

TO: Legislative Operating Committee (LOC)  
FROM: Clorissa N. Leeman, Legislative Reference Office, Senior Staff Attorney  
DATE: January 17, 2024  
RE: Clean Air Policy Amendments: Public Comment Review with LOC Consideration



On December 15, 2023, a public meeting was held regarding the proposed amendments to the Clean Air Policy (“the Law”). The public comment period was then held open until December 26, 2023. The Legislative Operating Committee reviewed and considered the public comments received on January 3, 2024. This memorandum is submitted as a review of the comments received within the public meeting and public comment period.

### Comments 1 through 3 – Tobacco Store Exemption:

#### 411.4. Regulation of Smoking

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

- (a) in any building owned or operated by the Nation;
- (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet from the main entrances of the building; or
  - (1) *Exception.* A person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. Receptacles for disposing of smoking materials may be maintained within thirty (30) feet of the entrances of these buildings.
- (c) in any vehicle owned or operated by the Nation.

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

- (a) *Cultural Usage.* The reasonable burning of tobacco, sage, cedar, and/or sweetgrass shall be exempted for cultural usage. Employees working in the vicinity of this cultural use shall be notified prior to use.
- (b) *Exempted Locations.* The following locations shall be exempted from the prohibition of smoking:
  - (1) all gaming areas in any building of the Nation;
    - (A) Smoking and non-smoking employee break rooms shall be provided in these buildings and shall have separate ventilation.
    - (B) Employees shall not smoke while working in these buildings, other than in the provided break room.
  - (2) residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings, unless otherwise prohibited by a lease or rental agreement; and
  - (3) 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.

**Jim Snitgen (oral):** Check, testing. Good afternoon. I'm going to present the comments from the Environmental Health, Safety, Land and Agriculture Division (EHSLAD) on the Clean Air Policy Amendments. The Clean Air Policy amendment under 411.4-2 (b) allows smoking inside tobacco stores and gaming areas of the Nation. EHSLAD does not support the new exemption to prohibition of smoking in tobacco stores, on or in Oneida Retail properties that sells tobacco products. Our Division supports and proposes removing the existing exemption that allows smoking inside all gaming areas. EHSLAD wants to ban indoor smoking in gaming and retail properties because:

Foremost, allowing properties to be exposed to secondhand smoke is a direct conflict of the purpose of the Clean Air Policy. Secondhand smoke is harmful to the health of employees, and it does not create a healthy working environment for employees. CDC informs that secondhand smoke can cause the following in smoking adults, in non-smoking adults: coronary heart disease, stroke, lung cancer, adverse reproductive health effects in women such as low birth weight and that there is no safe level of secondhand exposure.

Number 2. Nation gaming facilities, specifically the casino, became smoke-free indoors during the COVID-19 pandemic and to our knowledge this has not negatively affected business. We support keeping the casino and all interior employee break areas smoke free to protect employee and customer health because any exposure to secondhand smoke is widely recognized as harmful to human health. The Surgeon General report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, found that the only way to eliminate secondhand smoke exposure is to ban indoor smoking completely.

Number 3. We do not support the exemption for smoking inside Oneida retail establishments including any cigar bars operated by retail, because, according to CDC, any exposure to secondhand smoke is harmful to human health and the only way to eliminate exposure, according to the Surgeon General, is to completely ban indoor smoking.

Number 4. Increasing ventilation or filtration will not eliminate health risk of secondhand smoke exposure. According to CDC, HVAC systems can spread secondhand smoke throughout a facility and there is no ventilation or air cleaning system that can eradicate secondhand smoke.

Number 5. We also support keeping the casino and all interior employee break areas smoke free because this will protect cleaning staff from exposure to thirdhand smoke. Thirdhand smoke is the pollutant residue that remains on surfaces after tobacco is smoked. Pollutants include but are not limited to nicotine, formaldehyde, naphthalene which are known to cause cancer.

And finally, smoking inside gaming and retail properties may result in higher maintenance and cleaning bills. Thirdhand smoke is the chemical residue left behind from smoke. According to Cleveland Clinic, it persists on surfaces long after smoking occurs and is hard to clean meaning complete costly replacement of affected materials, and that may be the only solution.

