

COQUILLE TRIBAL REGULATIONS
Chapter 220
Indian Tobacco Sales Ordinance

220.010 General

1. Title

This ordinance shall be know as the Indian Tobacco Sales Ordinance of the Coquille Indian Tribe.

2. Purpose

The purpose of this ordinance shall be to provide for the regulation of the sale of tobacco products by Indians designated as tobacco outlets for taxation and other jurisdictional purposes within the boundaries of the Coquille Indian Reservation.

3. Definitions

As used in this ordinance, the following words or phrases shall have the following definitions:

(a) "Indian" a member of the Coquille Indian Tribe.

(b) "Tribal Council" shall mean the governing body of the Coquille Indian Tribe.

(c) "Reservation" shall mean all lands that are part of the Coquille Tribe's reservation and all other lands held in trust by the United States for the Tribe or any of the members.

(d) "Indian Owned" shall mean any outlet owned by one or more Indians engaged in the sale of tobacco products.

(e) "Operator" shall mean any Indian licensed by the Tribe to operate a tobacco outlet.

(f) "Indian tobacco outlet" shall mean a licensed Indian owned tobacco outlet selling or otherwise distributing tobacco on the Reservation pursuant to the privileges and immunities of such outlets under this ordinance.

(g) "Tobacco Products" shall include cigarettes, cigars, smoking tobacco, snuff, chewing tobacco and all other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking.

(h) "Tribe" or "Tribal" shall mean or refer to the Coquille Indian Tribe.

220.020 Jurisdiction

Approval Date: 10/28/95
Amended 07/15/02
Adopted 09/28/02
Amended 12/14/02
Adopted 02/22/03

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220.100 Tobacco Sales - License Fee

1. No Indian owned outlet shall engage in the sale of tobacco products (as an "Indian tobacco outlet") on the Reservation unless and until the operator first obtains a license for such sales pursuant to this ordinance; provided, that any Indian owned outlet engaging in such sales prior to the adoption of this ordinance may continue such sales for a period of thirty (30) days after the adoption of this ordinance, after which 30-day period the operator must have a license pursuant to this ordinance.
2. A tobacco sales license shall be valid for a period of one (1) year from the date of its issuance and shall expire automatically without notice on the expiration date stated in the license.
3. No tobacco sales license shall be transferable.
4. The Tribal Council shall establish a fee for the issuance of a tobacco sales license which shall be collected prior to the issuance of the license.

220.120 Tobacco Sales - Application and Renewal

1. Application for a tobacco sales license shall be on a form approved by the Coquille Tribal Council which shall be fully completed by the applicant or a duly authorized representative. The application shall state the name and address of the applicant, the location of the proposed tobacco outlet, the beginning date for which the license is requested, a description of any other retail or commercial business conducted or to be conducted by the applicant at the location of the proposed tobacco outlet, proof of Indian or Indian owned status of applicant, such other information as the Tribal Council may require, and shall be signed by the applicant under oath.
2. The Tribal Council shall have the authority and the sole discretion to approve or deny, or delegate to a Tribal employee or committee the authority and sole discretion to approve or deny, all tobacco sales license applications.

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3. Upon the denial of any application for a tobacco sales license, the applicant shall have the right to a hearing before the Tribal Council at its next regularly scheduled meeting. Findings and decisions by the Tribal Council based on the hearing shall be final and conclusive.

4. Prior to or upon the expiration of any tobacco sales license, the operator may apply for renewal of a license by filing a renewal application with the Tribal Council. Renewal applications shall be subject to all conditions and requirements applicable to an initial application, including a fee for the issuance of a renewal license.

5. In the event an operator wishes to operate a tobacco outlet under the continual coverage of a tobacco sales license, it shall be the responsibility of said operator to submit to the Tribal Council its renewal application within the thirty (30) prior to the expiration date of the tobacco sales license.

