



Your Partner for a Healthy Community

Environmental Health Division
401 Harris B. Dates Drive, Ithaca, NY 14850
(607) 274-6688; Fax (607) 274-6695

Dear Applicant:

This package is in response to your interest in applying for a waiver from specific provisions of the amended New York State Clean Indoor Air Act (CIAA), which became effective July 24, 2003.

Enclosed are materials describing the guidelines, criteria, and the process to apply for a waiver from the Tompkins County Board of Health. Please read all of the information before completing the enclosed application.

The completed application form and all of the required supporting documentation should be returned to:

Tompkins County Health Department
Division of Environmental Health
401 Harris B. Dates Drive
Ithaca, New York 14850

Failure to properly complete all required sections of the application or failure to submit all the required documents may result in your application being returned as incomplete or held for processing pending receipt of missing information.

If questions should arise, please contact Cynthia Gruman or Steven Kern at the Health Department at 274-6688.

Sincerely,

John Andersson, P.E.
Director of Environmental Health

4/14/04 csg



**APPLICATION FOR A WAIVER FROM
THE NEW YORK STATE CLEAN INDOOR AIR ACT
AND TOMPKINS COUNTY LOCAL LAW #3 of 2003**

The operator of a facility that was in operation prior to July 24, 2003 may apply for a waiver from the New York State Clean Indoor Air Act and Tompkins County Local Law #3 of 2003. Only operators that were the legal entity of record for the facility on July 23, 2003 may apply for a waiver. The merits of each waiver application shall be assessed individually, taking into account the particular circumstances of each facility for which the waiver is sought. Waiver applications must identify conditions that ensure that the public's health and safety will not be endangered.

Consideration of CIAA waivers will be based on:

Demonstration that compliance with a specific provision of the Act has caused undue financial hardship (such as a sustained income loss of 15% or more)

AND/OR

Demonstration that other factors exist that render compliance unreasonable.

AND

A plan acceptable to the Board of Health to minimize exposure to second-hand smoke.

The Tompkins County Health Department will review waiver applications and make recommendations to the Board of Health. The Applicant will be notified of the Board's decision by mail. The decision of the Board is final. The applicant will have the opportunity to speak to the Board of Health prior to action by the Board.

The period of a waiver will be 365 days. Reapplication may be made if the conditions or restrictions set forth in the waiver continue to minimize the adverse effects of smoking upon persons subject to involuntary exposure to second-hand smoke. Waivers are not transferable upon the sale of the business.

A waiver may be revoked at any time as a result of non-compliance with the provisions of the waiver. Complaints will be monitored to assess the effects of the waiver and will be a factor in determining the continuance or revocation of the waiver.

Should New York State or Tompkins County amend the law, the Tompkins County Health Department will comply as required, which may affect waivers. The Board of Health reserves the right to modify the process as deemed necessary.

4/14/04 csg

4. Please summarize the total sales figures from the above Sales Tax Statements on the chart below.

Month	2004	2003	2002
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5. Please note if any of the following conditions occurred at your facility during the time period for which sales receipts are submitted. Any "yes" responses should be explained below. Attach additional sheets of paper if necessary.

	Yes	No
New or competing business nearby.	_____	_____
Change in hours of operation.	_____	_____
Change in menu.	_____	_____
Changes in targeted patrons.	_____	_____
Construction near establishment.	_____	_____
Other factors.	_____	_____

Explanation:

**SECTION D PLAN TO MINIMIZE EXPOSURE TO SECOND HAND SMOKE
TO BE COMPLETED BY ALL APPLICANTS**

Under the New York State Clean Indoor Air Act, every waiver issued shall be subject to such conditions or restrictions as may be necessary to minimize the adverse effects of the waiver upon persons subject to an involuntary exposure to second-hand smoke, and ensure that the waiver is consistent with the general purpose for the Act. Consideration should be given to the following actions:

- Allow smoking only in a separately enclosed and ventilated room. The ventilation system serving the smoking room must be operated during hours the establishment is open and the ventilation system must be of sufficient capacity to prevent smoke from escaping when the door to the smoking room is opened. The door to the smoking room must be closed, except to enter or exit, and have a functioning self-closing device.
- The smoking room should be located such that no person must pass through it to get to any other part of the building.
- Employees may only enter the smoking room to smoke or when the smoking room is not in use. **No service is to be allowed in the separate smoking room.**
- Operator must post signs, approved by the Tompkins County Board of Health, at all entrances to the establishment and at the entrance of the designated smoking room.
- Entry to the smoking room is prohibited to persons under the age of 18.

