



Title XI – Tobacco Control and Tax Ordinance

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Title XI – Tobacco Control and Tax Ordinance is comprised of Tribal statutes relevant to the effective regulation of the sale and purchase of cigarettes and other tobacco products and the orderly imposition, collection and administration of taxes on the retail purchase of same upon Tribal land.

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Title XI – Tobacco Control and Tax Ordinance

CHAPTER I. GENERAL PROVISIONS

Sec. 101 Title

This Ordinance shall be known as the Alabama-Coushatta Tribal Tobacco Control and Tax Ordinance.

Sec. 102 Authority

The Alabama-Coushatta Tribe of Texas' authority to adopt this Ordinance is found in Article VI, Section 1(h) of the Alabama-Coushatta Tribe of Texas' Constitution and in the inherent sovereignty of the Alabama-Coushatta Tribe of Texas to regulate its own territory and activities occurring thereon.

Sec. 103 Findings

(A) The Alabama-Coushatta Tribal Council finds that a tax base is essential to the Tribe's ability to provide goods and services, to finance government operations and economic development, and for the health, safety and welfare of the Alabama-Coushatta Tribe of Texas, its members, and those who work on, live on, and visit Alabama-Coushatta Tribal Lands.

(B) Taxes levied under this Ordinance will more equitably distribute the burden of financing tribal governmental services among all persons who engage in activities upon Tribal Lands, and who thus benefit from tribal governmental services.

(C) The imposition of taxes is an appropriate method of generating revenues for the Tribe and incident to the continued economic development of Tribal Lands.

Sec. 104 Purpose

The purpose of this Ordinance is to regulate the sale and purchase of cigarettes and other tobacco products, and to impose, collect, and administer taxes on the retail purchase of cigarettes and other tobacco products upon Alabama-Coushatta Tribal Lands.

Sec. 105 Scope

This Ordinance shall apply to the full extent of the sovereign jurisdiction of the Alabama-Coushatta Tribe of Texas upon Alabama-Coushatta Tribal Lands.

Sec. 106 Applicability

This Ordinance shall apply to the sale and purchase of cigarettes and other tobacco products upon Alabama-Coushatta Tribal Lands.

Title XI – Tobacco Control and Tax Ordinance**Sec. 107 Compliance**

Compliance with this Ordinance is a condition of entering into or residing upon Alabama-Coushatta Tribal Lands.

Sec. 108 Consent to Jurisdiction

(A) Any person who resides upon Alabama-Coushatta Tribal Lands, conducts business on Alabama-Coushatta Tribal Lands, engages in a business transaction upon Alabama-Coushatta Tribal lands, receives benefits from the Alabama-Coushatta Tribal government, including public safety, fire or emergency services, acts under Tribal authority, or enters upon Alabama-Coushatta Tribal lands, shall be deemed to have consented to the following:

- (1)** To be bound by the terms of this Ordinance;
- (2)** To the jurisdiction of the Alabama Coushatta Tribe of Texas regarding enforcement of this Ordinance;
- (3)** To the jurisdiction of the Alabama-Coushatta Tribal Court in legal actions arising under to this Ordinance; and
- (4)** To detainment, service of summons and process, and search and seizure, in conjunction with enforcement and legal actions arising pursuant to this Ordinance.

CHAPTER II. DEFINITIONS**Sec. 201 Definitions**

(A) “**Agent**” means an Alabama-Coushatta Tobacco Tax Agent.

(B) “**Alabama-Coushatta Cigarette Tax**” means any tax imposed by the Commission on the purchase or sale of cigarettes within Alabama-Coushatta Tribal Lands.

(C) “**Carton**” or “**carton of cigarettes**” shall be based on the standard carton of two hundred (200) cigarettes.

(D) “**Cigarette**” means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(E) “**Commission**” means the Alabama-Coushatta Tribal Tobacco Tax Commission.