Thank you on behalf of the Environmental, Health, Safety, Land, and Agriculture Division.

**Eric McLester – Environmental, Health, Safety, Land, and Agriculture Division (written):**

The Clean Air Policy amendment under 411.4-2 (b) allows smoking inside tobacco stores and gaming areas of the Nation. EHSLAD does NOT support the new exemption to prohibition of smoking in "tobacco stores", on or in Oneida Retail properties that sells tobacco products. EHSLAD supports and proposes REMOVING the existing exemption that allows smoking inside all gaming areas. EHSLAD wants to ban indoor smoking in gaming and retail properties because:

1. Foremost, allowing employees to be exposed to secondhand smoke is a direct conflict of the purpose of the Clean Air Policy. Secondhand smoke is harmful to the health of employees, and it does not create a healthy working environment for employees. CDC informs that secondhand smoke can cause the following in non-smoking adults: coronary heart disease, stroke, lung cancer, adverse reproductive health effects in women such as low birth weight and that there is no safe level of secondhand exposure.  
<https://www.cdc.gov/tobacco/secondhand-smoke/health.html>
2. Nation gaming facilities, specifically the casino, became smoke-free indoors during the COVID-19 pandemic and to our knowledge this has not negatively affected business. We support keeping the casino and all interior employee break areas smoke free to protect employee and customer health because any exposure to secondhand smoke is widely recognized as harmful to human health. The Surgeon General report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, found that the only way to eliminate secondhand smoke exposure is to ban indoor smoking completely.
  - <https://www.cdc.gov/tobacco/secondhand-smoke/health.html>
  - <https://www.ncbi.nlm.nih.gov/books/NBK44326/#rpt-smokeexp.ch10.s68>
3. We do not support the exemption for smoking inside Oneida retail establishments including any cigar bars operated by retail, because, according to CDC, any exposure to secondhand smoke is harmful to human health and the only way to eliminate exposure, according to the Surgeon General, is to completely ban indoor smoking.
  - <https://www.cdc.gov/tobacco/secondhand-smoke/health.html>
  - <https://www.ncbi.nlm.nih.gov/books/NBK44326/#rpt-smokeexp.ch10.s68>
4. Increasing ventilation or filtration will not eliminate health risk of secondhand smoke exposure. According to CDC, HVAC systems can spread secondhand smoke throughout a facility and there is no ventilation or air cleaning system that can eradicate secondhand smoke.
  - <https://www.cdc.gov/tobacco/secondhand-smoke/policy.html>
5. We also support keeping the casino and all interior employee break areas smoke free because this will protect cleaning staff from exposure to thirdhand smoke. Thirdhand smoke is the pollutant residue that remains on surfaces after tobacco is smoked. Pollutants include but are not limited to nicotine, formaldehyde, naphthalene which are known to cause cancer.
  - <https://www.mayoclinic.org/healthy-lifestyle/guit-smoking/expertanswers/third-hand-smoke/faq->

[20057791#:~:text=Thirdhand%20smoke%20is%20made%20up,up%20on%20surfaces%20over%20time.](#)

**Michelle Tipple (oral):** Good Afternoon. My name is Michelle Tipple. I'm the Community Public Health Officer with the Oneida Nation. So Public Health and the Comprehensive Health Division does not support adding an exemption to this law. To do so, weakens this important public health policy.

Decades of evidence-based research and data demonstrates poor health outcomes related to smoking, including secondhand and thirdhand smoke. So, looking at some of this data, American Indian, Alaskan Native people, compared to other racial and ethnic groups have a higher risk of death and disease caused by using tobacco commercial products such as cigarettes, smokeless tobacco and cigars. Cardiovascular disease, which can be caused by cigarette smoke, is the leading cause of death for American Indian Alaskan Native people. Lung cancer, which can be caused by cigarette smoking and exposure to secondhand smoke, is the leading cause of cancer death among American Indian and Alaskan Native people. Diabetes is the 4th leading cause of death among American Indian Alaskan Native people. The risk of developing Type 2 diabetes is 30 to 40% higher for people who smoke than for people who don't smoke, and smoking can worsen complications from diabetes. Compared to white Wisconsinites, American Indians have a 34% higher risk of dying from cardiovascular disease, 70% higher risk from dying of cancer, lung cancer, excuse me. And a 250% higher risk of dying from diabetes. All of which are known to be caused or worsened by cigarette smoking. There is no safe level of secondhand smoke. None. Even sophisticated ventilation systems do not eliminate the health hazards from secondhand smoke.

