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Genesee County Department of Health New York State Clean Indoor Air Act (CIAA) Waiver Guidelines

MEMBERSHIP ASSOCIATIONS STAFFED BY VOLUNTEER MEMBERS ONLY EXEMPT PER CONDITIONS SET FORTH BELOW:

Membership Associations as defined in Section 1399-n(4) and described in Section 1399-q(4) of the Public Health Law

A "membership association" in which all the duties are performed by members who do not receive compensation of any kind from the membership association or any other entity for the performance of their membership association duties is exempt from all smoking restrictions contained within the CIAA. Compensation includes pay, tips, free membership, life insurance, drinks, meals, lodging, or any other items that would be considered compensation for performance of their duties. Any membership association that meets the criteria described in Section 1399-q(4) for "membership associations" is not subject to any of the provisions in the CIAA. Such organizations could allow smoking in facilities that serve food and alcoholic beverages, operate bingo games or operate other fund raising activities. These activities "could be attended by members, member guests and the general public.

Any organization seeking exemption from the applicability of the CIAA as a membership association must show that:

1. It is a membership association, which is defined in Section 1399-n(4) as a not-for-profit entity which has been created or organized for a charitable, philanthropic, educational, political, social or other similar purpose; and
2. All of the duties with respect to the operation of such association, including, but not limited to -
 - The preparation of food and beverages,
 - The service of food and beverages,
 - Reception and secretarial work, and
 - The security of the membership association

Are performed by members of such membership association who do not receive compensation of any kind from the membership association or any other entity for the performance of such duties.

MEMBERSHIP ASSOCIATIONS STAFFED WITH EMPLOYEE(S), NOT EXEMPT.

GRANTING OF WAIVERS:

Granting of waivers is dependent upon the applicant organization:

1. Providing for physical plant modifications necessary for the facility to minimize the Adverse effects of the waiver upon persons subject to involuntary exposure to Second-hand smoke and ensuring operation under the waiver is consistent with the General purpose of Public Health Law Article 13-E.
2. Undertaking the following actions to minimize the effects of a waiver:
 - a. Smoking areas located away from the general traffic patterns of travel to enter the establishment and visit the restrooms.
 - b. Separate-smoking/non-smoking areas, physically separated and utilizing special mechanical ventilation systems, located in such a manner to control second hand smoke exposure to non- smokers.
 - c. Maintenance of smoking/non-smoking area signs.
 - d. Efforts to limit employee exposure to second hand smoke.

SPECIFIC CRITERIA FOR GRANTING WAIVERS:

Waivers to the 2003 New York State Clean Indoor Air Act shall be granted to any and all applicants who construct smoking rooms according to the following standards as set forth by the Genesee County Board of Health:

All Genesee County waivers to the New York Clean Indoor Air Act shall be predicated on the protection of all employees and non-smoking patrons from exposure to Second Hand Environmental Tobacco Smoke (ETS).

Enclosed rooms that physically isolate smokers from non-smokers and ETS from the non-smoking portion of a facility, and exhaust directly to the outdoors, must be built according to standards as set forth by ASHRAE, OSHA, IICPAC, and State and Local Building Codes.

A smoking room **must:**

1. be enclosed and **physically separate** from the non-smoking portion of the facility(OSHA);
2. have **its own separate ventilation system (from the main facility's), subject to the specifications set forth, below** (ASHRAE, OSHA, IICPAC);
3. **not exceed twenty five percent (25%)** of the facility's public service area (Genesee County);
4. be **maintained under negative pressure** at all times employees and patrons are on the premises, with an **airflow pressure gradient of > 2.5 Pa (Pascals) [0.01H20 Gauge] from the smoke free area into the smoking room** (New York City, HICPAC);

