

# ONEIDA NATION PUBLIC MEETING NOTICE

**FRIDAY, DECEMBER 15, 2023, 12:15 pm**

Norbert Hill Center-Business Committee Conference Room  
N7210 Seminary Rd., Oneida, Wisconsin

Find Public Meeting Materials at  
[Oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings)



Send Public Comments to

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

Ask Questions here

[LOC@oneidanation.org](mailto:LOC@oneidanation.org)

920-869-4417

## CLEAN AIR POLICY AMENDMENTS

The purpose of the Clean Air Policy is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking.

### The Clean Air Policy amendments will:

- ◆ Include a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease.
- ◆ Clarify the exemption to the prohibition of smoking for residential buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement.
- ◆ Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation.
- ◆ Make other minor drafting changes.

Individuals may attend the public meeting for the proposed Clean Air Policy amendments in person at the Norbert Hill Center, or virtually through Microsoft Teams. If you wish to attend the public meeting through Microsoft Teams please contact [LOC@oneidanation.org](mailto:LOC@oneidanation.org).

## PUBLIC COMMENT PERIOD CLOSSES TUESDAY, DECEMBER 26, 2023

During the public comment period, anyone may submit written comments, questions or input. Comments may be submitted to the Oneida Nation Secretary's Office or the Legislative Reference Office in person, by U.S. mail, interoffice mail, or e-mail.



For more information on the proposed Clean Air Policy amendments please review the public meeting packet at [oneida-nsn.gov/government/register/public-meetings](https://oneida-nsn.gov/government/register/public-meetings).



# CLEAN AIR POLICY AMENDMENTS LEGISLATIVE ANALYSIS

## SECTION 1. EXECUTIVE SUMMARY

<i>Analysis by the Legislative Reference Office</i>	
<b>Intent of the Proposed Amendments</b>	<ul style="list-style-type: none"> <li>▪ Include a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and conditions of the lease. [4 O.C. 411.4-2(b)(3)];</li> <li>▪ Clarify the exemption to the prohibition of smoking for residential buildings owned by the Nation only applies if not otherwise prohibited by a lease or rental agreement. [4 O.C. 411.4-2(b)(2)];</li> <li>▪ Eliminate the requirement that a suspension for a second violation of this law be one (1) week in length, providing the supervisor and HRD greater flexibility in determining a suspension length that best fits the violation. [4 O.C. 411.4-4(b)(2)]; and</li> <li>▪ Make other minor drafting changes.</li> </ul>
<b>Purpose</b>	The purpose of this law is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1].
<b>Affected Entities</b>	Oneida Nation employees and community members.
<b>Public Meeting</b>	A public meeting is scheduled for December 15, 2023. The public comment period will be held open until December 26, 2023.
<b>Fiscal Impact</b>	A fiscal impact statement has not yet been requested.

## SECTION 2. LEGISLATIVE DEVELOPMENT

**A. Background.** The Clean Air Policy was originally adopted by the Oneida Business by motion on May 25, 1994, and then amended through resolutions BC-02-24-10-I, and BC-05-28-14-A. The purpose of the Clean Air Policy is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the Nation by prohibiting smoking. [4 O.C. 411.1-1]. It is the policy of the Nation to commit to promoting health and wellness in all forms, by prohibiting smoking. [4 O.C. 411.1-2].

**B. Request for Amendments.** On January 10, 2023, the LOC received a request from Retail to consider amendments to the Clean Air Policy to create an exemption for the prohibition from smoking in any building of the Nation for smoking cigars and tobacco in pipes within a premise designated by retail as a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco product and in which the smoking of only cigars and tobacco in pipes is permitted. The Legislative Operating Committee added the Clean Air Policy amendments to its Active Files List on January 18, 2023.

## SECTION 3. CONSULTATION AND OUTREACH

**A.** Representatives from the following departments or entities participated in the development of the amendments to the Clean Air Policy and this legislative analysis:

- Oneida Law Office;

- 19           ▪ Gaming;
- 20           ▪ Retail;
- 21           ▪ Comprehensive Health Division; and
- 22           ▪ Environmental, Health, Safety, Land, and Agriculture Division.

23 **B.** The following laws were reviewed in the drafting of this analysis:

- 24           ▪ Oneida Personnel Policies and Procedures.

25

## 26 **SECTION 4. PROCESS**

27 **A.** The development of the proposed amendments to the Clean Air Policy complies with the process set  
28 forth in the Legislative Procedures Act (LPA).