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(F) "Council" means the Alabama-Coushatta Tribal Council, as constituted by Article V of the Constitution of the Alabama-Coushatta Tribe of Texas.

(G) "Distributor" means any person who purchases, sells, or distributes cigarettes or tobacco products for the purpose of resale only.

(H) "E-Cigarette" means (i) an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or (ii) a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described [above, including a product sold as] an e-cigarette, e-cigar, or e-pipe or under another product name or description [and including any] component, part, or accessory for the device [whether or not] sold separately. E-cigarette product includes "any substance containing nicotine from any source that is intended for use in an e-cigarette."

(A) "Essential government services" means services provided by the Alabama- Coushatta Tribe including, but not limited to, administration, public facilities, fire, court, public safety, health, education, elder care, social services, sewer, water, environmental and land use, transportation, utility services, community development and economic development.

(I) "Non-Member" means an individual who is not an enrolled member of the Alabama Coushatta Tribe of Texas.

(J) "Person" shall include an individual, form, partnership, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit, other than the Alabama Coushatta Tribe of Texas or one of its political subdivisions.

(K) "Sale" means any transfer, exchange, or barter, conditional or otherwise, in any manner whatsoever, for a consideration.

(L) "Tobacco products" means vapor and vapor products, e-cigarettes and e-cigarette products, cigarettes, cigars, cheroots; stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

(M) "Tribe" or "Tribal" means the Alabama-Coushatta Tribe of Texas.

(N) "Tribal Court" means the Alabama-Coushatta Tribe of Texas Tribal Court. In the event a Tribal Court has not otherwise been established with jurisdiction to hear matters related to this Ordinance, the Council may, in its discretion, designate an entity

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such as an arbitration and mediation service, individual or group of individuals to serve as the Tribal Court.

(O) “Tribal lands” or “Indian lands” or “Reservation,” means all lands within the limits of the Alabama-Coushatta Indian Reservation; and any lands title to which is either held in trust by the United States for the benefit of the Alabama-Coushatta Tribe of Texas and lands of the Tribe located within the State of Texas, and acquired by the Tribe after August 18, 1987, and held in trust by the United States for the benefit of the Tribe.

(P) “Tribally-Licensed Wholesaler” or “Tribally Licensed Distributor” or Tribally-Licensed Manufacturer” means a wholesaler, distributor or manufacturer who has been issued a license to engage in commercial sales of tobacco products to Tribal Retail Outlets and who has agreed as a condition of licensure to abide by the terms of this Ordinance.

(Q) “Tribal Cigarette Tax” means any tax imposed by the Commission on the retail purchase of cigarettes within Alabama Coushatta Tribal Lands.

(R) “Tribal Cigarette Tax Stamp” means the stamp or stamps that indicate the Alabama-Coushatta Tribal Cigarette Tax is paid.

(S) “Tribal Member” shall mean an individual who is listed on the official Alabama-Coushatta Tribe of Texas Tribal Roll.

(T) “Tribal Retailer” means a cigarette and other tobacco products retailer wholly owned by the Alabama-Coushatta Tribe of Texas and located on Tribal Lands.

(U) “Tribal Tobacco Tax” means any tax imposed by the Commission on the retail purchase of tobacco products within Tribal Lands.

(V) “Vape” and “Vapor Products” means electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device, or any substance used to fill or refill the device.

(W) “Wholesaler” means any person who purchases, sells, or distributes cigarettes or tobacco products for the purpose of resale only.

CHAPTER III. PROHIBITIONS

Sec. 301 No Sales to Persons Under 21

(A) No person shall sell or permit to be sold cigarettes or other tobacco products to any person under the age of twenty-one (21).