5. **have self-closing, self-sealing doors that open outwards** (from smoking room) [OSHA];
6. have its ventilation exhaust no closer than twenty five feet (25') from the main facility's windows, doors, and ventilation intake (New York City);
7. have smoke testing performed and documented on a routine basis (as per existing accepted professional standards) by a smoke testing trained and certified professional to ensure and verify continued correct air flow direction;
8. have submitted plans stamped by a licensed professional engineer, and upon completion of modification/construction, all smoking rooms be certified as having been constructed according to the standards as set forth herein and all local, State, and Federal building codes, by same said aforementioned professional engineer **prior to the granting of a waiver.**

If the actions to be taken by the facility to meet the conditions and restrictions for the item(s) listed above that is/are applicable the facility are determined by the enforcement officer to NOT be effective in minimizing the adverse effects of the waiver, the enforcement officer reserves the right to require other actions and/or if necessary rescind the waiver.

All waivers shall be issued for a two-year time period, subject to renewal upon satisfactory on-site inspection, no employee or patron complaints, and documentation that the smoking room air handling system continues to meet required specifications.

Waivers are not transferable upon change of facility ownership.

Should the State of New York change the requirements of the Clean Indoor Air Act, all waivers may become null and void without prior notice.

-VIOLATORS WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW-

THE FOLLOWING DOCUMENTATION IS REQUIRED TO FILE APPLICATION FOR NYS CLEAN INDOOR AIR ACT WAIVERS WITH THE GENESEE COUNTY HEALTH DEPARTMENT (GCHD):

Certified engineering plans for construction and use of a separate smoking room must be submitted to the Department with Department of Buildings approval.

-> A physically separate smoking room with its own ventilation system (standards set forth below), constructed to **ASHRAE, OSHA, IDCPAC, and Genesee County Building Code standards** shall be next to the non-smoking public area.

-> No food or beverage preparation is permitted in the separate smoking room at any time.

-> No employee may be stationed in the smoking room for any extended period of time, except as per below.

-> No employee may perform extended work duties until at least fifteen (15) minutes after all persons who are smoking have left the room and the room is no longer being used for smoking.

-> Display a poster of at least 8.5" X 11" with the following text, "New York State Smokers Quitline 1-866-ny-quits (1-866-698-8487)"

Free materials available online at <http://nysmokefree.com>

INSTRUCTIONS FOR FILING WAIVER APPLICATIONS:

(The following submission guidelines apply to all persons filing plans)

Membership associations, although exempt from the CIAA, must still apply for a waiver from GCHD. Such applications must be accompanied by an affidavit certifying membership association status and that the association **does not have anyone in its employ**, and a copy of the organization charter.

- All information provided must be either typed or printed clearly in blue or black ink.
- The name of the entity must be the same on all supporting documentation submitted.
- The form must be completed and signed where indicated.
- If the owner/operator of the applicant facility is not filing in person, the person filing on the owner/operator's behalf must present a power of attorney in standard legal format.
- The applicant must present one acceptable form of his/her photo identification.
- Original documentation should be provided; no copies or faxes will be accepted.
- **Attach a check or money order for \$200.00 payable to the "Genesee County Health Department" to each form filed.**

FILING APPLICATIONS:

Submit the completed form(s), supporting documents, and engineering plans to the Genesee County Health Department Environmental Health Unit, County Building #2, 3837 West Main Street Road, Batavia, New York 14020. The filing will be reviewed to ensure that the form has been correctly completed and that all required documentation is present. If all required documentation is not provided, you will be notified, and your filing will be deemed incomplete.

FACILITY OWNERSHIP (Type or print legibly in blue or black ink)

Name of person filing: _____

Relationship to business: _____

Name of business: _____

Trade name/DBA: _____

Address: # & Street: _____

City, State, Zip Code: _____

Business Telephone #: _____

Operating Permit #: _____

Food Service Permit #: _____

NYS Liquor License #: _____

ACKNOWLEDGEMENT AND CERTIFICATION:

I, _____, state that I am the _____ of
(Name) (Title)

_____, and have completed the above application for
(Name of Applicant Entity)

such entity for waiver to the NYS Clean Indoor Air Act, and the statements made therein and the documents submitted are truthful to the best of my knowledge.

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 _____, 20____.

Notary Public