### ***Response***

The commenters express various concerns with and opposition to the proposed exemption against smoking for 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.

The Clean Air Policy provides that no person may smoke in any building owned or operated by the Nation, in any vehicle owned or operated by the Nation, or within thirty (30) feet of any building owned or operated by the Nation, except that a person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. [4 O.C. 411.4-1]. The Clean Air Policy then goes on to provide exemptions for the prohibition of smoking. [4 O.C. 411.4-2]. The proposed amendments to the Clean Air Policy provide that one such exemption for the prohibition of smoking 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)]. Retail shared that if the proposed amendments to the Clean Air Policy are adopted, then they intend to open up a cigar bar at one of the Retail locations.

Whether or not to allow the Clean Air Policy to provide an exemption for the prohibition of smoking to 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 is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. Section 411.4-2(b)(3) of the Clean Air Policy should remain as currently drafted and provide an exemption for the prohibition of smoking to 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.
2. Section 411.4-2(b)(3) of the Clean Air Policy should be eliminated from the Law.

### ***LOC Consideration***

The Legislative Operating Committee greatly appreciated the data driven responses provided by the Comprehensive Health Division and the Environmental, Health, Safety, Land, and Agriculture Division and understands the health equity concerns shared. Ultimately, the Legislative Operating Committee determined that section 411.4-2(b)(3) of the Clean Air Policy should remain as currently drafted and provide an exemption for the prohibition of smoking to 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.

**Comments 4 through 6 – Residential Buildings Exemption:**

#### **411.4. Regulation of Smoking**

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

- (a) in any building owned or operated by the Nation;**
- (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet from the main entrances of the building; or**
  - (1) *Exception.* A person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. Receptacles for disposing of smoking materials may be maintained within thirty (30) feet of the entrances of these buildings.**
- (c) in any vehicle owned or operated by the Nation.**

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

- (a) *Cultural Usage.* The reasonable burning of tobacco, sage, cedar, and/or sweetgrass shall be exempted for cultural usage. Employees working in the vicinity of this cultural use shall be notified prior to use.**
- (b) *Exempted Locations.* The following locations shall be exempted from the prohibition of smoking:**
  - (1) all gaming areas in any building of the Nation;**
    - (A) Smoking and non-smoking employee break rooms shall be provided in these buildings and shall have separate ventilation.**
    - (B) Employees shall not smoke while working in these buildings, other than in the provided break room.**
  - (2) residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings, unless otherwise prohibited by a lease or rental agreement; and**
  - (3) 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.**

**Jim Snitgen (oral):** The Clean Air Policy amendment under 411.4-2 {b) allows smoking inside residential buildings that are owned by the Nation unless the lease or rental agreement prohibits smoking . EHSLAD does NOT support smoking inside residential buildings for the following reasons:

1. Children and families in our community deserve to have access to clean, indoor air. Employees from CHD, EHSLAD, Zoning, and DPW work in CHD housing. Residents and employees are at risk of health problems from secondhand exposure if smoking is allowed in residential units. Specifically, according to CDC, there is no safe level of secondhand smoke exposure. Again, CDC informs that secondhand smoke can cause the following in non-smoking adults: coronary heart disease, stroke, lung cancer, and adverse reproductive health effects in women such as low birth weight. According to CDC, exposure to secondhand smoke can result in respiratory infections, ear infections, and asthma attacks in children and sudden infant death syndrome in babies. Lastly, according to CDC, exposure to secondhand smoke can cause inflammation and negative respiratory effects within one (1) hour of exposure and these effects can continue a minimum of three (3) hours after exposure.