(B) Violation of Section A is a civil infraction, subject to the following penalties:

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- (1) Upon a first (1st) violation, a fine of two-hundred and fifty dollars (\$250);
- (2) Upon a second (2nd) violation within any rolling one (1) year period, a fine of five-hundred dollars (\$500);
- (3) Upon a third (3rd) violation within any rolling one (1) year period, a fine of seven-hundred and fifty dollars (\$750);
- (4) Upon a fourth (4th) violation within any rolling two (2) year period, a fine of one-thousand dollars (\$1,000); and
- (5) Upon a fifth (5th) violation within any rolling two (2) year period, a fine of one-thousand dollars (\$1,000), and termination from employment.

It shall not be a defense for a violation of Section A that the purchaser acted, or was believed by the defendant to act, as agent or representative of another.

It shall be a defense to a violation of Section A that the person making a sale reasonably relied on officially issued identification that shows the purchaser's age and bears the purchaser's signature and photograph.

Any person aggrieved by enforcement action taken pursuant to this Section may appeal Commission determinations to the Tribal Court. The Tribal Court shall reverse, modify or remand Commission determinations for lack of substantial evidence or an abuse of discretion. The Tribal Court decision shall be final and not subject to further appeal.

CHAPTER IV. RETAIL TOBACCO OUTLETS: TOBACCO WHOLESALER LICENSING; AND RECORD KEEPING REQUIREMENTS

Sec. 401 Establishment of Tribal Retail Outlets

(A) The Council has established Tribal Retail Outlets, and may establish additional such outlets as the Council, in its sole discretion, deems necessary.

(B) Cigarettes and tobacco products may not be sold on Tribal Lands other than by a Tribal Retail Outlet established by the Council and licensed by the Commission.

(C) Each Tribal Retail Outlet established pursuant to this Ordinance shall be owned and operated by the Tribe.

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Sec. 402 Manufacturers, Wholesalers and Distributors: Licensing Requirements

(A) All Manufacturers, Wholesalers and Distributors who engage in commercial sales of tobacco products with Tribal Retail Outlets must first obtain a Tribal Wholesaler License.

(B) As a condition of a Tribal Wholesaler License, the Licensee must agree to comply with this Ordinance and its implementing regulations.

(C) As a condition of a Tribal Wholesaler License, the Licensee must demonstrate that they are authorized under federal law to engage in commercial tobacco productsales.

Sec. 403 Record Keeping Requirements

(A) The Tribe shall maintain records necessary to verify that all Tribal tax revenue was used in accordance with this Ordinance and shall make them available for inspection and duplication by the Alabama-Coushatta Tobacco Tax Commission and the Auditor pursuant to this Ordinance.

(B) Tribal Retail Outlets shall maintain records and invoices of cigarettes purchased from Licensed Wholesalers; records and invoices of cigarettes sold; cigarette inventory; and records to verify that the retail selling price includes applicable Tribal taxes.

(1) All records required to be maintained by Tribal Retail Outlets shall be made available for inspection and duplication by the Commission and the Auditor pursuant to this Ordinance.

(C) Tribally-Licensed Wholesalers shall maintain: records and invoices of stamp purchases; records and invoices of sales of stamped cigarettes; and stamp inventory; and the stamping process and shall make them available for inspection and duplication by the Commission and the Auditor pursuant to this Ordinance.

CHAPTER V. TRIBAL TOBACCO TAX COMMISSION

Sec. 501 Establishment of the Alabama-Coushatta Tribe of Texas Tobacco Tax Commission: Responsibilities

(A) There shall be established the Alabama-Coushatta Tobacco Tax Commission.

(B) Authority and responsibility for administration and enforcement of this Ordinance is vested in the Commission, except as specifically limited by this Ordinance.

Title XI – Tobacco Control and Tax Ordinance**Sec. 502 Alabama-Coushatta Tax Commission Membership: Conduct of Business****(A) Membership.**

(B) The membership of the Commission shall reflect the membership of the Council and may include such other persons as appointed by the Council.

(1) The Chairman of the Council shall designate the Chairman of the Commission.

(2) Members of the Commission who are also members of the Council shall serve on the Commission until their respective council terms expire.