- 29           ▪ On January 18, 2023, the Legislative Operating Committee added the Clean Air Policy  
30 amendments to its Active Files List.
- 31           ▪ On February 1, 2023, the Legislative Operating Committee approved the draft of the proposed  
32 amendments to the Clean Air Policy and directed that a legislative analysis be developed.
- 33           ▪ On July 10, 2023, the Legislative Operating Committee approved the updated draft and  
34 legislative analysis.
- 35           ▪ On October 4, 2023, the Legislative Operating Committee readded the Clean Air Policy  
36 amendments to its Active Files List for the 2023-2026 legislative term.

37 **B.** At the time this legislative analysis was developed the following work meetings had been held  
38 regarding the development of the amendments to this Law:

- 39           ▪ January 26, 2023: LOC work session;
- 40           ▪ February 20, 2023: LOC work session with the Comprehensive Health Division and the  
41 Environmental, Health, Safety, Land, and Agriculture Division; and
- 42           ▪ March 20, 2023: LOC work session with the Comprehensive Health Division, Retail, Gaming,  
43 Oneida Law Office, and the Environmental, Health, Safety, Land, and Agriculture Division.
- 44           ▪ October 18, 2023: LOC work session.

45

## 46 **SECTION 5. CONTENTS OF THE LEGISLATION**

47 **A. *Exemptions to the Prohibition of Smoking.*** The proposed amendments to the Clean Air Policy include  
48 a new exemption to the prohibition of smoking, which is a tobacco store, on or in premises controlled  
49 by Oneida Retail, that sells tobacco product, unless prohibited by Oneida Retail or the terms and  
50 conditions of the lease. [4 O.C. 411.4-2(b)(3)]. Previously, the Clean Air Policy only included  
51 exemptions to the prohibition of smoking for cultural usage, all gaming areas in any building of the  
52 Nation, and residential buildings that are owned by the Nation. [4 O.C. 411.4-2(a)-(b)(1)-(2)]. The  
53 proposed amendments also provide clarification that the exemption for residential buildings owned by  
54 the Nation only applies if not otherwise prohibited by a lease or rental agreement. [4 O.C. 411.4-  
55 2(b)(2)].

- 56           ▪ *Effect.* An additional exemption was added to the Clean Air Policy in an effort to provide Retail  
57 with an opportunity to pursue the development of a cigar bar in one of the Oneida One Stop retail  
58 locations. Clarification was added to the exemption for residential buildings in recognition that a  
59 lease or rental agreement may further prohibit smoking within a residential building owned by the  
60 Nation.

61 **B. *Violations of the Clean Air Policy.*** The proposed amendments to the Clean Air Policy clarify that any  
62 employee of the Nation who violates this law during their work hours may be subject to disciplinary

63 action in accordance with the Nation’s laws and policies governing employment, which is the Oneida  
64 Personnel Policies and Procedures. [4 O.C. 411.4-4(b)]. The proposed amendments to the Clean Air  
65 Policy then demonstrates that the disciplinary action an employee may be subject to includes a written  
66 warning for a first-time violation; a suspension without pay for a second violation; or termination from  
67 employment for any violation thereafter. [4 O.C. 411.4-4(b)(1)-(3)]. Previously, the Clean Air  
68 Policy provided that a first violation of this law would result in a reprimand, but the Clean Air Policy  
69 was not specific as to what that reprimand would consist of. Additionally, the Clean Air Policy  
70 previously provided that a second violation of this law would result in a suspension for one (1) week.  
71 The proposed amendments to the Clean Air Policy eliminated the one (1) week requirement for  
72 suspensions and instead provide the supervisor with discretion to determine the appropriate length of  
73 the suspension. The Oneida Personnel Policies and Procedures requires that a supervisor consult with  
74 the Executive Director of the Human Resources Department to mutually determine the appropriate  
75 length of the suspension, and that any suspension be limited to a maximum of three (3) weeks. [Oneida  
76 Personnel Policies and Procedures Section V.D.5.f.1].

- 77 ■ *Effect.* This proposed amendments to the Clean Air Policy provide greater clarification as to how  
78 violations of this law are addressed for employees who violate the Clean Air Policy during their  
79 work hours.