Increasing ventilation or installing air filters inside retail or gaming properties will not eliminate the risks associated with secondhand smoke exposure. According to CDC, HVAC systems can spread secondhand smoke throughout a facility and there is no ventilation or air cleaning system that can eradicate secondhand smoke.

HUD supports smoke-free public housing, HUD I guess, and has mandated this since 2016. The Nation should align with HUD standards for safe, sanitary housing.

According to the 2022 Community Health Assessment by Comprehensive Health Division, self-reported asthma rates for Oneida respondents are higher than those reported for local counties and the state of Wisconsin. According to CDC, secondhand smoke is a known asthma trigger. Banning indoor smoking in residential units will improve indoor air quality for asthma sufferers.

**Eric McLester – Environmental, Health, Safety, Land, and Agriculture Division (written):** The Clean Air Policy amendment under 411.4-2 {b) allows smoking inside residential buildings that are owned by the Nation unless the lease or rental agreement prohibits smoking . EHSLAD does NOT support smoking inside residential buildings for the following reasons:

1. Children and families in our community deserve to have access to clean, indoor air. Employees from CHD, EHSLAD, Zoning, and DPW work in CHD housing. Residents and employees are at risk of health problems from secondhand exposure if smoking is allowed in residential units. Specifically:
  - a. According to CDC, there is no safe level of secondhand smoke exposure. Again, CDC informs that secondhand smoke can cause the following in non-smoking adults: coronary heart disease, stroke, lung cancer, and adverse reproductive health effects in women such as low birth weight.
    - i. <https://www.cdc.gov/tobacco/secondhand-smoke/health.html>



- b. According to CDC, exposure to secondhand smoke can result in respiratory infections, ear infections, and asthma attacks in children and sudden infant death syndrome in babies.
    - i. <https://www.cdc.gov/tobacco/secondhand-smoke/health.html>
  - c. According to CDC, exposure to secondhand smoke can cause inflammation and negative respiratory effects within 1 hour of exposure and these effects can] continue a minimum of 3 hours after exposure.
    - i. <https://www.cdc.gov/tobacco/secondhand-smoke/health.html>
2. Increasing ventilation or installing air filters inside retail or gaming properties will not eliminate the risks associated with secondhand smoke exposure. According to CDC, HVAC systems can spread secondhand smoke throughout a facility and there is no ventilation or air cleaning system that can eradicate secondhand smoke.
    - a. <https://www.cdc.gov/tobacco/secondhand-smoke/policy.html>
  3. HUD supports smoke-free public housing and has mandated this since 2016. The Nation should align with HUD standards for safe, sanitary housing.
    - a. <https://www.hud.gov/smokefreepublichousing>
  4. According to the 2022 Community Health Assessment by Comprehensive Health Division, self-reported asthma rates for Oneida respondents are higher than those reported for local counties and the state of WI. According to CDC, secondhand smoke is a known asthma trigger. Banning indoor smoking in residential units will improve indoor air quality for asthma sufferers.
    - a. ([https://www.canva.com/design/DAFapvpYSCo/fvZ6B2fbFDWEJ2xhzHtOw/view?utmcontent=DAFapvpYSCo&utmcampaign=designshare&utmmedium=link&utm\\_source=publishsharelink#20](https://www.canva.com/design/DAFapvpYSCo/fvZ6B2fbFDWEJ2xhzHtOw/view?utmcontent=DAFapvpYSCo&utmcampaign=designshare&utmmedium=link&utm_source=publishsharelink#20)).
    - b. <https://www.cdc.gov/tobacco/campaign/tips/diseases/secondhand-smoke-asthma.html>
  5. Smoking inside gaming and retail properties may result in higher maintenance and cleaning bills. Thirdhand smoke is the chemical residue left behind from smoke. According to Cleveland Clinic, it persists on surfaces long after smoking occurs and is hard to clean meaning complete costly replacement of affected materials may be the only solution. <https://health.clevelandclinic.org/thirdhand-smoke/>

Thank you,

Environmental, Health, Safety, Land, & Ag Division

**Comprehensive Housing Division (written):** This serves as a written response and feedback from Comprehensive Housing Division as it relates to the proposed amendments to the Clean Air Policy Act. These written comments will provide both the positive and less positive impacts that CHD may encounter.

