

# Smoke-Free Air Act Application for Registration

## **THE FOLLOWING APPLICATION AND DOCUMENTATION IS REQUIRED TO REGISTER WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AS A TOBACCO BAR**

Local Law 47 of 2002, which amended the New York City Smoke-Free Act (SFAA), provides that an establishment whose owner believes it to be a “Tobacco Bar” must register with Department of Health and Mental Hygiene (DOHMH) to allow smoking in the establishment.

A “Tobacco Bar” is:

- A bar. A bar is a business establishment or any portion of a non-profit entity which is devoted to the selling and serving of alcoholic beverages for consumption by the public, guests, patrons or members on the premises in which the serving of food, if served at all, is only incidental to the sale or consumption of such beverages. The sale of food will be considered incidental to the sale or consumption of alcoholic beverages if the food service generates less than forty percent (40%) of the total annual gross sales.
- A bar that in the calendar year ending December 31, 2001 generated ten percent or more of its total annual gross revenue from the on-site sale of tobacco products and the rental of on-site humidors, and which has not moved its location or expanded in size as of December 31, 2001.
- Upon the annual renewal of its registration, continues to generate ten or more percent of its total annual gross revenue from the on-site sale of tobacco products and the rental of humidors, and has not expanded its size or moved its location since December 31, 2001.

## Section A. Instructions to the Applicant for Registration

*The following submission guidelines and documentation requirements are for all applicants. Applicants must:*

1. Provide original documentation except where noted; no copies or faxes will be accepted.
2. Have a current, valid permit to operate a food service establishment issued by the DOHMH.
3. Assure that the applicant's name or entity name is the same on all supporting documentation submitted.
4. Complete and sign the application for registration where indicated.
5. Assure that the person applying on the applicant's behalf presents a power of attorney on either a standard legal form or an affidavit form provided by the DOHMH if the applicant is not applying in person.
6. Assure that the person holding power of attorney presents one acceptable form of his/her photo identification as detailed below (instead of the applicant's photo identification).
7. Submit a copy of a New York State Certificate of Authority to Collect Sales Tax **and** proof of federal EIN. The address on the New York State Certificate of Authority must match the address of the establishment site.
8. Submit a copy of the Department of Consumer Affairs retail and/or wholesale license for the entity. Licenses are only required for the sale of cigarettes as defined in Section 20-201(b) of the New York City Administrative Code.
9. Submit a copy of the New York State Department of Taxation and Finance Retail Dealer Certificate of Registration for Cigarettes and Tobacco Products for the entity.
10. Submit a copy of the State of New York Department of Taxation and Finance Certificate of Appointment of Distributor of Tobacco Products for each entity if tobacco products are imported or exported out of state or manufactured on premises.
11. Submit documentation from the Department of Buildings (DOB) indicating that no change in size or location has occurred after 12/31/2001 in the form of a copy of the architectural plans for the establishment approved by the DOB or other DOB documentation indicating such to the satisfaction of the DOHMH. The architectural plans must be retrieved from DOB, dated and bear DOB's stamp.
12. Submit a copy of the current New York State Liquor Authority License
  - The license address must match the address of the establishment site.
  - The license must be in the name of either the company or a principal partner
13. Submit a signed and dated copy of the federal and state income tax returns submitted to the Internal Revenue Service and to the New York State Department of Taxation and Finance that declare the gross sales receipts of the business for each of the twelve month tax or financial reporting periods:

- Ending December 31, 2001 and through the last full tax year prior to the date of this application if you are applying for a tobacco bar registration for the first time.
  - For the last two full tax years prior to the date of this application if you are renewing a tobacco bar registration.
  - For the most recently available tax returns and indicate the financial years covered if the business tax or financial reporting period does not coincide with the calendar years.
14. Submit a signed and dated copy of the New York State Department of Taxation and Finance, Distributor of Tobacco Products tax return, if applicable, for the past 12 months and the most recently submitted tax return that declares the acquisition of tobacco products for each month.
15. Attach a check or money order for \$100.00 payable to the “New York City Department of Health and Mental Hygiene” to each registration application.

