Instructions for Transferring Smoke Shop Certification with Ownership: Smoke Shop "C"
(For smoke shops that applied for certification before 6/30/2011 and were certified under ORS 433.847(2)(c) and OAR 333-015-0056))

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, including certified smoke shops. The ICAA requires the Oregon Health Authority (OHA) to maintain 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 333-015-0068]. Certification is only valid for the specific location, owner, and business entity authorized by OHA. It is a violation of the law to smoke or allow smoking in a non-certified smoke shop.

Certification may not be transferred from one business to another. Smoke shop certification may only be transferred along with ownership of the business entity itself. When a certified smoke shop changes ownership, the certificate holder and the new owner of the business must comply with the rules governing transfer of certification with ownership to transfer certification to the new owner. [ORS 433.847(5) and OAR 333-015-0061]

Smoking is not permitted on the premises of a smoke shop operating under different ownership until the Authority issues an updated certification to the new owner. [OAR 333-015-0061(1)]

The following documentation must be submitted to OHA to transfer smoke shop certification to the new owner of a business certified under ORS 433.847(2)(c). [OAR 333-015-0061(2)]:

1. A completed application for transfer of ownership on a form provided by the Authority identifying the new proposed owner of the smoke shop;
2. Registration with the Oregon Secretary of State, Corporation Division where applicable; and
3. A notarized, sworn statement attesting that the business will continue to meet the certification renewal requirements described in OAR 333-015-0059 under the new ownership.

Mail the completed application materials <u>in one packet</u> to OHA at the following address. All required documentation must be included for OHA to consider the business's application to transfer the smoke shop certification to a new owner. Keep a copy of all application materials for your records.

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.

Application Review and Notification Process

If the application is incomplete, OHA will notify the applicant and request documentation to complete the application.

Once the application is complete, OHA will then send a letter to the mailing address provided in the application granting or denying the change of certification location.

OHA may deny transfer of ownership of a smoke shop C if the applicant does not submit required the documentation under 333-015-0061(2), the proposed owner has a history of noncompliance with the ICAA or rules, or the applicant provides information that is false or deliberately misleading. [OAR 333-015-0061(4)]

OHA may request additional information after transfer of certification to determine the smoke shop's compliance with the ICAA.

Additional Requirements and Notes

Within 120 days of the Authority issuing an updated certification under section (3) of this rule, the new owner must submit to the Authority updated financial documentation required in OAR 333-015-0058 for the first 90 days of operation under the updated certification, including but not limited to a sales report demonstrating that at least 75 percent of the smoke shop's gross revenue during the first 90 days of operation was derived from the sale of tobacco products or smoking instruments. [OAR 333-015-0061(4)].

A smoke shop's complaint and violation history does not reset when a business changes location. OHA will treat new complaints received or violations observed at the new location as continuations of the business's total complaint and violation record.

Smoke shop certification is limited to the location indicated in the smoke shop's certification file. If you plan to move (change location) the smoke shop after receiving certification, you must seek a transfer of certification to the new location before permitting smoking on the premises. [OAR 333-015-0061(5)].

1. OHA Application for Transfer of Smoke Shop Certification with Ownership

Complete the entire application and submit all requested materials to OHA in one packet. The application must be signed and include a current mailing address.

To change the location of the smoke shop, submit a separate Change of Location Application.

Smoke Shop Name | Smoke Shop Former Name (if applicable)

Smoke Shop Street Address | City | State | Zip Code

County where Smoke Shop is located

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

New Business Owner | New Business Owner Phone

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

New Business Owner Signature | Date

New Primary Contact Person Name and Title | Primary Contact Person Phone

New Primary Contact Email address

Former Business Owner | Former Business Owner Phone

Former Business Owner Signature | Date

2. Notarized Affidavit from New Business Owner

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

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

business, as operated under my ownership, will:

- Be primarily engaged in the sale of tobacco products and smoking instruments and derive at least 75 percent of its gross revenue from such sales;
- Prohibit persons under 21 years of age from entering the premises;
- Not offer video lottery games, social gaming or betting on the premises;
- Not sell or offer alcoholic beverages for on-premises consumption;
- Not allow on-premises consumption of alcohol;
- Not allow cigarette smoking on the premises unless at least 75 percent of the smoke shop's gross revenue is derived from the sale of cigarettes; and
- Be a stand-alone business with no other businesses or residential property attached to the premises.

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. Notarized Statement from Current Certificate Holder

I,_____, am the individual currently listed as the owner of
(Current Certificate Holder First and Last Name)

_____ in this business's smoke shop certification file with
(Smoke Shop Name)

the Oregon Health Authority. I transferred or will transfer ownership of this smoke shop to

_____ on _____. Upon transferring the business on
(New Owner First and Last Name) (Date)

that date, I hereby relinquish my claims to _____'s smoke shop
(Smoke Shop Name)

certification, as well as any rights or privileges deriving therefrom, from that date forward.

_____
Printed Name of Current Certificate Holder

_____ _____
Signature of Current Certificate Holder 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)

4. Proof of Transfer of Ownership

Submit the following documentation to demonstrate that ownership of the smoke shop has been transferred from the smoke shop's current certificate holder to the new business owner listed on the transfer application form:

1. Proof that ownership has been transferred, such as a sales slip or contract. Describe the type of documentation enclosed: _____
_____; **and**

2. A copy of the smoke shop's updated registration with the Oregon Secretary of State, Corporation Division, unless not required to register.

   Check one of the following:

   ☐ Copy of updated business registration reflecting the new business owner is enclosed.

   ☐ Business is not required to be registered with the Secretary of State (uncommon).

5. Authorization Form (*optional*)

Use this form to list any individuals, other than the smoke shop manager or the new business owner listed on form 1 of this application packet, 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 transfer application form. You may add more lines 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 – 4** must be completed and included in the application packet submitted to OHA. If any materials are missing or incomplete, you will receive a notice of incomplete application.

- ☐ **1.** OHA Application for Transfer of Smoke Shop Certification with Ownership
- ☐ **2.** Notarized Affidavit from New Owner
- ☐ **3.** Notarized Statement from Current Certificate Holder
- ☐ **4.** Proof of Transfer of Ownership
- ☐ **5.** Authorization Form (*optional*)
- ☐ **Within 120 days of the date transfer of certification is granted,** the new owner must submit a completed Smoke Shop C Post-Transfer Financials Form packet, including sales receipts, demonstrating that at least 75 percent of the smoke shop's gross revenue during the first 90 days of operation under the new ownership was derived from the sale of tobacco products or smoking instruments.

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.

Mail your completed hard-copy 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