

Applying for a Certificate for Smoking Exemption and a Conditional Certificate of Exemption

In accordance with the District of Columbia Smoking Restriction Act of 1979, as amended, and the Department of Health Functions Clarification Act of 2001, as amended, the Department of Health regulates smoke from tobacco products in public places, places of employment, and tobacco bars. The following places can seek a Certificate for Smoking Exemption or a Conditional Certificate of Exemption through this application:

1. A retail store that has as its primary source of revenue the sale of tobacco products and smoking accessories, provided that:
 - a. No more than twenty-five percent (25%) of the revenue the store generates is from non-tobacco products; and
 - b. The store does not share space with any other establishment.
2. A Tobacco Bar. A tobacco bar includes a restaurant, tavern, brew pub, club, or nightclub that generates 10 percent (10%) or more of its total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines, or the rental of on-site humidors.
3. A medical treatment, research, or nonprofit institution where the activity of smoking is conducted for the purpose of medical research or is an integral part of a smoking cessation program.

A Certificate for Smoking Exemption cannot be granted or renewed until the business establishes, to the satisfaction of the Department of Health, the revenue requirements to qualify for the exemption or is engaged in an activity that qualifies the business for an exemption. Revenues claimed for this exemption shall be exclusive and distinct and not bundled with other services, such as membership fees, or entry fees, or non-tobacco products, such as food items or alcoholic drinks.

In addition, the Department of Health appreciates that an applicant applying for a Certificate for Smoking Exemption for the first time may not be able to satisfy the business revenue requirements and should apply for a Conditional Certificate of Exemption. A Conditional Certificate of Exemption allows a business to offer limited smoking in its establishment for a period of ninety (90) days.

Within this ninety (90) day period, an applicant must submit a statement from a certified public accountant that based upon financial records, the applicant's business meets the revenue requirements. If an applicant demonstrates they meet the revenue requirements after the ninety (90) day period, the applicant will be issued a Certificate for Smoking Exemption that is valid for three (3) years.

However, if an applicant is unable to demonstrate the revenue requirements within the ninety (90) day timeframe, the following options are available:

- If an applicant is unable to demonstrate it meets the revenue requirements before the initial ninety (90) day period expires, an applicant can request in writing a thirty (30) day extension of

the Conditional Certificate of Exemption to demonstrate it meets the revenue requirements. If the request for an extension is approved, an applicant will be issued a Conditional Certificate of Exemption that will be valid for thirty (30) days.

- If an applicant, after requesting a thirty (30) day extension of the Conditional Certificate of Exemption, is still unable to demonstrate the revenue requirements, an applicant can request an additional thirty (30) day extension of the Conditional Certificate of Exemption to try and demonstrate the revenue requirements. If the request for an extension is approved, an applicant will be issued a Conditional Certificate of Exemption that will be valid for an additional thirty (30) days.
- If an applicant has requested an additional thirty (30) day extension and still cannot meet the revenue requirements:
 - The application for a Certificate for Smoking Exemption will be denied;
 - The Conditional Certificate of Exemption will no longer be valid; and
 - All smoking at the applicant's business shall cease immediately.

Find the application using this QR code:



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Checklist for a Conditional Certificate of Exemption

An application for a Conditional Certificate of Exemption shall include the following documents:

- Completed Certificate for Smoking Exemption Application Form.
 - Business owner's name, contact information, and signature.
 - Registered agent's name and contact information.

For a Conditional Certificate of Exemption upload the following documents:

- Notarized Declaration Form.
- Notarized Statement from the Business Owner that:
 - The establishment is engaged in an activity that qualifies it for an exemption; and
 - The Business Owner will promptly supply a notarized statement from a Certified Public Accountant within 90 days of being granted a Conditional Certificate of Exemption and respond to requests for additional information during the period of the conditional certificate.
- Certificate of Occupancy
 - The Certificate of Occupancy issued by the Department of Buildings must identify smoking in the establishment and include smoking location areas.
- An Indoor Smoking Ventilation Chart that has been submitted and approved by the Department of Buildings through ProjectDox.
- Current Basic Business License with an endorsement for Tobacco Retail or Cigarette Wholesale.

