

## APPLICATION FOR SMOKING EXEMPTION

This form is to be used to apply for the smoking exemption from the Department of Health Functions Clarification Amendment Act of 2006 (D.C. Official Code § 7-741.01 et seq.) and the exemptions requirements provided in 20 DCMR § 2105. Return this form only if you believe your establishment qualifies for a smoking exemption and you intend to permit smoking in your establishment. The following guidelines and checklist are being provided for you to review and help ensure you have submitted the application successfully.

### Application Guidelines and Checklist

The Department of Health Functions Clarification Amendment Act of 2006 offers an exemption from the smoking ban for some establishments that operate in the District of Columbia. In order to be considered for an exemption the Department of Health Functions Clarification Amendment Act of 2006 regulations clarify that *exemptions are not automatic* and must be supported by appropriate documentation and reviewed by the Department of Health (D.C. Law 16-90; D.C. Official Code § 7-741.05). An establishment may apply for an exemption by completing the application which includes the following items:

- Completed DC Health Application for Smoking Exemption
  - Establishment owner signature
  - Notarized Declaration Form
  - Acknowledgement by Certified Public Accountant
- Tobacco sales revenue as a percentage of your gross revenue. (Tobacco is taxed at a different rate than other products, therefore revenue for on-site tobacco sales cannot be bundled with revenue for any other products in your reporting).
  - Submission of a summary Excel/Quickbooks sheet to document this information is recommended.
- Signed IRS tax returns for the previous two years
- Current certificate of occupancy, cigarette retail or wholesale license, **and** business licenses.
  - Please ensure you submit licenses that account for the previous two years.
- Letter verifying that you have not allowed smoking in your establishment in compliance with the law.

Applicants may contact the Department of Health's Tobacco Control Program at 202-442-5433 or [tobaccocontrol@dc.gov](mailto:tobaccocontrol@dc.gov) for assistance during the application process. Upon completion of the application please submit this form to the Department of Health either through mail, fax, or e-mail:

**Mail:** Smoking Exemption Application Form  
Department of Health – Tobacco Control Program  
899 N. Capitol Street, NE, 3<sup>rd</sup> Floor, DC 20002  
**Fax:** 202-442-4825  
**Email:** [Tobaccocontrol@dc.gov](mailto:Tobaccocontrol@dc.gov)

## APPLICATION FOR SMOKING EXEMPTION

### Affidavit of Business Operator

Ownership Information (as shown on the District’s Basic Business License application). Submit a complete and legible copy of the applicable business license with this form.

1. Type of Business License

Retailer    Wholesaler

2. Business Name

3. Business Establishment Street Address

City

State

Zip Code

4. Mailing Address of Business (if different than Question #3)

5. Business Establishment Phone Number

6. Business Establishment Fax Number

7. Business Establishment Email

8. Business License Number

9. Cigarette License Number

10. Name of Primary Owner(s) as Listed on the Business License

11. Street Address of Primary Business Operator

City

State

Zip Code

## APPLICATION FOR SMOKING EXEMPTION

12. Mailing Address of Primary Business Operator (if different from address provided in Question #9)

City

State

Zip Code

13. Telephone Number of Business Operator

14. Email of Primary Business Operator

15. Registered Agent's Name (Secondary Contact)

16. Telephone Number of Registered Agent (Secondary Contact)

17. Email of Registered Agent (Secondary Contact)

## APPLICATION FOR SMOKING EXEMPTION

### Declaration Form

**ATTENTION: The declaration must be consistent with the establishment's existing business license. Lack of consistency may jeopardize the establishment's license(s).**

I hereby declare that I am eligible for an exemption in D.C. Law 16-90; D.C. Official Code § 7-741.01, which prohibits smoking in places of employment and public places, because one of the following applies:

- I own or operate a tobacco bar.
  1. I am licensed as a restaurant, tavern, brew pub, club, or nightclub.
  2. My business generates 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 am opening a new establishment and smoking has never been permitted within my business.
- I own or operate a retail store that does not share space with any other establishment and is used primarily for the sale of tobacco products and accessories in which the total annual revenue generated by the sale of non-tobacco products or accessories is no greater than 25% of the total revenue of the establishment.

I hereby authorize the Department of Health to access my financial records to determine whether I qualify for an exemption under D.C. Law 16-90; D.C. Official Code § 7-741.03 and to perform annual audits to determine my continued eligibility for exemption.

- I attach hereto true copies of the certificates of occupancy for the premises at which the proposed exempt establishment is located as of to the date of this application.
- I acknowledge that the information contained in this application is subject to reporting to and auditing by the Department of Health.
- Check one:
  - The proposed exempt establishment is a freestanding establishment that is not located in whole or in part within another establishment at which smoking is prohibited pursuant in D.C. Law 16-90; D.C. Official Code § 7-1703.
  - The proposed exempt establishment is located within another establishment at which smoking is prohibited pursuant in D.C. Law 16-90; D.C. Official Code § 7-1703.

## APPLICATION FOR SMOKING EXEMPTION

I hereby swear or affirm under penalty of perjury that each of the foregoing statements is true to the best of my knowledge.

Applicant's Name

Applicant's Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission expires:

## APPLICATION FOR SMOKING EXEMPTION

### Acknowledgement by Certified Public Accountant

18. Business Name of Proposed Exempt Establishment

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 District of Columbia Department of Health.

19. Name of Certified Public Accountant

20. CPA License Number

21. CPA Phone Number

22. CPA Email

23. Signature

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**For office use only:**

Application received: \_\_\_\_\_ Application reviewed on: \_\_\_\_\_ Staff: \_\_\_\_\_

## APPLICATION FOR SMOKING EXEMPTION

### Application Review Process

Upon receiving an application, the following steps will be taken by the Department of Health to conduct the review:

- The Department of Health Tobacco Control Program will send a confirmation receipt.
- The application will undergo an initial review for completeness.
- If an application is deemed incomplete, the Department of Health Tobacco Control Program will contact the applicant to request any missing information.
- Once the application is complete the program will review the application and issue a recommendation for approval or disapproval of the application to the Director of the Department of Health.
- The Director of the Department of Health will make a final determination. (All applications meeting statutory requirements will be approved).
- If approved, a certificate of exemption is mailed to the establishment. If denied, a letter of denial is mailed to the establishment.
- The list of establishments with approved exemptions will be updated regularly on the Smokefree Workplaces website page (<https://doh.dc.gov/node/122542>).

## APPLICATION FOR SMOKING EXEMPTION

### Definitions

The following are definitions of words and terms used in D.C. Law 16-90; D.C. Official Code § 7-741.01 et seq.

**"Smoking"** or "to smoke" means the inhaling, exhaling, burning, or carrying of a lighted or heated cigar, cigarette, pipe, electronic smoking device, or any other tobacco or plant product intended for human consumption through inhalation, in any manner or in any form.

**"Tobacco product"** means any product made from or containing any percentage of the dried processed leaves of the plant genus nicotiana or any byproduct thereof used primarily for the purpose of smoking.

**"Public place"** means an enclosed area to which the public is invited or in which the public is permitted, including banks, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, nightclubs, retail service establishments, retail stores, shopping malls, sports arenas, taverns, theaters, and waiting rooms. This term does not apply to a private residence unless it is used as a child development center, adult day care facility, or health care facility.

**"Place of employment"** means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and vehicles owned by a private employer, if the vehicle is used by more than one person, and excludes a private residence, unless it is used as a child care, adult day care, or health care facility.

**"Tobacco Bar"** means a restaurant, tavern, brew pub, club, or nightclub that generates 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.