## 80 81 **SECTION 6. EXISTING LEGISLATION**

82 **A. Related Legislation.** The following laws of the Nation are related to the Clean Air Policy:

- 83 ■ *Oneida Personnel Policies and Procedures.* The purpose of the Oneida Personnel Policies and  
84 Procedures is to provide for the Nation’s employee related policies and procedures including  
85 recruitment, selection, compensation and benefits, employee relations, safety and health, program  
86 and enterprise rules and regulations, and record keeping.
  - 87 ■ Section V.D of the Oneida Personnel Policies and Procedures specifically addresses  
88 complaints, disciplinary actions and grievances. Section V.D.2.b of the Oneida Personnel  
89 Policies and Procedures provides that a supervisor is required to initiate disciplinary actions  
90 commensurate with the seriousness of the unsatisfactory performance, and a supervisor must  
91 consider each disciplinary action in progressive order and justify a deviance from that  
92 recommended progression.
  - 93 ■ The proposed amendments to the Clean Air Policy clarify that any employee of the Nation who  
94 violates this law during their work hours may be subject to disciplinary action in accordance  
95 with the Nation’s laws and policies governing employment, which is the Oneida Personnel  
96 Policies and Procedures. [4 O.C. 411.4-4(b)].

## 97 98 **SECTION 7. OTHER CONSIDERATIONS**

99 **A. Fiscal Impact.** Under the Legislative Procedures Act, a fiscal impact statement is required for all  
100 legislation except emergency legislation [1 O.C. 109.6-1]. Oneida Business Committee resolution BC-  
101 10-28-20-A titled, “*Further Interpretation of ‘Fiscal Impact Statement’ in the Legislative Procedures*  
102 *Act,*” provides further clarification on who the Legislative Operating Committee may direct complete  
103 a fiscal impact statement at various stages of the legislative process, as well as timeframes for  
104 completing the fiscal impact statement.

- 105 ■ *Conclusion.* The Legislative Operating Committee has not yet directed that a fiscal impact

106 statement be completed.  
107

## Title 4. Environment and Natural Resources – Chapter 411

### CLEAN AIR ~~POLICY~~

411.1. Purpose and Policy

~~411.2. Adoption, Amendment, Conflicts~~~~411.2. Adoption, Amendment, Repeal~~

411.3. Definitions

411.4. Regulation of Smoking

3#

**411.1. Purpose and Policy**

411.1-1. *Purpose.* ~~It is the~~The purpose of this ~~Clean Air Policy~~law is to provide a healthy working and learning environment within buildings and vehicles owned and operated by the ~~Oneida Tribe~~Nation by prohibiting smoking.

411.1-2. *Policy.* ~~The Oneida Tribe~~It is committed~~the policy of the Nation~~to ~~commit to promoting~~health and wellness in all forms. ~~There is long standing evidence that smoking is harmful to oneself, and that second-hand smoke is harmful to others. In addition, the long-term effects of electronic cigarettes on individuals are unclear. In an effort to provide a healthy environment for children, employees, and visitors, smoking will~~shall be ~~restricted~~prohibited as described within this ~~policy~~law.

34#

**411.2. Adoption, Amendment, ~~Conflicts~~Repeal**

411.2-1. This ~~Policy~~law was adopted by motion of the Oneida Business Committee on May 25, 1994, and amended by ~~resolution~~resolutions BC-02-24-10-I~~and~~, BC-05-28-14-A~~,~~ and BC- ~~- -~~ - -.

411.2-2. This ~~Policy~~law may be amended or repealed by the Oneida Business Committee ~~or~~General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

411.2-3. Should a provision of this ~~Policy~~law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this ~~Policy~~law which are considered to have legal force without the invalid portions.

411.2-4. In the event of a conflict between a provision of this ~~Policy~~law and a provision of another law, ~~ordinance, policy, regulation, rule, resolution, or motion,~~ the provisions of this ~~Policy~~law shall control. ~~Provided that, nothing in this Policy is intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.~~

411.2-5. This ~~Policy~~law is adopted under authority of the Constitution of the Oneida ~~Tribe of Indians of Wisconsin~~Nation.

4:#

**411.3. Definitions**

411.3-1. This section shall govern the definitions of words and phrases used within this ~~Policy~~law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) (a) “Building” means a structure that has a roof and more than two (2) substantial walls.

(b) (b) “Electronic cigarette” means 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) (c) “Indoor” means within the exterior walls of any building.

(d) (d) “Main entrance” means the front entrance to any building, or any entrance a majority of the employees and public use to access the building.

(e) (e) “Nation” means the Oneida Nation.

(f) (f) “Smoke” or “Smoking” means the inhalation of:

(1) (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or

66# ~~(2)~~ (2) a vaporized liquid from an electronic cigarette, whether the liquid contains  
67# or does not contain nicotine.

68# (f) ~~“Tribe”~~(g) “Tobacco product” means ~~the Oneida Tribe~~any form of ~~Indians of~~  
69# ~~Wisconsin~~tobacco prepared in a manner suitable for smoking.