(3) Members of the Commission who are not members of Council shall serve for a one (1) year term, which is renewable at the pleasure of Council.

(C) Conduct of Business.

(1) A majority of the members of the Commission shall constitute a quorum.

(2) No vacancy in the membership of the Commission shall impair the right of the remaining members to act.

(3) Each Member of the Commission shall cast one (1) vote and all decisions must be made by majority vote of the quorum present.

(4) The principal office of the Commission shall be at the Alabama-Coushatta Tribal Office, or such other place as directed by Council.

(5) The Commission shall conduct all business pursuant to this Ordinance at regularly scheduled meetings.

(6) The Commission shall keep accurate records of all Commission proceedings.

(7) The Commission may employ such employees as necessary.

(8) The Commission shall appoint an auditor who shall perform annually an internal audit of the Tribal cigarette tax and other tobacco products tax for the Alabama-Coushatta Tribe and submit an audit report to the Council at least annually and as otherwise requested by the Council.

Title XI – Tobacco Control and Tax Ordinance**Sec. 503 Powers of the Commission**

The Commission shall have the following powers:

(A) To promulgate and enforce such written rules and regulations as are necessary to carry out the orderly performance of its duties, including but not limited to rules and regulations relating to: internal operational procedures of the Commission and its staff; interpretation and application of this Ordinance as may be necessary to ascertain or compute any tax owed; the filing of any reports or returns required by, or necessary to implement, this Ordinance; and the conduct of inspections, investigations, hearings, enforcement actions, and other authorized activities of the Commission.

(B) To make, or cause to be made by its employees, an examination or investigation of the place of business, equipment, facilities, tangible personal property, and the books, records, papers, vouchers, accounts, documents, and financial statements of any location where cigarettes or other tobacco products sales are occurring, during normal business hours or at any time whatsoever pursuant to a search warrant issued by the Tribal Court.

(C) To assess fines and penalties and to issue cease and desist orders.

(D) To make recommendations to the Council regarding tax rates, and regarding amendments to this Ordinance.

(E) To assess and collect cigarette and other tobacco product taxes pursuant to this Ordinance.

(F) To employ and consult with advisors regarding the setting of tax rates authorized by this Ordinance, and regarding amendments to this Ordinance.

(G) Upon the express authorization of Council, to hire employees to assist in carrying out Commission duties.

(H) To delegate to an individual member of the Commission, to an individual member of the Council or to the Commission or other members of the Commission staff such of its functions as may be necessary to administer this Ordinance.

(I) Upon express authorization of Council, the Commission may utilize regular tribal staff in exercising the duties and responsibilities set out in this Ordinance, and may delegate to the tribal staff by rule such of its functions as may be necessary to administer this Ordinance efficiently.

(J) To exercise all other authority as may be reasonably necessary in the administration or enforcement of this Ordinance.

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Sec. 504 Records of the Tax Commission

(A) The Commission shall keep and maintain accurate, complete and detailed records which reflect all taxes levied, due, and paid, and each and every official transaction, communication, or action of the Commission.

(B) Such records shall be maintained at the offices of the Commission and shall not be removed from that location without the consent of the Commission by formal resolution.

(C) Such records shall be subject to audit at any time upon the direction of the Council, and shall be audited not less than once each year by an independent auditor selected by the Tax Commission with the approval of the Council.

Sec. 505 Reservation of Rights to Establish Additional Boards

Notwithstanding any other provision of this Ordinance, nothing herein shall be construed to limit the power of the Council to establish such additional boards or agencies of the Tribe to accomplish the purposes of this Ordinance.

CHAPTER VI. ESTABLISHMENT OF CIGARETTE AND OTHER TOBACCO PRODUCT TAXES

Sec. 601 Establishment of Taxes and Rates

(A) The Council shall determine and impose the Alabama-Coushatta Cigarette Tax and may determine and impose Other Tobacco Products Taxes on the retail purchase of all tobacco products sold within the Tribe's Indian Lands.

