

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 2 February 2015

SUBJECT: Amendment of Smoking Ordinance

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Draft Ordinance (clean and "markup")

SUMMARY OF REQUEST:

In 2014, this Board adopted changes to its smoking ordinance, Chapter 17 of the County Code. The proposed amendments codify the Board's changes, as expressed in its meetings. The thrust of the changes is to create a presumption of "no smoking" in all County buildings and on all grounds of such buildings, but to allow the County Manager to create clearly defined and marked "smoking areas".

Late in 2014, new County Library Director Trina Rushing noted a problem observed in the library with the use (inside the main library building) of "e-cigarettes" (also referred to as "vaping"). This proposed amendments would including the use of "e-cigarettes" and similar devices within the definition of "smoking".

County staff will present further information on this matter.

BOARD ACTION REQUESTED:

Adoption of the ordinance amendments.

If the Board is so inclined, the following motion is suggested:

I move that the Board adopt the proposed Amendments to the Smoking Ordinance.

Chapter 17
Henderson County Smoking and Ordinance

[HISTORY: Adopted by the Board of Commissioners of Henderson County. Amended 9-7-1993; 11-18-1998; 2-2-2015.]

§ 17-1. Title.

This chapter shall be called the "Henderson County Smoking Ordinance."

§ 17-2. Scope.

This chapter shall be applicable to all buildings, facilities or grounds owned, leased or occupied by Henderson County or any of its departments or agencies.

§ 17-3. Statutory Authority.

This chapter is adopted pursuant to the authority of [N.C.G.S. §§ 153A-121](#) and [130A-498](#).

§ 17-4. Purpose.

The purpose of this Chapter is to protect the health, safety and general welfare of all Henderson County employees and the general public entering any of the various buildings, facilities and grounds owned, occupied or leased by Henderson County.

§ 17-5. Definitions.

The following terms are defined for purposes of this Chapter:

- (1) County Building - Any building owned, leased or occupied by Henderson County or any of its departments or agencies, now or in the future.
- (2) "E-cigarette" – Any electronic oral device or nicotine delivery device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine 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, e-hookah, hookah pen or under any other product name or description.
- (3) Grounds – An unenclosed area owned, leased, or occupied by the County government within 100 linear feet of a County Building, unless clearly defined and posted as a "Smoking Area".
- (4) Nonsmoking Area - An area where smoking is prohibited.
- (5) Smoking - Inhaling, exhaling, burning or carrying any lighted cigar, lighted cigarette or other lighted tobacco product, or any e-cigarette, in any manner or in any form.

§ 17-6. Prohibition of Smoking in County Buildings and Grounds.

Except as otherwise provided by this Chapter, smoking shall be prohibited in all County buildings and on all County Grounds.

§ 17-7. Smoking Allowed Only In Designated Areas.

The County Manager may, in his discretion, at any time, designate smoking areas accessible to the general public in each County Building or on County Grounds. Said 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 or on any other area of these grounds is prohibited." The County Manager shall have the discretion to change, move or remove any smoking area(s) in any County buildings or on any County Grounds at any time. Except in such designated areas, no smoking shall be allowed in County Buildings or Grounds.

§ 17-8. Territorial Application

Pursuant to [N.C.G.S. §153A-122](#), this Chapter is applicable to all County Buildings and Grounds. In addition, any provisions applying to areas which are not County Buildings or Grounds apply only to those portions of Henderson County not lying within a municipality.

§ 17-9. No Smoking Signs.

- A. "No Smoking," or other signs relating to this Chapter shall have letters of not less than 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 3 inches in diameter.
- B. Signs shall be conspicuously posted in County buildings in a position clearly visible on entry into every building, and within facilities, where smoking is regulated.
- C. No person shall remove or deface any placard required to be erected by or under the authority of this section.

§ 17-10. Violations and Penalties.

Any violation of this chapter shall subject the violator to the penalties set forth in N.C.G.S. §130A-498(c1).

§ 17-11. Through 17-25. (Reserved)