There is no doubt that providing a smoke free environment & policy will have positive health benefits to all tenants and community members from a health & safety standpoint as it relates to second-hand smoke. It will also reap positive benefits related to property damage and upkeep in units.

CHD can stand behind those positive impacts and can support the policy amendments with the organization, the Oneida Business Committee and the community's support. This support will be crucial in the success of the enforcement of such a policy from Comprehensive Housing Divisions standpoint. There will need to be a clear understanding and acceptance of the consequences that will be associated with enforcing this type of policy.

Some ways that tenants will voice their discontent with the policy and when support will be needed are:

- Venting issues on social media that grabs the attention of the Oneida organization and council
- Bringing issues to the General Manager or Oneida Business Committee, with an expectation of intervention
- Filing a complaint with Oneida Judiciary
- A claim (what CHD would consider a breach in policy) would be that smoking within their unit is their right and a part of their quality of life
- Creating a petition brought to GTC meeting

Additional items to consider as part of CHD's support of the policy are:

- The cost of possible smoking shelters for those wishing to smoke but needing to move 30 feet away from their unit or rental. These have not been budgeted for and will need to be discussed as a potential offering for smokers in residential buildings
- The city of Green Bay Housing Authority has on-site managers which makes it much more efficient for monitoring the policy for enforcement purposes through tenant unit check ins and common hallways for enforcement purposes. CHD does not have on-site managers of their residential units.
- With the Clean Air Policy focusing on the no smoking provision, other things that contaminate the air in residential units should also be considered such as cat/dog/human feces, urine, garbage, and composing garbage in residential units. All of these scenarios also affect clean air and are current issues within tenant units.
- There will be tenants that may side with the stance that nicotine is their crutch for dealing with trauma/stress/alcohol & drug withdrawal and will likely state that we are taking that right from them. While this policy does not prohibit tenants from smoking, for some, this will take away their physical ability to smoke. An example of this would be: a disabled tenant that might have a difficult time getting out of the unit to 30 feet from the building, especially in the cold. Will there be any thought or plans to help support systems for those types of situations? (ie. the social part of not having the ability to smoke, nicotine withdrawal! or other coping methods for dealing trauma/stress etc?). Generationally those affected by not having the physical ability to smoke outdoors and 30+ feet away from a building will likely be in the class of: elder, confined, disabled or a combination of both.
- The HUD policy mentioned in the document of support from EHLSA references the smoke free policy supported by HUD. This reference is HUDs smoke free requirement for Public



Housing Agencies (PHA). As a recipient of Indian Housing Block Grants (IHBG) and subject to Native American Housing Assistance and Self-Determination Act (NAHASDA), we are considered an Indian Housing Agency (IHA) and not Public Housing Agency (PHA). Unless specifically identified in written correspondence, CHD is not subject to it. As an Indian Housing Agency, CHD is subject to the Nations Laws and Judiciary Court.

CHD has collaborated with Green Bay Housing Authority to obtain information on how their non-smoking policies are enforced within their residential units. GBHA is a (PHA) and has participated in the HUD smoke-free policy change in 2017/2019. They house a 50-unit complex called Mason Manor on West Mason Street as well as approximately 45 scattered sites. GBHA has a "3 strikes you are out" type of approach with both the first and second offenses including a penalty fine. The entire campus smoke-free. The fines for these types of infractions include:

1. \$100 fine, needing to be paid in full, with no payment plan
2. \$150 fine plus a 5-Day Quit or Cure Notice
3. \$200 fine and a 28 Day No Cure Notice of Eviction

It was our understanding that De Pere Housing Authority has a one strike you are out enforcement approach. Both agencies are PHA's and are subject to HUD's smoke-free policy, making it easier to contend with enforcement related issues.