(B) The Council may impose, eliminate, raise, or lower Cigarette and Other Tobacco Products taxes whenever it considers it necessary to do so.

CHAPTER VII. COLLECTION AND PAYMENT OF TRIBAL CIGARETTE TAXES

Sec. 701 Pre-Collection of the Tribal Cigarette Tax; Inclusion in Sales Price

(A) Whenever cigarette taxes are paid by any person other than the consumer, user, or possessor, that payment shall be considered a pre-collection of such taxes due.

(B) When the tax is prepaid by another, this amount is part of the selling price of the cigarette to the retail purchaser.

Sec. 702 Tribal Cigarette Tax Stamp Required

(A) All cigarettes sold by Tribal Retailers shall bear a Tribal Cigarette Tax Stamp.

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(B) The Commission shall arrange for the creation and supply of Tribal Cigarette Tax Stamps through the purchase of stamps from a nationally recognized stamp manufacturer.

(C) Tribal Tax Stamps must have a serial number or some other discrete identification so that stamps may be traced to the wholesaler or distributor.

Sec. 703 Cigarettes Manufactured by the Tribe or a Tribal Enterprise Upon Tribal Lands

(A) All cigarettes manufactured by the Tribe or its enterprises upon Tribal lands that also are sold thereon shall be exempt from the Tribal Cigarette Tax.

(B) Cigarettes manufactured pursuant to Section 703(A) must bear a Tax Exempt Stamp that otherwise meets the requirements of this Ordinance.

Sec. 704 Stamp Vendor

(A) The Commission shall serve as the Tribal Tax Stamp Vendor and shall distribute Tribal tax stamps pursuant to this Ordinance.

(B) Subject to approval by the Tribal Council, the Commission may utilize the Tribe's Treasury Department to perform Stamp Vendor duties.

Sec. 705 Distribution of Tribal Tax Stamps by Stamp Vendor

(A) The Stamp Vendor shall distribute stamps to tribally licensed wholesalers upon prepayment of the Tribal Cigarette Tax.

(B) Upon prepayment, the Stamp Vendor shall remit all collected taxes to the Tribe.

Sec. 706 Tribe as a Stamping Wholesaler

(A) In the event the Tribe elects to act as a stamping wholesaler, appropriate segregation of duties and internal controls regarding stamp vending and handling shall first be established and implemented.

Sec. 707 Stamp Vendor Reporting Requirements

(A) The Stamp Vendor shall provide the Tribal Council with timely reports detailing the number of Tribal Tax Stamps sold, and make its records available for auditing by the Tribe or an independent auditor.

(B) The Stamp Vendor shall specify a process by which the Tribe is assured that all wholesalers and distributors who sell cigarettes to Tribal Retailers are paying the applicable Tribal Cigarette taxes. This process may include a requirement that wholesalers

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agree to provide documentation such as invoices of sales to verify to the Tribe that the Tribal Cigarette Taxes were paid.

CHAPTER VIII. REQUIRMENTS FOR AFFIXATION OF STAMPS BY WHOLESALERS

Sec. 801 Wholesalers Responsible for Affixing Tribal Tax Stamps; Licensing Requirement

(A) Tribally Licensed Wholesalers shall be responsible for affixing the Tribal Cigarette Tax Stamps to the smallest container of cigarettes that will be sold by the Tribal Retail Outlets.

(B) As a condition of obtaining a Tribal Wholesaler License, the licensee must demonstrate to the satisfaction of the Commission that it possesses the operational capacity to affix stamps on cigarettes and other tobacco products, as applicable, in an efficient and expeditious manner and otherwise be capable of asserting sufficient control over said stamps to avoid fraud and misuse.

(C) The Commission shall ensure that all stamps allocated to a Tribally-Licensed Wholesaler shall be accounted for on no less than a monthly basis and that all requisite fees have been paid to the Commission.