Checklist for Renewal of a Certificate for Smoking Exemption

An application for renewal of a Certificate for Smoking Exemption shall include the following documents:

- Completed Certificate for Smoking Exemption Application Form
 - Business owner's name, contact information, and signature.
 - Registered agent's name and contact information.
 - Expiration date of current Certificate for Smoking Exemption.

For a Certificate for Smoking Exemption upload the following documents:

- A copy of the current Certificate for Smoking Exemption.
- Notarized Declaration Form.
- Notarized Statement from a Certified Public Accountant that is based on supporting financial documentation.
- Certificate of Occupancy
 - The Certificate of Occupancy must identify smoking in the establishment and include smoking location areas.
- An Indoor Smoking Ventilation Chart that has been submitted and approved by the Department of Buildings through ProjectDox.
- Current Basic Business License with an endorsement for Tobacco Retail or Cigarette Wholesale.

Certificate for Smoking Exemption Application Form¹

Submit a complete and legible application and upload a legible copy of the Basic Business License issued by the Department of Licensing and Consumer Protection and the Certificate of Occupancy issued by the Department of Buildings.

1. NOTE: Ownership information provided in this application must match the information on the Basic Business License issued by the Department of Licensing and Consumer Protection.

2. **Type of Application**

- New Certificate for Smoking Exemption
- Renewal of a Certificate for Smoking Exemption

If seeking renewal, please provide the current expiration date of the Certificate for Smoking Exemption: _____

3. **Business Information** (as provided in the Basic Business License)

Corporation Name: _____

Trade Name (if any): _____

Business License Number: _____

Business Category type (Retail, Restaurant, etc): _____

Cigarette License Number: _____

Type of Smoking Endorsement: Cigarette Retail Cigarette Wholesale

Business Establishment Address: _____

Mailing Address of Business (if different than Establishment Address):

Business Establishment Email: _____

¹ The Smoking Exemption Program staff will communicate only with the business owner or the registered agent regarding details of the application.

Business Establishment Phone Number: _____

4. Business Owner's Information

Name of Primary Business Owner(s) as Listed on the Basic Business License: _____

Primary Business Owner's Address: _____

Primary Business Owner's Email: _____

Primary Business Owner's Phone Number: _____

5. Registered Agent's Information

Registered Agent's Name: _____

Registered Agent's Mailing Address: _____

Registered Agent's Email: _____

Registered Agent's Phone Number: _____

Notarized Declaration Form

I hereby declare that I am eligible for a Certificate for Smoking Exemption or a Conditional Certificate of Exemption, because one of the following applies:

I am seeking to renew my Certificate for Smoking Exemption, and

I own or operate a retail store that has as its primary source of revenue the sale of tobacco products and smoking accessories in which no more than twenty-five percent (25%) of the revenue the store generates is from non-tobacco products and the store does not share space with any other establishment.

I own or operate a tobacco bar. A tobacco bar includes a restaurant, tavern, brew pub, club, or nightclub that generates 10 percent (10%) or more of its total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines, or the rental of on-site humidors.

Or

I am seeking a ninety (90) day Conditional Certificate of Exemption because this is the first time I am applying for a Certificate for Smoking Exemption, and I own or operate either a retail store or tobacco bar.

I hereby declare that I have provided and submitted true copies of the following:

Certificates of Occupancy for the premises in which the proposed exempt establishment is located as of the date of this application. The Certificate of Occupancy identifies smoking in the business and includes smoking areas.

A Basic Business License from the Department of Licensing and Consumer Protection which demonstrates a tobacco retail or cigarette whole license for the establishment.

An Indoor Smoking Ventilation Chart approved by the Department of Buildings through ProjectDox.