***The following additional documentation is also required for submission:***

**INDIVIDUAL REGISTRATIONS:**

1. Business Certificate of Ownership (and d/b/a, if applicable);
2. Photo identification of the individual applicant or any representative with power of attorney. A copy of **one** of the following is required:
  - Driver’s license with photo or DMV Non-Driver ID card
  - Alien Registration Card or Naturalization Certificate with photo ID
  - U.S. or foreign passport with photo ID
  - U.S. government agency-issued photo ID

**CORPORATION OR LIMITED LIABILITY COMPANY (LLC) REGISTRATIONS:**

1. Proof of incorporation (**ALL** of the following items are required):
  - Filing Receipt **or** Authority to Conduct Business, issued by NYS Secretary of State (original or photocopy showing blue watermark seal is acceptable).
  - Corporate resolution **or** minutes of most recent annual meeting, listing the current principal officers of the corporation and dated no earlier that one year preceding the date of application.
2. Photo identification; a copy of **one** of the following is required for one of the corporation’s officers, directors, or members (LLC); or the representative submitting the application:
  - Driver’s license with photo or DMV Non-Driver ID Card
  - Alien Registration or Naturalization Certificate with photo ID
  - U.S. or foreign passport with photo ID
  - U.S. government agency issued photo ID

**PARTNERSHIPS REGISTRATIONS AND LLPS:**

1. Business Certificate of Partnership;
2. Current partnership agreement;
3. Photo identification of the individual applicant or any representative with power of attorney. A copy of **one** of the following is required:
  - Driver's license with photo or DMV Non-Driver ID card
  - Alien Registration Card or Naturalization Certificate with photo ID
  - U.S. or foreign passport with photo ID
  - U.S. government agency-issued photo ID

**SUBMITTING THE REGISTRATION APPLICATION:**

Submit the completed application for registration and supporting documents to the Bureau of Food Safety and Community Sanitation, 253 Broadway, 13<sup>th</sup> Floor, New York, New York 10007, which will review the application for registration to ensure that all forms have been completed correctly and that all required documentation has been provided. If all required documentation is not provided, you will be notified and your application will not be processed until it is complete.

## Section B. Determining if Your Establishment is a Tobacco Bar

(Type or print legibly in blue or black ink)

**All applicants must complete Section B.** *If renewing a tobacco bar registration you must provide revenue records that separately state gross sales receipts from the sales of food, alcoholic beverages, tobacco products, and all other items (including but not limited to merchandise sales, cover and/or admission charges, required gratuities, etc.), certified by a CPA, for the last two full tax or revenue reporting years prior to the date of this application. New applicants must provide the same specified documentation from the year ending December 31, 2001, through the last full tax year prior to the date of this application.*

**Periods covered: from \_\_\_\_\_ (month) \_\_\_\_ (year) to \_\_\_\_\_ (month) \_\_\_\_ (year).**

(Add additional "Revenue Reporting Year Revenue Reporting Year Ending December 200\_\_" forms as necessary)

### Revenue Reporting Year Ending December 200\_\_

1. Total annual gross sales of food =
2. Total annual gross sales of alcoholic beverages =
3. Total annual gross sales of tobacco products and the rental of on-site humidors =
4. Total annual gross sales of all other items sold at the same premises; please provide, on a separate sheet attached hereto, an item-by-item breakdown =

### Revenue Reporting Year Ending December 200\_\_

5. Total annual gross sales of food =
6. Total annual gross sales of alcoholic beverages =
7. Total annual gross sales of tobacco products and the rental of on-site humidors =
8. Total annual gross sales of all other items sold at the same premises; please provide, on a separate sheet attached hereto, an item-by-item breakdown =

9. Applicant must submit the following supporting documentation to indicate the percentage of sales of tobacco products, alcoholic beverages and food for each revenue-reporting year. All documents submitted must be signed and dated.

- Current Liquor Liability Insurance or Insurance Policy\*; and
  - Certified letter from a CPA attesting that he or she has reviewed your financial records for the tax years required by this application (see Section A, Item 13) and has established that in each year or 12-month period food sales are incidental [less than forty percent (40%)] to the sale of alcoholic beverages. Numbers as well as percentages of food sales, alcoholic beverages sales and revenue from **all** other categories (whether, for example, merchandise, admission or other charges, etc.) must be provided in the certified letter, and it must state that the bar generates 10% or more of its total annual gross revenue from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. CPA letters and/or other documents must specify what records were reviewed and their sources, whether provided by the client or compiled or audited by the accountant.
- or**
- Current Liquor Liability Audit\*

\*If your liquor liability insurance policy or audit is based on a flat rate (alcoholic beverages and foods are combined), or you are submitting a certified letter from a CPA, you must submit a detailed report from your accountant showing the actual breakdown of food, alcoholic beverage, tobacco products and all other types of sales or charges for at least the past 12 months and a description of the method used to differentiate the actual sales of food, alcoholic beverages, tobacco products and other items. Formula calculations, estimates or projections are not acceptable.