In ending, Comprehensive Housing will stand behind the Smoke-Free amendments being proposed within the Clean Air Policy Act due to the cleaner benefit and healthier neighbor aspects associated with it. We understand the need and importance that this policy places on the health and safety of the Nations community members and always place emphasis in our own decisions for the best welfare of the people. Additional efforts should include other clean air contaminants that occur within residential units as noted. While we do and will support the needed changes for this policy, it must be understood that with the proposed changes, the ultimate consequence for a breach of a rental agreement is eviction. Even with placing monetary enforcements for breaches of rental agreements, to hold any value, a consequence for nonpayment will be necessary. A strong support from the community, the OBC and the organization will need to be in place in order for CHD to be able to support and enforce upon the proposed changes and hold those breaching rental agreements.

If you have any further questions in regard to this feedback, please contact:

Lisa Rauschenbach

Comprehensive Housing Division Director

(920) 869-6174

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

### ***Response***

The commenters express opposition to allowing an exemption from the prohibition of smoking for residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings, unless otherwise prohibited by a lease or rental agreement; and express support for prohibiting smoking in residential buildings.

The Clean Air Policy provides that no person may smoke in any building owned or operated by the Nation, in any vehicle owned or operated by the Nation, or within thirty (30) feet of any building owned or operated by the Nation, except that a person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. [4 O.C. 411.4-1].

The Clean Air Policy then goes on to provide various exemptions for the prohibition of smoking in section 411.4-2. Currently, the Clean Air Policy provides that there is an exemption from the prohibition of smoking for residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings. [4 O.C. 411.4-2(b)(2)]. The proposed amendments to the Clean Air Policy clarify this exemption and only allow the exemption for residential buildings unless otherwise prohibited by a lease or rental agreement. [4 O.C. 411.4-2(b)(2)]. This provides greater flexibility to the Comprehensive Housing Division to prohibit smoking within residential buildings and within thirty (30) feet of residential buildings through its lease or rental agreements.

Whether or not to allow the Clean Air Policy to provide an exemption from the prohibition of smoking to residential buildings that are owned by the Nation is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. Section 411.4-2(b)(2) of the Clean Air Policy should remain as currently drafted and provide an exemption from the prohibition of smoking to residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings, unless otherwise prohibited by a lease or rental agreement.
2. Section 411.4-2(b)(2) of the Clean Air Policy should be eliminated from the Law.

### ***LOC Consideration***

The Legislative Operating Committee determined that section 411.4-2(b)(2) of the Clean Air Policy should remain as currently drafted and provide an exemption from the prohibition of smoking to residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings, unless otherwise prohibited by a lease or rental agreement. This exemption allows the Comprehensive Housing Division discretion in prohibit smoking in residential buildings through the lease or rental agreement, and also provides flexibility in determining how that prohibition should be handled, i.e. whether smoking within thirty (30) feet of a building would be allowed.

### **Comments 7 through 8 – Need to Strengthen Law:**

#### **411.4. Regulation of Smoking**

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

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

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

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

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

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

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

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

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

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

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

(3) 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.

**Michelle Tipple (oral):** Because this law is opened, we encourage the LOC to consider some amendments that would strengthen this law. Remove the casinos and, as an exception to this law. Since COVID-19 casinos in Wisconsin have successfully operated in a smoke free environment. Secondly, implement smoke free campuses for all Oneida government buildings. The Oneida Comprehensive Health Division implemented smoke free campus back in 2016. So, it can be done. We did it.

There is a lot of data to support the benefits of a smoke, free work environment increases smoking sensation among tobacco users, helps people stop, cuts employee sick days and medical costs, and it increases productivity, improves body, or excuse me, business image - makes a workplace more attractive to job candidates. It decreases the risk of fires and smoke damage to property. It lowers office cleaning and maintenance cost, as discussed for the previous speaker, reduces an employers vulnerability to lawsuits. And it increases the number of visitors and their expenditures to businesses such as hotels, bars, and restaurants.

Now I do intend to submit some written comments as well and I will include more available data with the sources that I use to support these recommendations. We ask the LOC to consider making data driven decisions that support health equity. All employees have an should have access to a healthy work environment as these amendments are being considered. Thank you.

