Instructions for Applying for Renewal of Smoke Shop Certification:
Requirements for Businesses that Existed on December 31, 2008

The Oregon Indoor Clean Air Act (ICAA) [ORS 433.835-433.875 and 433.990(5)] prohibits smoking in almost all public places and places of employment. Smoking is permitted in businesses that meet certain requirements.

The ICAA requires the Oregon Health Authority (OHA) to establish and enforce a certification system for smoke shops. Smoke shops must be certified by OHA and abide by specific requirements to permit smoking indoors [ORS 433.835 - 433.850 and OAR 333-015-0056 to 0061]. It is a violation of the law to smoke or allow smoking in a non-certified smoke shop.

To renew certification, a smoke shop B must submit this application, and the following information <u>SIXTY (60) DAYS PRIOR</u> to the expiration of its current certification (OAR 333-015-0059(2)):

A notarized, sworn statement attesting that the smoke shop currently:

- Is primarily engaged in the sale of tobacco products and smoking instruments intended for off-premises consumption or use and derived at least 75 percent of its gross revenue from such sales;
- Prohibits persons under 21 years of age from entering the premises;
- Does not offer video lottery games as authorized under ORS 461.217, social gaming, or betting on the premises;
- Does not sell or offer food or beverages, including alcoholic beverages, for on-premises consumption;
- Does not allow on-premises consumption of alcoholic beverages, and
- Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

In addition, as requested in the application, the applicant must submit:

- Documentation of the business's sales, broken down by category of product
- Evidence, such as photographs, of signs required under OAR 333-015-0040
- Either of the following:
    - Documentation, such as a building map or photographs, demonstrating that the business presently is a stand-alone business with no other businesses or residential property attached, **<u>or</u>**
    - Documentation that the business has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use or a current certificate of occupancy and official documentation from the building authority with jurisdiction that the business was approved as a smoking lounge.
- Any other documentation, as specified in the application form, necessary to demonstrate compliance with the ORS 433.835-433.875 and OAR 333-015-0025 to 0090).

To maintain smoke shop certification, a business must agree to allow OHA to make unannounced inspections of the business to determine compliance with the ICAA and rules [ORS 433.847(8)].

Smoke shops must post signs at each entrance and exit clearly stating that (OAR 333-015-0040(6)):

- Smoking is allowed on all or part of the premises;
- Anyone under the age of 21 is prohibited from entering the premises;
- It is unlawful to sell tobacco products or inhalant delivery systems to anyone under the age of 21;
- Cigarette smoking is prohibited on the premises, in a smoke shop where cigarette smoking is not allowed under
- these rules;
- Smoking, aerosolizing or vaporizing of inhalants that are not tobacco products is prohibited; and
- On-premises consumption of alcohol is prohibited.

OHA may deny an application for smoke shop certification or revoke a smoke shop certification and prohibit an applicant from reapplying for up to two years if the applicant (OAR 333-015-0059(8)):

- Provides information that is false or deliberately misleading; or
- Violates ORS 433.835-433.875 or OAR 333-015-0025 to 333-015-0085.

OHA may reject a renewal application that is (OAR 333-015-0059(9)):

- Not timely submitted. The application must be received by the Authority at least 60 days prior to the expiration of the current certification.
- Incomplete. An application may be considered incomplete if the application form is incomplete or any information or documents required under these rules is not submitted.

Mail the completed renewal of certification application packet to OHA at the address provided below. All required documentation must be included for OHA to consider the business's renewal application for smoke shop certification. A separate application packet must be submitted for each smoke shop location.

The application packet contains the following parts. Complete the entire application packet and submit all requested materials together. Keep a copy of all application materials for your records.

1. **OHA Application for Renewal of Smoke Shop Certification**
2. **Notarized Affidavit**, signed by the owner or manager listed on the OHA Renewal of Smoke Shop Certification Application or another individual listed on the Authorization Form.

3. **Revenue Documentation**
4. **Signs**
5. **Current Stand-alone Business Documentation *or* Current Ventilation Documentation**
6. **Authorization Form** *(optional)*

Mail a completed hard-copy renewal application packet to:

Tobacco Prevention and Education Program
Attn: ICAA Smoke Shop Certification
Oregon Health Authority, Public Health Division
800 NE Oregon St., Ste. 730
Portland, OR 97232

Applications are accepted by mail or hand delivery. Do not e-mail or fax application materials to OHA. If you would like to hand-deliver your application, you must make an appointment. **Hand-delivered applications will not be accepted without an appointment.** Call 971-673-0984 to make an appointment.

Smoke shop certification is limited to the original qualifying location only. If you would like to change the location of your smoke shop, you must notify OHA and seek a transfer of certification to the new location before permitting smoking on the premises (OAR 333-015-0061).

1. OHA Application for Renewal of Smoke Shop Certification

Complete the entire application and submit all requested materials in one packet. The application must be signed and include a current mailing address. Keep a copy of all application materials for your records.

Note: As used in this application packet, "smoke shop" means the establishment seeking smoke shop certification.

