

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

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**411.1. Purpose and Policy**

411.1-1. *Purpose.* 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.

411.1-2. *Policy.* It is 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 shall be prohibited as described within this law.

**411.2. Adoption, Amendment, Repeal**

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

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 This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.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

411.2-4. 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.

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

**411.3. Definitions**

411.3-1. 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) “Building” means a structure that has a roof and more than two (2) substantial walls.

(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.

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

(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) “Nation” means the Oneida Nation.

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

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

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

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

**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 or land or building assignment.

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

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.

*End.*

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

Amended – BC-02-24-10-1

Amended – BC-05-28-14-A  
Amended – BC-02-14-24-A