



**Instructions for Applying for Smoke Shop Certification:  
Alternative 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 of tobacco products 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 333-015-0068]. It is a violation of the law to smoke or allow smoking in a non-certified smoke shop.

**To qualify for smoke shop certification, a business existing on December 31, 2008, may either submit the Smoke Shop Certification Application packet (available at [www.healthoregon.org/smokefree](http://www.healthoregon.org/smokefree)) to OHA or submit this application packet to OHA with documentation demonstrating that the business meets the requirements of OAR 333-015-0068(5)(b), as follows:**

- (1) The business:
  - (a) Is primarily engaged in the sale of tobacco products and smoking instruments intended for off-premises consumption or use, and derives at least 75 percent of its gross revenue from such sales;
  - (b) Prohibits persons under 21 years of age from entering the premises;
  - (c) Does not offer video lottery games as authorized under ORS 461.217, social gaming, or betting on the premises;
  - (d) Does not sell or offer food or beverages; not sell or offer alcoholic beverages for on-premises consumption; not allow on-premises consumption of alcoholic beverages;
  - (e) Either:
    - (i) Is a stand-alone business with no other businesses or residential property attached; or
    - (ii) 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.
- (2) On December 31, 2008, the business met the requirements listed under paragraph (1).

In addition, the business may 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 [OAR 333.015.0068(7)(e)].



To obtain a 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)].

Once certified, smoke shops must post signs at each entrance and exit clearly stating that smoking is allowed on all or part of the premises and that anyone under the age of 21 is prohibited from entering the premises and that it is unlawful to sell tobacco products or inhalant delivery systems to anyone under the age of 21 [OAR 333-015-0040(5)].

**Mail the completed application packet to OHA at the address provided below.** All required documentation must be included for OHA to consider the business's 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 Smoke Shop Certification**
- 2. Notarized Affidavit**, signed by the owner or manager listed on the OHA Application for Smoke Shop Certification or another individual listed on the Authorization Form.
- 3. Gross Revenue Documentation**
- 4. Signs**
- 5. Stand-alone Business Documentation *or* Ventilation Documentation from December 31, 2008**
- 6. Current Stand-alone Business Documentation *or* Current Ventilation Documentation**
- 7. Proof of 2008 registration with the Oregon Secretary of State, Corporation Division, or 2008 tax documentation**
- 8. Authorization Form (*optional*)**

Mail a 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**

Applications will only be accepted by mail. Do not e-mail or fax application materials to OHA.

**Application Review and Notification Process [OAR 333-015-0068(6)]**



OHA will review application materials within 45 days of receipt to determine whether the application is complete.

If the application is incomplete, OHA will send a letter requesting additional information to the mailing address provided in the application.

Within 15 days of declaring an application complete, OHA will determine whether the business qualifies as a smoke shop that is exempt from the indoor smoking prohibition under the ICAA. OHA will then send a letter to the applicant granting or denying certification.

OHA may deny an application for smoke shop certification and prohibit an applicant from reapplying for up to two years if the applicant provides information to OHA that is false or deliberately misleading.

OHA reserves the right to request additional information after certification to determine the smoke shop's compliance with the ICAA.

Note: Smoke shop certification is limited to the original qualifying location only. If you plan to move your smoke shop after becoming certified, you must notify OHA at least 30 days prior to moving and seek a transfer of certification to the new location before permitting smoking on the premises.



## 1. OHA Application for 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

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Mailing Address  
(if different from Smoke Shop Street Address)

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
County where Smoke Shop is located

\_\_\_\_\_  
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

\_\_\_\_\_  
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 derives 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, social gaming or betting on the premises;
- Does not sell or offer food or beverages; not sell or offer alcoholic beverages for on-premises consumption; not allow on-premises consumption of alcoholic beverages;
- 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. Gross Revenue Documentation

Use this form to document and demonstrate that at least 75 percent of the smoke shop’s gross revenue *over the past 90 days* resulted from the sale of tobacco products or smoking instruments intended for off-premises consumption or use.