Smoke Shop Name | Smoke Shop Phone

Smoke Shop Street Address | City | Zip Code | County

Mailing Address (if different from Smoke Shop Street Address) | City | State | Zip Code

Smoke Shop Manager | Manager Phone

Business Name (if different from Smoke Shop Name) | Business Phone (if different)

Business Owner | Business Owner Phone

Primary Contact Person Name and Title | Primary Contact Person Phone

Primary Contact Person Email address

Applicant Name and Title

Applicant Signature | Date

2. Notarized Affidavit

I, _____, am the _____ of
(First Name Last Name) (Title)

_____ and have the knowledge necessary to attest that the
(Smoke Shop Name)
business:

- Is primarily engaged in the sale of tobacco products and smoking instruments intended for off-premises consumption or use and derived at least 75 percent of its gross revenue from such sales.
- Prohibits persons under 21 years of age from entering the premises;
- Does not offer video lottery games as authorized under ORS 461.217, social gaming, or betting on the premises;
- Does not sell or offer food or beverages, including alcoholic beverages, for on-premises consumption;
- Does not allow on-premises consumption of alcoholic beverages;
- Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.
- Met the above criteria on December 31, 2008*.

*Must have prohibited persons under the age of 18 from entering the premises prior to January 1, 2018.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

_____ _____
Printed Name of Affiant Date

_____ _____
Signature of Affiant Date

State of _____)

County of _____)

This instrument was acknowledged before me on (date) _____ by

(name of person) _____.

Signature of notarial officer: _____

My commission expires: _____ (seal)

3. Revenue Documentation

Use this form to document and demonstrate that at least 75 percent of the smoke shop's gross revenue resulted from the sale of tobacco products or smoking instruments (OAR 333-015-0059(2)). Report revenue from **AT LEAST THE PAST NINETY (90) DAYS.**

- **In column 1**, list all sales categories separately. Example: cigars, cigarettes, pipes are separate categories and should not be listed under one category of tobacco products.
- **In column 2**, report the gross revenue for each category of product sold.
- Attach additional copies of this form if you need more space.

_____ _____

Smoke Shop Name Smoke Shop Phone

_____

Mailing Address City State Zip Code

Report of Gross Revenue

Enter the time period covered: (mm/dd/yyyy) _____ to _____

COLUMN 1 Category of Product Sold	COLUMN 2 Category Revenue Total
	$
	$
	$
	$
	$
	$
	$
	$
Total gross revenue:	$

Total revenue from tobacco products and/or smoking instruments: $ _____

Percentage of **total gross revenue** resulting from tobacco product and/or smoking instrument sales: _____%

4. Signs

Submit evidence, such as photographs, of:

- ☐ Signs clearly stating that smoking is allowed on all or part of the premises;
- ☐ Signs clearly stating that it is unlawful to sell tobacco products or inhalant delivery systems to anyone under the age of 21;
- ☐ Signs clearly stating that persons under 21 years of age are prohibited from entering the smoke shop premises;
- ☐ Signs clearly stating that cigarette smoking is prohibited on the premises (in smoke shops where cigarette smoking is not allowed under ORS 433.847);
- ☐ Signs clearly stating that smoking of inhalants that are not tobacco products is prohibited, and
- ☐ Signs clearly stating that on-premises consumption of alcohol is prohibited.

All signs used to describe whether smoking is prohibited or allowed in a place of employment or public place **shall be placed at a height and location easily seen by a person entering the establishment** and shall not be obscured in any way (OAR 333-015-0040(7)).

List the types of evidence submitted with the application *(e.g., photographs, copies of signs)*:

_____

5. Current Stand-alone Business *or* Ventilation Documentation

Choose one of the following two options to satisfy this requirement (ORS 433.847(2)). Submit either of the following:

☐ **Option 1:** Photographs demonstrating that the smoke shop is presently a stand-alone business with no other businesses or residential property attached; ***or***

☐ **Option 2:** Documentation that the business has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use or a current certificate of occupancy **and** official documentation from the building authority with jurisdiction that the business was approved as a smoking lounge.

For option 1: photographs must show of all sides of the building, be **dated and labeled**, and must clearly demonstrate that the smoke shop is not attached to any other businesses or residential properties.

At a minimum, submit photographs of the following:

☐ Front side of the building.

☐ Back side of the building.

☐ Right side of the building.

☐ Left side of the building.

☐ Date and label all photos.

6. Authorization Form (*optional*)

Use this form to list any individuals, other than the manager or the owner listed on page 1, who are authorized to communicate with OHA regarding this business's smoke shop certification. OHA will only accept information and requests on behalf of the smoke shop from the individuals listed here and on the application form. You may add more lines to this form if necessary.

Individual #1

_____ _____
Last name, first name Title

_____ _____
Email address Phone number

Individual #2

_____ _____
Last name, first name Title

_____ _____
Email address Phone number

The persons listed above are authorized to communicate with OHA on behalf of

_____ and to take action regarding this business's smoke shop
(Smoke Shop Name)

certification. This list may be amended by the business owner at any time.

_____
Printed Name of Owner

_____ _____
Signature of Owner Date

Application Checklist

Items **1 – 5** must be included in the application packet submitted to OHA. If any materials are missing or incomplete, you will receive a notice of incomplete application.

- ☐ 1. Application for Renewal of Smoke Shop Certification
- ☐ 2. Notarized Affidavit
- ☐ 3. Revenue Documentation
- ☐ 4. Signs Documentation
- ☐ 5. Current Stand-alone Business *or* Ventilation Documentation
- ☐ 6. Authorization Form *(optional)*

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