Sec. 802 Tribal Tax Stamp Affixation; Requirements

(A) Tribal Tax Stamps shall be affixed so that the stamps may not be removed from the package without destroying the stamp.

(B) Tribal Tax Stamps shall be affixed so the stamps can readily be ascertained by inspection to ensure the tax has been paid.

(C) Wholesalers may possess unstamped cigarettes confirmed for sale to Tribal Retail Outlets only for as long as is reasonably necessary to affix Tribal Tax Stamps to the packages.

(D) Unless the Tribe is acting as stamping wholesaler pursuant to this Ordinance, all cigarettes destined for sale to Tribal Retail Outlets shall bear Tribal Tax stamps prior to shipment or delivery.

CHAPTER IX. SALE OF UNSTAMPED CIGARETTES PROHIBITED

Sec. 901 Cigarettes to bear Tax Stamp

All cigarettes sold or intended for sale within Alabama-Coushatta Tribal Lands shall bear the Tribe's Cigarette Tax Stamp in the manner required pursuant to this Ordinance.

Title XI – Tobacco Control and Tax Ordinance**Sec. 902 Possession of Unstamped Cigarettes Prohibited**

Any person who possesses unstamped cigarettes in violation of this Ordinance with the intent to sell such cigarettes shall be guilty of an infraction and shall be subject to the following penalties:

- (A) A fine equal to the amount of the cigarette tax that should have been assessed against such cigarettes;
- (B) Forfeiture of all unstamped cigarettes;
- (C) Any civil fines that may be applicable, and;
- (D) A cease and desist order issued by the Commission.

Any person aggrieved by enforcement action taken pursuant to this Section may appeal Commission determinations to the Tribal Court. The Tribal Court shall reverse, modify or remand Commission determinations for lack of substantial evidence or an abuse of discretion. The Tribal Court decision shall be final and shall not be subject to further appeal.

CHAPTER X. PURCHASE AND SALE**Sec. 1001 Unlawful Sales**

(A) No retail sale of tobacco products may be made within Tribal lands except for those tobacco products which have been sold by a Tribal Retail Outlet and upon which the full amount of any Cigarette and Other Tobacco Products tax is levied.

(B) The retail sale of cigarettes or tobacco products by any person within the jurisdiction of the Tribe, other than from Tribal Retail Outlets, is prohibited.

(C) It shall be unlawful for any person to sell any tobacco products within the Reservation unless taxes imposed thereon have been paid.

(D) It shall be unlawful for Tribal Retailers to knowingly sell tobacco products that are purchased with the intent of re-sale.

Sec. 1002 Incidence of Tax Borne by Consumer

The legal incidence of taxes levied by this Ordinance is hereby declared to be on the ultimate consumer of tobacco products on Tribal lands and when this tax is paid by any other person such payment shall be considered as an advance payment or pre-collection and shall thereafter be added to the price of tobacco products and recovered from the ultimate consumer.

Title XI – Tobacco Control and Tax Ordinance**Sec. 1003 Reporting**

(A) The Commission or its designee shall prepare a tax reporting form that shall be used by Retail Outlets. The tax reporting form shall include the amount of sales of cigarettes and other tobacco products sold, amount of taxes collected, and such other data as may be required by the Commission. The Commission may require other business records to verify that the correct amount of taxes were pre-collected and prepaid.

(B) The tax reporting form, the supporting records and the tax payment, if not already prepaid and pre-collected shall be delivered to the Commission within thirty (30) days after the end of the calendar quarter.

CHAPTER XI. REVENUE USES**Sec. 1101 Use of Tax Revenues**

(A) All tax revenues derived pursuant to this Ordinance shall be the property of the Tribe. The tax revenues collected pursuant to this Ordinance shall be used for the benefit of the reservation and tribal members and may only be used for limited purposes.

