

ONEIDA INDIAN NATION

REGULATIONS GOVERNING E-CIGARETTES AND VAPING PRODUCTS

The regulations below were promulgated by the Oneida Indian Nation on November 12, 2019.

PART 1: PURPOSE AND DEFINITIONS

Section 1.1 **Purpose.** The Oneida Indian Nation (the “Nation”) establishes these regulations to protect the health, safety and welfare of Nation members and members of the general public. The Nation has authorized the promulgation of these Regulations as necessary to implement the Oneida Indian Nation Land Use, Environmental, Health & Safety Ordinance (Ordinance No. O-14-03 (the “Ordinance”). These Regulations are not all-inclusive, but are adjunct to, and must be read in connection with the Ordinance.

Section 1.2 **Definitions.** For purposes of these Regulations, the following terms have the meanings set forth below:

1. “Electronic Cigarette or E-Cigarette” means an electronic delivery system that delivers vapor which is inhaled by an individual user (includes vapes, vaporizers, vape pens, hookah pens, electronic cigarettes, e-pipes and similar devices) and any refill, cartridge any other component of such a device.
2. “Vaping Product” means Electronic Cigarettes and Electronic Liquids.
3. “Electronic Liquid” or “Liquid Nicotine” means a non-combustible liquid or gel, that may contain nicotine, as well as varying compositions of flavorings, propylene glycol, vegetable glycerin and other ingredients that are heated to create an aerosol that a user inhales, and that is manufactured or made for use in an Electronic Cigarette.

PART 2: Manufacture, Distribution or Sale of Vaping Products on Nation Land

Section 2.1. **Minimum Age Requirement.** The sale and distribution of Vaping Products on Nation land to persons under age 21 is prohibited.

Section 2.2. **Electronic Cigarette Use Restrictions.** Electronic Cigarette use and vaping shall not be permitted on Nation land in areas and locations where smoking is prohibited by the Nation.

Section 2.3. **Taxation of Vaping Products.** In addition to any other tax imposed by the Nation pursuant the Oneida Indian Nation Tax Ordinance (O-13-01), the Nation shall impose a supplemental Nation tax of twenty percent (20%) on receipts from the retail sale of Vaping Products sold on Nation land.

PART 3: COMPLIANCE DATE

Section 3.1. **Compliance Date.** Any person or entity manufacturing, distributing or selling Vaping Products on Nation Land must be in compliance Part 2 of these Regulations as set forth below:

1. Any person or entity manufacturing, distributing or selling Vaping Products on Nation Land must be in compliance with Section 2.1 of these Regulations no later than November 13, 2019.

2. Any person or entity manufacturing, distributing or selling Vaping Products on Nation Land must be in compliance with Section 2.2 of these Regulations no later than thirty (30) days after the promulgation date set forth above.
3. Any person or entity manufacturing, distributing or selling Vaping Products on Nation Land must be in compliance with Section 2.3 of these Regulations no later than December 1, 2019.

PART 4: ADMINISTRATION AND ENFORCEMENT

Section 4.1. The Nation Representative(s) shall appoint any and all officer(s) or official(s), deemed necessary to administer and enforce these Regulations.

Section 4.2: In addition to any other penalties, any person or entity that violates these Regulations may be subject to a civil fine for each such offense, and may be required to pay a fine of not less than \$200, but no more than \$20,000 for each such offense. For purposes of civil penalties each Electronic Cigarette and each individual container or other separate unit of Electronic Liquid that is manufactured, distributed, sold, or offered for sale, in violation of Part 2 of these Regulations shall constitute a separate violation.

PART 5: MISCELLANEOUS

Section 5.1. The Nation does not, by enacting these Regulations, waive in any respect its sovereign immunity, or that of its agents or officers, in any manner, under any law, for any purpose, or in any place.

Section 5.2. These Regulations are not subject to review or modification in any state or federal court or by any authority outside the Nation and are not subject to review or modification in any Nation court.

Section 5.3. These Regulations do not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its agents, its officers or Employees, or any other person.