**Michelle Tipple (written):** Good morning. I am forwarding some additional data from the dental health perspective on behalf of our Assistant Dental Director, Dr Yvonne White. This data supports the need to strengthen Oneida's Clean Air Law- click link below.

<https://www.cdc.gov/tobacco/campaign/tips/diseases/periodontal-gum-disease.html#:~:text=You%20have%20twice%20the%20risk%20for%20gum%20disease%20compared%20with%20a%20nonsmoker.&text=The%20more%20cigarettes%20you%20smoke,you%20risk%20for%20gum%20disease.&text=The%20longer%20you%20smoke%2C%20the%20greater%20your%20risk%20for%20gum%20disease.&text=Treatments%20for%20gum%20disease%20may,well%20for%20people%20who%20smoke>

## What Is Gum Disease?

Gum (periodontal) disease is an infection of the gums and can affect the bone structure that supports your teeth. In severe cases, it can make your teeth fall out. Smoking is an important cause of severe gum disease in the United States.

Gum disease starts with bacteria (germs) on your teeth that get under your gums. If the germs stay on your teeth for too long, layers of plaque (film) and tartar (hardened plaque) develop. This buildup leads to early gum disease, called gingivitis.

When gum disease gets worse, your gums can pull away from your teeth and form spaces that get infected. This is severe gum disease, also called periodontitis. The bone and tissue that hold your teeth in place can break down, and your teeth may loosen and need to be pulled out.

## Warning Signs and Symptoms of Gum Disease

- Red or swollen gums
- Tender or bleeding gums
- Painful chewing
- Loose teeth
- Sensitive teeth
- Gums that have pulled away from your teeth

## How Is Smoking Related to Gum Disease?

Smoking weakens your body's infection fighters (your immune system). This makes it harder to fight off a gum infection. Once you have gum damage, smoking also makes it harder for your gums to heal.

## What does this mean for me if I am a smoker?

- You have twice the risk for gum disease compared with a nonsmoker.
- The more cigarettes you smoke, the greater your risk for gum disease.
- The longer you smoke, the greater your risk for gum disease.
- Treatments for gum disease may not work as well for people who smoke.

Tobacco use in any form—cigarettes, pipes, and smokeless (spit) tobacco—raises your risk for gum disease.

## How Can Gum Disease Be Prevented?

A good mind. A good heart. A strong fire.



You can help avoid gum disease with good dental habits.

- Brush your teeth twice a day.
- Floss often to remove plaque.
- See a dentist regularly for checkups and professional cleanings.
- Don't smoke. If you smoke, quit.

How Is Gum Disease Treated?

Regular cleanings at your dentist's office and daily brushing and flossing can help treat early gum disease (gingivitis).

More severe gum disease may require:

- Deep cleaning below the gum line.
- Prescription mouth rinse or medicine.
- Surgery to remove tartar deep under the gums.
- Surgery to help heal bone or gums lost to periodontitis. Your dentist may use small bits of bone to fill places where bone has been lost. Or your dentist may move tissue from one place in
- your mouth to cover exposed tooth roots.

If you smoke or use spit tobacco, quitting will help your gums heal after treatment.

### ***Response***

The commenters express that the Clean Air Policy's prohibition of smoking should be strengthened and increased, instead of providing additional exemptions to the prohibition of smoking through this Law.

Two ways the commenters express that the Clean Air Policy can be strengthened is by removing the exemption for the prohibition of smoking for the casinos, and requiring smoke free campuses for all government buildings in the Nation.

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]. The Clean Air Policy provides that no person may smoke in any building owned or operated by the Nation, in any vehicle owned or operated by the Nation, or within thirty (30) feet of any building owned or operated by the Nation, except that a person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. [4 O.C. 411.4-1].

The Clean Air Policy then goes on to provide various exemptions for the prohibition of smoking such as:

- cultural usage;
- all gaming areas in any buildings of the Nation;
- residential buildings that are owned by the Nation, including, but not limited to, single-family dwellings, two (2) family dwellings, and multiple-family dwellings, unless otherwise prohibited by a lease or rental agreement; and

- 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].

