely upon materials and information provided by the local public health department.

#### **Section 8. Severability; Conflict of Laws**

If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance that can be given separate effect and to that end, the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

#### **Section 9. Effective Date**

This ordinance shall be effective on January 2<sup>nd</sup>, 2020.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Mike Dasher, Chairperson, Chatham County Board  
of Commissioners

ATTEST:

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Linsday K. Ray, Clerk to the Chatham County Board of Commissioners