220.130 Tobacco Sales License Criteria

No application for the tobacco sales license shall be granted unless:

1. The applicant has paid the required license fee and submitted a completed application form.
2. The applicant shall be at least 21 years of age.
3. The applicant is determined to be of good moral character.
4. The location proposed for the tobacco outlet complies with all applicable Tribal building codes and zoning ordinances.
5. It is determined, at the sole discretion of the Tribal Council or its authorized representative in such matters, that there is adequate demand for a tobacco outlet at the proposed location; and,

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6. The applicant is engaged in or proposes to engage in retail or commercial business at such location other than the sale of tobacco products, unless the proposed tobacco outlet is a cigarette vending machine.

7. The applicant is and will operate as an Indian owned outlet as defined by this ordinance.

The conditions described in this Section are not exclusive and the Tribal Council or its authorized representative, at its sole discretion, may impose any other conditions which it deems necessary to safeguard and promote the safety, health, and general welfare of the members of the Tribe, as well as the sovereignty and economic self-sufficiency of the Tribe itself. If any changes are made to the license conditions that might adversely effect holders of existing licenses, the Tribal Council shall provide written notice to such license holders that explains the change in conditions, explains the impact (if any) on the existing license holder, and describes the procedures (including time, place, and format) by which the holder can comment on the condition changes.

220.140 Cigarette Tax

No cigarette shall be sold which does not bear a revenue stamp of the State of Oregon.

220.150 Trader's License

If under applicable federal law the applicant is required to obtain a federal Indian trader's license, the applicant shall apply for such trader's license within 30 days after receipt of a tobacco sales license. Failure of the operator to apply for, obtain or maintain a federal Indian trader's license shall be grounds for immediate revocation of the tobacco sales license.

220.160 Tribal Sovereign Immunity

Nothing in this ordinance shall be construed to have waived the sovereign immunity of the Tribe, any of its

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subdivisions, businesses, or enterprises. No operator shall attempt or be authorized to waive the sovereign immunity of the Tribe from suit.

220.170 Operating Without a License

It shall be unlawful for any person to engage in the business of selling or distributing tobacco products within the boundaries of the Reservation without having in effect a valid tobacco sales license issued pursuant to this ordinance.

220.180 Rulemaking Authority

The Tribal Council shall have the authority to prescribe such rules and regulations as they deem necessary to carry out the purpose of this ordinance and to facilitate its operation.

220.190 Resisting Arrest or Hindering Enforcement

No one subject to the provisions of this ordinance shall forcibly resist lawful arrest or interfere with or hinder any officer authorized by Tribal Council in the investigation of any violation of this ordinance or in making any lawful search, examination or service in the performance of his duties to that end.

220.200 Penalties

1. The Coquille Tribal Court shall have jurisdiction of all violations of this ordinance committed within the boundaries of the Coquille Reservation. Prosecution of any violation of this ordinance shall be initiated by the Tribal Attorney. Until such time as a Tribal Court is established, the Tribal Council shall serve as the Tribal Court for the purpose of this ordinance.

2. The Coquille Tribal Court shall have the authority to issue an order directing Tribal law enforcement personnel to

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seize all tobacco products from any tobacco outlet being operated in violation of this ordinance.

3. Within three days of such seizure, after adequate notice (adequate notice in this section shall mean written notice delivered in person or by certified mail to the operator, stating time, place, issue to be decided and possible penalties) to the operator of the outlet, a hearing shall be held in Tribal Court at which time such operator shall be given an opportunity to present evidence in defense of his/her activities.

4. In the event the Tribal Court shall by a preponderance of the evidence determine that an operator of a tobacco outlet was in violation of this ordinance, the Tribal Court may punish such operator by any, all, or any combination of the following:

- (a) A fine not to exceed \$5000.00;
- (b) Imprisonment not to exceed one (1) year;
- (c) Suspension or revocation of a tobacco sales license;
- (d) Forfeiture of any or all tobacco products in the violator's possession.

220.210 Non-Indians

The Tribe and the Oregon Department of Revenue will cooperate in the enforcement of Oregon cigarette tax laws with respect to sales of cigarettes by non-Indians on the reservation.

220.220 Severability

If any provision of this ordinance is found to be invalid under applicable law by a court of competent jurisdiction, that provision shall be severed from the ordinance and the remainder of the ordinance shall remain in full force and effect.