## **PLEASE NOTE:**

1. The Department reserves the right to request additional documentation, including original materials utilized to compile figures you have provided.
2. By accepting our approval of your tobacco bar registration application, you agree to provide the Department with updated financial and/or other data whenever we request them.

Part of this application is the following release, to be properly executed and notarized by an officer of the entity, permitting release of any tax data we may request from the United States Internal Revenue Service and/or the New York State Department of Taxation and Finance and/or the New York City Department of Finance.

**RELEASE AND AUTHORIZATION**

NOTE: This release and authorization must be properly executed and notarized by an officer of the entity.

I, \_\_\_\_\_, holding the position of \_\_\_\_\_  
*Print Name* *Title*

with the registration applicant, give permission and authorization for the release of any and all financial information, including tax returns, concerning \_\_\_\_\_,  
*Name of Entity*

to the New York City Department of Health and Mental Hygiene’s Bureau of Food Safety and Community Sanitation, by the United States Internal Revenue Service and/or the New York State Department of Taxation and Finance and/or the New York City Department of Finance. I understand that this information will be kept confidential and used solely for the purpose of evaluating the applicant’s eligibility for registration as a tobacco bar.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Sworn to before me this  
 \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_

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

## Section C. Application for Registration as a Tobacco Bar

(Type or Print legibly in blue or black ink)

**Part 1.**

CAMIS No.:  Permit No.:

**Name of Applicant (Corporation, LLC, Partnership or Individual):**

**Trade Name/DBA:**

**Building Number:**  **Street:**

<input type="text"/>	<input type="text"/>
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**City:**  **State:**  **Zip Code:**  **Telephone:**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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**Name of Representative:**

**Times of Operation:**

Day	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Close	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Part 2.** List full name, home address, phone number, and social security number, title, of all owners, partners, corporate officers, principals. Use additional sheets of paper if necessary.

**1. Last Name:**  **First Name:**  **Title:**  **SS#:**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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**Building Number:**  **Street:**

<input type="text"/>	<input type="text"/>
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**City:**  **State:**  **Zip Code:**  **Telephone:**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<b>2. Last Name:</b>	<b>First Name:</b>	<b>Title:</b>	<b>SS#:</b>
			- -

<b>Building Number:</b>	<b>Street:</b>

<b>City:</b>	<b>State:</b>	<b>Zip Code:</b>	<b>Telephone:</b>
			( )

<b>3. Last Name:</b>	<b>First Name:</b>	<b>Title:</b>	<b>SS#:</b>
			- -

<b>Building Number:</b>	<b>Street:</b>

<b>City:</b>	<b>State:</b>	<b>Zip Code:</b>	<b>Telephone:</b>
			( )

<b>4. Last Name:</b>	<b>First Name:</b>	<b>Title:</b>	<b>SS#:</b>
			- -

<b>Building Number:</b>	<b>Street:</b>

<b>City:</b>	<b>State:</b>	<b>Zip Code:</b>	<b>Telephone:</b>
			( )

<b>Signature of Applicant, Corporate Officer, or Partner</b>	<b>Title</b>	<b>Date</b>
		/ /

**ACKNOWLEDGEMENT AND CERTIFICATION**

I, \_\_\_\_\_, state that I am the \_\_\_\_\_ of  
NAME TITLE  
\_\_\_\_\_, that I have completed the above application for registration of  
NAME OF APPLICANT ENTITY

such entity as a tobacco bar, and that the statements made therein and the documents submitted are truthful to the best of my knowledge.

I swear or affirm that the entity currently operates the establishment at the same address and with the same physical layout that the entity had on December 31, 2001.

I further acknowledge that I and the persons I represent are fully aware of the consequences, including the forfeitures and civil and criminal penalties, which may result if any statement and document provided is determined to be false.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

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

[Social Security numbers are being requested for the purpose of identification and verification of the facts alleged herein, shall be maintained with the confidentiality required by law and shall not be further disclosed except in accordance with applicable law.]