(B) All tax revenues shall be appropriated to provide tribal governmental services, limited to the following purposes:

- (1) services to provide and maintain infrastructure, such as sidewalks, roads, and utilities;
- (2) governmental administrative services including general services, such as, accounting, human resources, planning, and legal;
- (3) services such as fire protection and public safety;
- (4) the costs of administering this Ordinance;
- (5) providing or contracting for health benefits;
- (6) economic development;
- (7) natural resource protection and enhancement;
- (8) the provision of job services;
- (9) distribution of moneys related to education, and
- (10) other essential Tribal services as deemed appropriate by the Tribal Council.

(C) Limitation on use of tobacco tax revenues. Tobacco tax revenues shall not be used for per-capita distributions or other similar entitlements.

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Sec. 1102 Tobacco Tax Fund Creation

(A) The Tribal Council shall establish a fund to be called the Tobacco Tax Fund that shall be separately identifiable from all other tribal funds and revenues.

(B) Tobacco tax revenues collected by the Commission shall be deposited in this fund.

CHAPTER XII. RESTRICTION ON VOLUME OF SALES

Sec. 1201 Retail Sales

The Commission shall establish reasonable limitations on volume as it deems necessary to prevent the unauthorized re-sale of tobacco products. At a minimum, the Commission shall establish a limit upon the number of cartons and upon the total dollar amount of tobacco product sold to any person or entity at any one time.

CHAPTER XIII. ENFORCEMENT

Sec. 1301 Penalties

Sale of tobacco products in violation of this Ordinance is a civil infraction, subject to a civil fine of no less than five hundred dollars (\$500.00) and no more than five thousand dollars (\$5,000.00). In the case of a continuing violation, each day in which the seller is in violation of this ordinance shall constitute a separate violation.

Sec. 1302 Enforcement

The Commission shall have jurisdiction to enforce this Ordinance.

Sec. 1303 Administrative Appeals

Any taxpayer against whom the Commission has assessed taxes pursuant to this Ordinance, and who believes those taxes to be wrongfully assessed or collected, may appeal in writing for a hearing before the Commission under such rules and regulations as the Commission may prescribe. Commission determinations may be appealed to the Tribal Court. The Tribal Court shall reverse, modify or remand Commission determinations for lack of substantial evidence or an abuse of discretion. The Tribal Court decision shall be final and shall not be subject to further appeal.

Sec. 1304 Finality of Assessment

If any taxpayer against whom the Commission has assessed taxes pursuant to this Ordinance fails to file an administrative appeal within ten (10) days of the date any taxes were due, then the tax, without further action of the Commission, shall become final.

Title XI – Tobacco Control and Tax Ordinance**CHAPTER XIV. MISCELLANEOUS****Sec. 1401 Civil Action**

The Tribe may bring a civil action against any person to enforce this Ordinance.

Sec. 1402 Sovereign Immunity

(A) All Retail Outlets shall act in conformity with the requirements of this Ordinance.

(B) Any person employed by the Tribe to work for or manage a Tribal Retail Outlet who does not comply with the requirements of this Ordinance is subject to the penalties set forth in this Ordinance, and to prospective injunctive relief, but shall not be subject to further liability, including but not limited to private causes of action.

(C) Nothing in this Ordinance shall be construed as waiving the sovereign immunity of the Tribe, nor does any commission or agency created hereunder have the authority to waive the sovereign immunity of the Tribe; nor shall any Commission or other employee be authorized to waive the sovereign immunity of the Tribe.

Sec. 1403 Construction

This Ordinance shall be interpreted and applied in a manner consistent with all other Ordinances, Laws, Ordinances, Resolutions, and Regulations of the Tribe.

Sec. 1404 Amendments

The Ordinance may only be amended by action of the Council and documented by Council Resolution.

Sec. 1405 Repeal of Inconsistent Laws

Any other Tribal Ordinance or resolution addressing tobacco taxes is hereby superseded, canceled, and repealed.

Sec. 1406 Severability

If any clause, sentence, paragraph, section, or part of this Ordinance shall, for any reason, be adjudicated by any Court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.