Whether to make additional amendments to the Clean Air Policy in an effort to strengthen the prohibition of smoking is a policy consideration for the Legislative Operating Committee to make. The Legislative Operating Committee may make one of the following determinations:

1. The proposed amendments to the Clean Air Policy should remain as currently drafted.
2. The proposed amendments to the Clean Air Policy should be reconsidered in an effort to strengthen the prohibition of smoking within this Law. Two ways the Legislative Operating Committee can consider strengthening the prohibition of smoking is by:
  - a. Requiring smoke free campuses for all buildings of the Nation, not retail or gaming locations, by removing the allocation that a person may smoke at least thirty (30) feet away from a building found in section 411.4-1(b) of the Clean Air Policy; or
  - b. Removing the exemption from the prohibition of smoking for gaming areas in any buildings of the Nation found in section 411.4-2(b)(1) of the Clean Air Policy.

***LOC Consideration***

The Legislative Operating Committee determined that the proposed amendments to the Clean Air Policy should remain as currently drafted.

**Comment 9 – Application to Radisson Employees:**

**411.4. Regulation of Smoking**

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

- (a) in any building owned or operated by the Nation;
- (b) within thirty (30) feet of any building owned or operated by the Nation. Receptacles for disposing of smoking materials shall be maintained at least thirty (30) feet from the main entrances of the building; or
  - (1) *Exception.* A person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. Receptacles for disposing of smoking materials may be maintained within thirty (30) feet of the entrances of these buildings.
- (c) in any vehicle owned or operated by the Nation.

**411.4-4. Violations.**

- (a) Any building manager or designated agent of the Nation may file for injunctive relief with the Nation’s Judiciary against any person who repeatedly or willfully violates this law.
- (b) An employee of the Nation who violates this law during their work hours may be subject to the following disciplinary action in accordance with the Nation’s laws and policies governing employment:
  - (1) written warning for a first-time violation;
  - (2) suspended without pay for a second violation; or
  - (3) terminated from employment for any violation thereafter.





**Diana King (written):** Would this clean air apply to Radisson employees as well? At the main casino we have designated smoking area in ground floor level of the ramp which is all gaming or Radisson employees. People litter their cigarette butts all over the place instead of discarding them in the designated area. I am not sure if our surveillance cameras can detect who is littering the ramp with cigarette butts. It's disappointing that employees disregard our property and the generous approval of smoking privileges

### ***Response***

The commenter questions whether the Clean Air Policy applies to employees of the Radisson, and expresses complaints regarding the littering of cigarette butts.

The Clean Air Policy provides that no person may smoke in any building owned or operated by the Nation, in any vehicle owned or operated by the Nation, or within thirty (30) feet of any building owned or operated by the Nation, except that a person may smoke within thirty (30) feet of the retail outlets or any gaming establishments. [4 O.C. 411.4-1]. The Radisson is not a building owned and operated by the Nation, so the Clean Air Policy would not apply to that location.

The Clean Air Policy does not address the littering of cigarette butts in locations where smoking is allowed or smoking receptacles are found. However, the Nation's Public Peace law does provide that a person commits the civil infraction of littering if he or she deposits, throws, dumps, discards, abandons, leaves any litter on any private property or Tribal property. [3 O.C. 309.10-1]. Any person who violates a provision of the Public Peace law may be subject to the issuance of a citation by an Oneida Policy Department officer. [3 O.C. 309.11-1].

There is no revision to the proposed amendments to the Clean Air Policy recommended based on this comment.

### ***LOC Consideration***

The Legislative Operating Committee agreed that there is no revision to the Clean Air Policy needed based on this comment, but wanted to highlight resolution BC-12-21-23-B, *Consolidation of the Hotel and Conference Center with Oneida Gaming*, which recognizes the transition of the Radisson Hotel and Conference Center property, personnel, services from the Oneida Airport Hotel Corporation to gaming operations – meaning therefore in the future, employees of the Radisson will be subject to this law.