I hereby acknowledge the following prohibited acts:

I acknowledge that the sale, distribution, or facilitation of flavored tobacco products, including in hookah, is prohibited for the proposed exempt establishment unless the establishment:

(1) Is authorized by the Department of Health to operate as a hookah bar prior to October 1, 2021; and

(2) Applied for a Certificate of Smoking Exemption to continue the on-site consumption of flavored tobacco products intended to be used with a hookah.

I acknowledge that the sale of electronic smoking devices is prohibited if the proposed exempt establishment is within a quarter mile of a middle or high school.

I hereby declare that:

I authorize the Department of Health (DC Health) to access my financial records to determine whether I qualify for an exemption and to perform annual audits to determine my continued eligibility for exemption.

I acknowledge that the information contained in this application is subject to reporting to and auditing by the Department of Health.

Declaration Form Acknowledgment

I hereby swear or affirm under penalty of perjury that all statements, representations, attachments, and information I have submitted in connection with this application are true, complete, and accurate to the best of my knowledge and belief.

Business Owner's Name: _____

Business Owner's Signature: _____

Subscribed and sworn to before me this _____ day of _____ 20__.

Notary Public

My commission expires: _____

Notarized Statement from the Business Owner

I hereby certify that I am the business owner of this establishment, and I am seeking a Conditional Certificate of Exemption.

I will use the Conditional Certificate of Exemption to demonstrate within ninety (90) days that my business qualifies for a Certificate for Smoking Exemption.

My establishment qualifies for a Conditional Certificate for Exemption because it is a retail store or tobacco bar as provided under D.C. Official Code § 7-741.03 and Title 20 DCMR 2105.

In addition, I will promptly supply a Notarized Statement from a Certified Public Accountant based upon supporting financial documentation within 90 days of being granted a Conditional Certificate of Exemption to demonstrate that my establishment meets the revenue requirement and qualifies for a Certificate for Smoking Exemption.

I will also respond to requests for additional information from DC Health during the period of the Conditional Certificate.

If I require additional time beyond the 90 days to prove my establishment meets the financial requirements for a Certificate for Smoking Exemption, I will contact DC Health's Smoking Program and request an extension in writing before the 90 days expire.

I acknowledge that if I cannot meet the financial requirements for a Certificate for Smoking Exemption during the period I am granted a Conditional Certificate of Exemption, the Conditional Certificate of Exemption will no longer be valid, and smoking must cease immediately at the establishment.

I hereby swear or affirm under penalty of perjury that all statements, representations, and information in connection with this application are true, complete, and accurate to the best of my knowledge and belief.

Business Owner's Name: _____

Business Owner's Signature: _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

Notary Public

My commission expires: _____

Notarized Statement from a Certified Public Accountant

Business Name of Proposed Exempt Establishment: _____

Address of Proposed Exempt Establishment: _____

I hereby declare that:

I am a Licensed Certified Public Accountant

I am aware that the information contained in this application is subject to reporting and auditing by the Department of Health.

That upon review of the establishment's financial records, the establishment meets the financial requirements as set forth in D.C. Code §§ 7-741.01, 7-741.03 and 20 DCMR 2105 for a Certificate for Smoking Exemption. Specifically, that:

The retail store has as its primary source of revenue the sale of tobacco products and smoking accessories in which no more than twenty-five percent (25%) of the revenue the store generates is from non-tobacco products and the store does not share space with any other establishment;

or

The establishment is a tobacco bar. A tobacco bar includes a restaurant, tavern, brew pub, club, or nightclub that generates 10 percent (10%) or more of its total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines, or the rental of on-site humidors.

I affirm under penalty of perjury that the information I have provided in connection with this application is true, complete, and accurate to the best of my knowledge based upon the financial documentation of the Applicant's establishment.

Certified Public Accountant's name: _____

Certified Public Accountant's License Number: _____

Certified Public Accountant's Phone Number: _____

Certified Public Accountant's Email: _____

Certified Public Accountant's Signature: _____

Subscribed and sworn to before me this _____ day of _____ 20____.

Notary Public

My commission expires: _____