Provide details of your plan to minimize the adverse effects of the waiver upon employees, patrons, occupants, and visitors to the facility. Attach a diagram of the facility and detailed information concerning equipment that is proposed as part of this effort. Include room capacities and number of employees. Attach additional sheets of paper if necessary.

Please Note: If renovation of your facility is proposed, the waiver, if approved, will not be granted until the renovation is completed and approved by the Health Department. On-site visits will be necessary for verification of details listed in your plan. Also, the Health Department strongly recommends that you contact your local building inspector to ensure any renovation you have planned is consistent with all applicable building codes.

CHECKLIST OF ALL REQUIRED INFORMATION:

- _____ Completion of all required sections of this application.
 - Undue Financial Hardship – Sections A, C and D
 - Factors That Would Render Compliance Unreasonable – Sections B, C and D

- _____ Established businesses seeking to show a loss of revenue must include **exact copies** of New York State Sales Tax Statements that were submitted by the operator to the New York State Department of Taxation and Finance (**Form ST-100 or equivalent**) for the three (3) consecutive month period immediately prior to this filing, as well as New York State Sales Tax Statements for the same three (3) consecutive month period for the two (2) years immediately prior to the amended law.

OR

- _____ New businesses (beginning operation between October 24, 2001 and April 24, 2003) attempting to show a loss of revenue must include the same documentation as above for a three (3) month period of smoke-free operation immediately prior to filing, as well as the three (3) month period immediately prior to the amended law.
- _____ A current copy of the current Tompkins County permit to operate a food service establishment (where applicable).
- _____ If Individual Owner, a current copy of the Business Certificate of Ownership must be provided.

OR

- _____ If Corporation, all of the following proof of incorporation is required:
 - A. Filing Receipt **or** Authority to Conduct Business, issued by New York State Secretary of State (photocopy showing blue watermark seal is acceptable); **and**
 - B. Corporate resolution **or** minutes of most recent annual meeting, listing the most current principal officers and stockholders of the corporation and dated no earlier than one year preceding the date of application.

OR:

- _____ If Partnership, provide current copy of the Business Certificate of Partnership and the current Partnership Agreement.
- _____ Copy of floor plan and any separate pages detailing your plan to minimize the adverse effects from exposure to second-hand smoke.
- _____ Description of how you notified your employees that you have applied for a waiver, and list of all current employees.

_____ Prominently post the enclosed sign approved by the Board of Health inside the front door facing out or front window if the door is not glass. This sign must be posted from the time the waiver application is sent to the Health Department to the final determination of the waiver application.

_____ Application fee in the amount of \$75. Make check or money order payable to the Tompkins County Health Department.

_____ Any and all outstanding fees or penalties due to Tompkins County Health Department. Make check or money order payable to the Tompkins County Health Department.

NOTE: The Tompkins County Health Department reserves the right to request additional information necessary to make a final decision regarding a request for a waiver from the New York State Clean Indoor Air Act.

ACKNOWLEDGEMENT AND CERTIFICATION

I, _____, state that I am the _____

(Name)

(Title)

of _____, and have completed this application and that the

(Facility Name)

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 or document provided is determined to be false.

Dated: _____ **Signature:** _____

SUBMITTING THE APPLICATION

Submit the completed application and all supporting documents to:

Tompkins County Health Department
Division of Environmental Health
401 Harris B. Dates Drive
Ithaca, New York 14850

The application will be reviewed to ensure that all relevant sections are complete and that all required documentation is provided. Incomplete applications will be returned or held for processing pending receipt of missing information.

4/14/04 csg



Your Partner for a Healthy Community

Environmental Health Division
401 Harris B. Dates Drive, Ithaca, NY 14850-1386
(607) 274-6688; Fax (607) 274-6695

This facility is applying for waivers from the New York State Clean Indoor Air Act and the Tompkins County Local Law 3 (Smoking Law.)

For information or comment call the Tompkins County Health Department Division of Environmental Health at 274-6688