

Chapter 60
TOBACCO ORDINANCE
Oyú·kwa? Olihwá·ke
matters concerning tobacco

60.1. Purpose and Policy

60.2. Adoption, Amendment, Repeal

60.3. Definitions

60.4. Tobacco Outlets

60.5. Purchase of, Title to And Possession of Tobacco Products

60.6. Restrictions on Sales

60.7. Tribal Liability

60.8. Violations

60.1. Purpose and Policy

60.1-1. *Purpose.* The purpose of this Law is to regulate the sale, possession and distribution of cigarettes within the Reservation.

60.1-2. *Policy.* It is the policy of the Tribe to ensure that all cigarette sales on the Reservation are conducted in a lawful manner.

60.2. Adoption, Amendment, Repeal

60.2-1. This Law was adopted by the Oneida Business Committee by resolution BC- 11-18-81-A and amended by resolution BC-10-10-07-A and BC-04-09-14-F.

60.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act

60.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this Law which are considered to have legal force without the invalid portions.

60.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this Law shall control.

60.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

60.3. Definitions

60.3-1. This section shall govern the definitions of words and phrases used within this Law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Cigarette” shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(b) “Electronic cigarette” shall mean a device that enables a person to ingest nicotine, or other chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and other products used to refill the device. “Electronic cigarette” shall not include any device that is prescribed by a healthcare professional.

(c) “Manager” shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin employed by the Tribe to manage a Tobacco outlet.

(d) “Reservation” shall mean all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any land added thereto pursuant to federal law.

(e) “Stamped Cigarettes” shall mean cigarettes bearing valid Wisconsin tax stamps.

(f) “Tobacco Outlet” shall mean a Tribal retail sales business selling stamped cigarettes

within the Oneida Indian Reservation.

(g) "Tribal Employee" shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin employed to work in or manage a Tobacco outlet.

(h) "Tribal Member" shall mean an enrolled member of the Oneida Tribe of Indians of Wisconsin.

(i) "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

60.4. Tobacco Outlets

60.4-1. The Tribe shall maintain tobacco outlets within the Reservation as it deems necessary to provide adequate service to consumers of stamped cigarettes.

60.4-2. Each tobacco outlet established hereunder shall be a Tribal Tobacco Outlet and shall be managed or operated for the Tribe by a Tribal employee.

60.5. Purchase of, Title to And Possession of Tobacco Products

60.5-1. The Tribe shall purchase stamped cigarettes from such suppliers as it may choose and shall take title and possession on delivery to a tobacco outlet on the Reservation (the title shall be subject to any purchase money security interest). Possession of the stamped cigarettes (but not title) shall be transferred to the manager of the tobacco outlet to be held for sale to the consumers. The Tribe shall retain title to stamped cigarettes until sold to a consumer.

60.6. Restrictions on Sales

60.6-1. The Tribe shall be the exclusive retailer of cigarettes bearing the Wisconsin Tribal Cigarette tax stamp within the Reservation. Furthermore, only the Tribe may claim the tax refunds on cigarettes sold on the Reservation as provided for under state law.

60.6-2. The Tribe reserves the right to restrict sales, volume, pricing and profit margin of stamped cigarettes sold at a tobacco outlet.

60.6-3. Cigarettes and electronic cigarettes shall not be sold to any person under the age of eighteen (18). Cigarettes and electronic cigarettes for sale at a tobacco outlet shall be on display behind a counter. No person other than an authorized Tribal employee shall sell cigarettes and electronic cigarettes at a tobacco outlet.

60.6-4. No person may sell or offer for sale unstamped cigarettes on the Reservation.

60.7. Tribal Liability

60.7-1. The Tribe shall be responsible for all risks to the stamped cigarettes and shall carry full insurance against fire, theft, and other hazards, and such insurance shall include as a beneficiary any person owning a purchase money security interest in the products to the extent his interest may appear.

60.8 Violations

60.8-1. All cigarettes acquired, owned, possessed, sold, or distributed in violation of this Law are unlawful property and subject to seizure by any Oneida law enforcement officer.

(a) Violators subject to the jurisdiction of the Tribe shall be subject to a fine of not more than \$10 per pack of un-stamped cigarettes to be issued by the Oneida Police Department and paid to the Tribe.

(b) Tribal employees who violate this Law shall be subject to disciplinary action in accordance with the Tribe's personnel policies and procedures.

60.8-2. All fines assessed under this section shall be paid within sixty (60) days of issuance of the citation, unless the person files an appeal with the Tribe's judicial system before the fine is to

be paid.

End.

Adopted - BC-3-15-76-A
Adopted - BC-9-7-77-B
Adopted - BC-9-4-79-C

Adopted - BC-11-18-81-A
Amended - BC-10-10-07-A
Amended - BC-04-09-14-F