

## ARTICLE II.

### SMOKING\*

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\* **Editors Note:** An ordinance adopted October 11, 1993, did not specifically amend the Code; hence, codification of Arts. I--XI as §§ 9-51--9-61 was at the discretion of the editor.

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#### **Sec. 9-51. Title.**

This article shall be called the Transylvania County Smoking Ordinance.  
(Ord. of 10-11-93, Art. I)

#### **Sec. 9-52. Scope.**

This article shall be applicable to all buildings owned, leased, or occupied by the county or any of its departments or agencies, and all other public buildings or public places within the county.  
(Ord. of 10-11-93, Art. II)

#### **Sec. 9-53. Authority.**

This article is adopted pursuant to the authority of North Carolina General Statutes, Section 153A-121 and Section 153A-169.  
(Ord. of 10-11-93, Art. III)

#### **Sec. 9-54. Purpose.**

The purpose of this article is to protect the health, safety and general welfare of all county employees and the general public entering any of the various buildings owned, occupied, or leased by the county, and all other public places within the county. This article seeks to reduce fire hazards, improve indoor air quality, and minimize any health risks associated with involuntary exposure to environmental tobacco smoke.  
(Ord. of 10-11-93, Art. IV)

#### **Sec. 9-55. Definitions.**

[The following terms, when used in this article, shall have the meanings ascribed to them herein, except where context clearly indicates a different meaning:]

*County buildings:* Any building owned, leased, or occupied by the county or any of its departments or agencies, now or in the future.

*Designated smoking area:* An enclosed area where smoking is permitted that is identified by proper signs or an area outside of facilities.

*Employee:* Any person who is employed by the county in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services.

*Enclosed area:* All spaces between a floor and ceiling which are enclosed on all sides by solid walls or windows (exclusive of door or passageways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, or similar structures.

*Nonsmoking area:* An area where smoking is prohibited.

*Place of employment:* Any enclosed areas of county buildings in which county employees perform a substantial majority of their job duties.

*Public building or public place:* Any enclosed area to which the public is permitted or invited.

*Smoking:* Inhaling, exhaling, burning, or carrying any lighted cigar, lighted cigarette, or any lighted tobacco product, or electronic tobacco and/or vapor product in any manner or in any form.  
(Ord. of 10-11-93, Art. V; amended 11-12-13)

### **Sec. 9-56. Prohibited in public places.**

(a) Except as otherwise provided by this article, smoking shall be prohibited in all public places of county buildings and facilities.

(b) Any owner, operator, manager or other person who controls any establishment or facility open to the public may declare that a portion of or the entire establishment or facility is a nonsmoking establishment.

(c) Clear and conspicuous signs shall be posted in every building or other place where smoking is regulated by this article.  
(Ord. of 10-11-93, Art. VI)

### **Sec. 9-57. Areas allowed.**

(a) The county commissioners may, in their discretion, at any time designate at least one (1) smoking area accessible to the general public in each county building. Such areas shall be identified by a large, legible sign which shall read "This is a smoking area. Smoking in any other area of this building is prohibited." The county commissioners shall have the discretion to determine the percentage of space in each county building which may be designated as a smoking area. The county commissioners shall have the discretion to change, move, or remove any smoking area(s) in any county buildings at any time.

(b) There shall be no smoking in any area of a county building by a member of the general public, unless the area is designated as a smoking area by the county commissioners and identified as described in paragraph (a) above. All buildings where smoking is allowed shall display a large sign stating "Smoking is prohibited in this building except in areas clearly identified as smoking areas."  
(Ord. of 10-11-93, Art. VII)

### **Sec. 9-58. Signs.**

(a) "No Smoking," or other signs relating to this article, shall have letters of not less than one (1) inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning

cigarette enclosed in a red circle with a red bar across it) no smaller than three (3) inches in diameter.

(b) Signs shall be conspicuously posted in county buildings and within public places, in a position clearly visible on entry into every building, where smoking is regulated.

(c) No person shall remove or deface any sign or placard required to be posted by or under the authority of this section.

(Ord. of 10-11-93, Art. VIII)

**Sec. 9-59. Penalty.**

Violations of this article shall not constitute a misdemeanor, but will be an infraction which shall be subject to a civil penalty in the amount of fifty dollars (\$50.00), to be received by the county. Violators shall be given a written citation which must be paid to the county within five (5) working days.

(Ord. of 10-11-93, Art. IX)

**Sec. 9-60. Severability.**

If any section, or part thereof, of this article is declared to be invalid by a court of competent jurisdiction, the remainder of the article shall remain, to the extent possible, in full force and effect, unaffected by such declaration of invalidity.

(Ord. of 10-11-93, Art. X)

**Sec. 9-61. Future modifications.**

This article may be amended at any time by the county board of commissioners to impose a more stringent or less stringent smoking standard for county buildings.

(Ord. of 10-11-93, Art. XI)