6 : #

#### 6 ; # 411.4. Regulation of Smoking

72# 411.4-1. ~~Except as provided in 411.4-1(b)(1) and 411.4-2, no~~Prohibition of Smoking. No person  
73# may smoke:

74# (a) in any building owned or operated by the ~~Tribe~~Nation;

75# (b) within thirty (30) feet of any building owned or operated by the ~~Tribe~~Nation.  
76# Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet  
77# from the main entrances of the building; ~~or~~

78# (1) Exception. A person may smoke within thirty (30) feet of the ~~Oneida One~~  
79# ~~Stop~~retail outlets or any gaming establishments. ~~Receptacles for disposing of~~  
7 : # smoking materials may be maintained within thirty (30) feet of the entrances of  
7 ; # these buildings.

82# (c) in any vehicle owned or operated by the ~~Tribe~~Nation.

83# 411.4-2. Exemptions. The following exemptions shall apply to the prohibition of smoking:

84# (a) ~~There shall be an exemption for specific cultural uses for the~~Cultural Usage. The  
85# reasonable burning of tobacco, sage, cedar, and/or sweetgrass ~~shall be exempted for~~  
86# cultural usage. Employees working in the vicinity of this cultural use shall be notified prior  
87# to use.

88# (b) Specifically Exempted Locations. The following locations shall be exempted from ~~this~~  
89# ~~policy~~are the prohibition of smoking:

8 : # (1) all gaming areas in any ~~Tribal~~building of the Nation;

8 ; # (A) Smoking and non-smoking employee break rooms shall be provided in  
92# these buildings and shall have separate ventilation.

93# (B) Employees shall not smoke while working in these buildings, other than  
94# in the provided break room.

95# (2) residential buildings that are owned by the ~~Tribe~~Nation, including, but not  
96# limited to, single-family dwellings, two-~~(2)~~ family dwellings, and multiple-family  
97# dwellings; ~~unless otherwise prohibited by a lease or rental agreement; and~~

98# (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
99# product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

9 : # 411.4-3. Posting and Notices. All ~~Tribal~~buildings of the Nation, except for those ~~listed in~~  
9 ; # ~~exempted by section~~ 411.4-2(b); of this Law, shall be posted as “Non-Smoking” on entrances. ~~In~~  
: 2# addition, the hallways, restroom facilities, and other public areas of these buildings may also be  
: 3# posted as “Non-Smoking.” ~~Signs shall be large enough that they can be viewed and read thirty~~  
: 4# (30) feet from the building.

: 5# 411.4-4. Violations.

: 6# (a) Any building manager or designated agent of the ~~Oneida Business Committee~~Nation  
: 7# may file for injunctive relief with the ~~Tribe’s judicial system~~Nation’s Judiciary against any  
: 8# person who repeatedly or willfully violates this ~~policy~~law.

: 9# (b) An employee of the ~~Tribe~~Nation who violates this ~~policy~~law during ~~his or her~~their

: :# work hours may be subject to the following disciplinary action in accordance with the  
: ;# Nation’s laws and policies governing employment:  
; 2# (1) ~~reprimanded~~written warning for a first-time violation;  
; 3# (2) suspended without pay ~~for one (1) week~~ for a second violation; or  
; 4# (3) terminated from employment for any violation thereafter.  
; 5#  
; 6# *End.*  
; 7#  
| ; 8# Adopted ~~5- OBC motion on 05-25-94, motion, grace~~Grace period for thirty (30) feet until shelters complete, except  
; 9# for at educational facilities where minors are present.  
; :# Amended – BC-02-24-10-I  
| ; ;# Amended – BC-05-28-14-A  
| 22# Amended – BC - - -



**Title 4. Environment and Natural Resources – Chapter 411  
CLEAN AIR**

411.1. Purpose and Policy  
411.2. Adoption, Amendment, Repeal

411.3. Definitions  
411.4. Regulation of Smoking

---

1  
2 **411.1. Purpose and Policy**

3 411.1-1. *Purpose.* The purpose of this law is to provide a healthy working and learning  
4 environment within buildings and vehicles owned and operated by the Nation by prohibiting  
5 smoking.

6 411.1-2. *Policy.* It is the policy of the Nation to commit to promoting health and wellness in all  
7 forms. There is long standing evidence that smoking is harmful to oneself, and that second-hand  
8 smoke is harmful to others. In addition, the long-term effects of electronic cigarettes on individuals  
9 are unclear. In an effort to provide a healthy environment for children, employees, and visitors,  
10 smoking shall be prohibited as described within this law.