- In column 1, include all sales categories and make sure they are clearly labeled.
- 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 \_\_\_\_\_

<u>COLUMN 1</u> Category of Product Sold	<u>COLUMN 2</u> Category Revenue Total
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
<b>Total gross revenue:</b>	\$

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 prohibiting persons under 21 years of age from entering the smoke shop premises;
- Signs prohibiting smoking of inhalants that are not tobacco products, and
- Signs prohibiting on-premises consumption of alcoholic beverages.

Indicate the type of evidence submitted (*e.g., photographs, copies of signs*): \_\_\_\_\_

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#### 5. 2008 Stand-alone Business *or* Ventilation Documentation

Choose one of the following two options to satisfy this requirement [check the box next to the option you choose]. Submit either:

- Option 1:** A building map or photographs of the premises demonstrating that on December 31, 2008, the smoke shop was a stand-alone business with no other businesses or residential property attached to the premises; *or*
- Option 2:** Documentation demonstrating that on December 31, 2008, the smoke shop had a ventilation system that exhausted smoke from the interior and was designed and terminated in accordance with the state building code standards for the occupancy classification in use. Such documentation must include:
- a.  A certificate of occupancy that was current on December 31, 2008, and official documentation from the building authority with jurisdiction of the occupancy classification for which the smoke shop was approved; *or*
  - b.  If the documentation described in (a) is unavailable, a current certificate of occupancy, proof that the smoke shop's ventilation system was installed in 2008 or earlier, and official documentation from the building authority with jurisdiction that the smoke shop was approved *as a smoking lounge*.

**For option 1**, if you are submitting photographs, include photos of all sides of the building. The photographs must be dated and labeled, and must clearly show from each side that the smoke shop is not attached to any other buildings or enclosed areas. At a minimum, include photographs from the following four sides:

- 1) Front side of the building.
- 2) Back side of the building.
- 3) Right side of the building.
- 4) Left side of the building.

## **6. Current Stand-alone Business *or* Ventilation Documentation**

Choose one of the following two options to satisfy this requirement [check the box next to the option you choose]. 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:** A current certificate of occupancy **and, if the certificate of occupancy does not specify that the business was approved as a smoking lounge**, official documentation from the building authority with jurisdiction that the smoke shop has been approved as a smoking lounge.

**For option 1**, include photographs of all sides of the building. The photographs must be dated and labeled, and must clearly show from each side that the smoke shop is not attached to any other buildings or enclosed areas. At a minimum, include photographs from the following four sides:

- 1) Front side of the building.
- 2) Back side of the building.
- 3) Right side of the building.
- 4) Left side of the building.

## **7. 2008 Secretary of State Registration *or* Tax Documentation**

Submit proof of the smoke shop's business registration with the Oregon Secretary of State, Corporation Division, on December 31, 2008, or, if it was not required to be registered, tax documentation proving that the smoke shop was in operation on December 31, 2008.

Type of documentation enclosed: \_\_\_\_\_





### 8. Authorization Form *(optional)*

Use this form to list any individuals, other than the manager or the 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 application form. You may add more lines to this form if necessary.

_____	_____
(First Name Last Name)	(Title)
_____	_____
(First Name Last Name)	(Title)
_____	_____
(First Name Last Name)	(Title)
_____	_____
(First Name Last Name)	(Title)

The persons listed above are authorized to communicate with OHA, on behalf of \_\_\_\_\_ and to take action regarding this business's smoke shop 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 – 7** 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 Smoke Shop Certification
- 2. Notarized Affidavit
- 3. Gross Revenue Documentation
- 4. Signage Documentation
- 5. 2008 Stand-alone Business *or* Ventilation Documentation
- 6. Current Stand-alone Business *or* Ventilation Documentation
- 7. 2008 Secretary of State Registration *or* Tax Documentation
- 8. Authorization Form (*optional*)

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