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ALCOHOL AND TOBACCO COMMISSION

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## Nonrule Policy ATC #25

**1. NOTICE:** Under [IC 4-22-7-7](#), this document is required to be published with the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of the document will provide the general public with information about the Indiana Alcohol and Tobacco Commission's (ATC) official position concerning a specific issue.

**2. DISCLAIMER:** This nonrule policy is being established by the ATC consistent with the authority under [IC 7.1-2-3-7](#). It is intended solely as guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and, if it conflicts with these rules or laws, the rules or laws shall control.

**3. AUTHORIZED:** David E. Cook, Chairman

**4. SUPERSEDES:** New

**5. SUBJECT:** The purpose of this nonrule policy is to clarify when temporary permits or supplemental catering permits may be approved when the applicant has a pending application in front of the Indiana Alcohol and Tobacco Commission.

**6. SCOPE:** The present policy states that an applicant's request to obtain temporary or supplemental catering permits for a location that is listed as the permit premises for a pending permit application will be automatically denied. The purpose of this policy is to prevent, during the pendency of the application process, a business from opening and operating without a permit prior to vetting by the local board and approval by the full commission.

It has been the experience of the ATC that a strict implementation of this policy can create inequities if the denials are not associated with the original regulatory purpose of deterring businesses from operating prior to completing the regulatory process. This nonrule policy attempts to clarify exceptions to that general rule.

**7. POLICY:**

7.1 The general policy relating to denying temporary and supplemental catering permits for applications that are pending will remain in place with clarifications.

7.2 These clarifications are not intended to authorize "normal business activity" by use of temporary or supplemental catering permits while a permit is pending. Requests for temporary or supplemental catering permits for activities that are deemed "normal business activities" will not be granted.

7.3 For the purposes of this nonrule policy only, "normal business activities" shall include, but are not necessarily limited to, the daily or regular routine operations which are engaged with a primary purpose of making a profit. Such determination shall be conducted on a case by case basis within the sole discretion of the local Indiana State Excise Police (ISEP) District Office and/or the ATC.

7.4 If a business has prescheduled events (events that have been scheduled prior to the application filing date), a list of those events should be filed contemporaneously with the application and with the local ISEP District Office. Examples of prescheduled events include, but are not limited to, weddings, fundraisers, and private events.

7.5 If the local ISEP office determines that the activities on the list are not activities that constitute "normal business activities", those requests may be approved on an individual basis.

7.6 Once the list outlining prescheduled events is filed with the ATC through the ISEP no additional activities or events may be added to the list.

7.7 Any requests for exceptions to the general policy should be made to the local ISEP District Office first subject to review by the ATC Chairman or Executive Secretary.

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