11  
12 **411.2. Adoption, Amendment, Repeal**

13 411.2-1. This law was adopted by motion of the Oneida Business Committee on May 25, 1994,  
14 and amended by resolutions BC-02-24-10-I, BC-05-28-14-A, and BC-\_\_-\_\_-\_\_-\_\_.

15 411.2-2. This law may be amended or repealed by the Oneida Business Committee or General  
16 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

17 411.2-3. Should a provision of this law or the application thereof to any person or circumstances  
18 be held as invalid, such invalidity shall not affect other provisions of this law which are considered  
19 to have legal force without the invalid portions.

20 411.2-4. In the event of a conflict between a provision of this law and a provision of another law,  
21 the provisions of this law shall control.

22 411.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

23  
24 **411.3. Definitions**

25 411.3-1. This section shall govern the definitions of words and phrases used within this law. All  
26 words not defined herein shall be used in their ordinary and everyday sense.

27 (a) “Building” means a structure that has a roof and more than two (2) substantial walls.

28 (b) “Electronic cigarette” means a device that enables a person to ingest nicotine, or other  
29 chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and  
30 other products used to refill the device.

31 (c) “Indoor” means within the exterior walls of any building.

32 (d) “Main entrance” means the front entrance to any building, or any entrance a majority  
33 of the employees and public use to access the building.

34 (e) “Nation” means the Oneida Nation.

35 (f) “Smoke” or “Smoking” means the inhalation of:

36 (1) the smoke of burning tobacco encased in cigarettes, pipes and cigars; or

37 (2) a vaporized liquid from an electronic cigarette, whether the liquid contains or  
38 does not contain nicotine.

39 (g) “Tobacco product” means any form of tobacco prepared in a manner suitable for  
40 smoking.

41  
42 **411.4. Regulation of Smoking**

43 411.4-1. *Prohibition of Smoking.* No person may smoke:

44 (a) in any building owned or operated by the Nation;  
45 (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles  
46 for disposing of smoking materials shall be maintained at least thirty (30) feet from the  
47 main entrances of the building; or

48 (1) *Exception.* A person may smoke within thirty (30) feet of the retail outlets or  
49 any gaming establishments. Receptacles for disposing of smoking materials may  
50 be maintained within thirty (30) feet of the entrances of these buildings.

51 (c) in any vehicle owned or operated by the Nation.

52 411.4-2. *Exemptions.* The following exemptions shall apply to the prohibition of smoking:

53 (a) *Cultural Usage.* The reasonable burning of tobacco, sage, cedar, and/or sweetgrass  
54 shall be exempted for cultural usage. Employees working in the vicinity of this cultural use  
55 shall be notified prior to use.

56 (b) *Exempted Locations.* The following locations shall be exempted from the prohibition  
57 of smoking:

58 (1) all gaming areas in any building of the Nation;

59 (A) Smoking and non-smoking employee break rooms shall be provided in  
60 these buildings and shall have separate ventilation.

61 (B) Employees shall not smoke while working in these buildings, other than  
62 in the provided break room.

63 (2) residential buildings that are owned by the Nation, including, but not limited  
64 to, single-family dwellings, two (2) family dwellings, and multiple-family  
65 dwellings, unless otherwise prohibited by a lease or rental agreement; and

66 (3) a tobacco store, on or in premises controlled by Oneida Retail, that sells tobacco  
67 product, unless prohibited by Oneida Retail or the terms and conditions of the lease.

68 411.4-3. *Posting and Notices.* All buildings of the Nation, except for those exempted by section  
69 411.4-2(b) of this Law, shall be posted as “Non-Smoking” on entrances. In addition, the hallways,  
70 restroom facilities, and other public areas of these buildings may also be posted as “Non-  
71 Smoking.” Signs shall be large enough that they can be viewed and read thirty (30) feet from the  
72 building.

73 411.4-4. *Violations.*

74 (a) Any building manager or designated agent of the Nation may file for injunctive relief  
75 with the Nation’s Judiciary against any person who repeatedly or willfully violates this  
76 law.

77 (b) An employee of the Nation who violates this law during their work hours may be  
78 subject to the following disciplinary action in accordance with the Nation’s laws and  
79 policies governing employment:

80 (1) written warning for a first-time violation;

81 (2) suspended without pay for a second violation; or

82 (3) terminated from employment for any violation thereafter.

83  
84 *End.*

86 Adopted – OBC motion on 05-25-94, Grace period for thirty (30) feet until shelters complete, except for at educational  
87 facilities where minors are present.

88 Amended – BC-02-24-10-1

89 Amended – BC-05-28-14-A  
90 Amended – BC\_\_-\_\_-\_\_-\_\_