

TITLE 21
LUMMI NATION CODE OF LAWS
TOBACCO CODE

Enacted: Resolution O-69 (6/5/72)

Amended: Resolution P-35, Ordinance L-37 (1/5/73)
Resolution S-3, Ordinance L-40 (8/30/74)
Resolution 2004-183 (12/27/04)

**TITLE 21
LUMMI NATION CODE OF LAWS
TOBACCO ORDINANCE**

Table of Contents

Chapter 21.01 Title and Purpose

21.01.010 Title1

Chapter 21.02 Definitions

21.02.010 Definitions1

Chapter 21.03 Retail Sales of Cigarettes and Tobacco Products

21.04.010 Non-governmental Sales Prohibited2

Chapter 21.04 Tax

21.04.010 Cigarette Tax.....2

21.04.020 Tax Stamp2

21.04.030 Tax Revenue2

Chapter 21.05 Distribution

21.05.010 Wholesale Distribution2

Chapter 21.06 Sales Restrictions

21.06.010 Minimum Age for Purchase.....2

Chapter 21.07 Severability

21.07.010 Severability2

**TITLE 21
LUMMI NATION CODE OF LAWS
TOBACCO CODE**

Chapter 21.01 Title

21.01.010 Title and Purpose

This Code shall be known as the Lummi Tobacco Code. The Lummi Nation finds that the regulation of Cigarettes and Tobacco Products is necessary to protect the health and welfare of the Lummi Nation and its members. The Nation further finds that a tax base, supported in part by the taxes imposed in this Chapter, is an essential for providing governmental services for, and protecting the health safety and welfare of, all individuals who reside within or visit the Lummi Reservation.

Chapter 21.02 Definitions

21.02.010 Definitions

As used in this Title, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context clearly indicates otherwise:

- (a) "Cigarettes" shall mean 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.
- (b) "Council" shall mean the Lummi Indian Business Council.
- (c) "Essential Government Services" means services such as tribal administration, public facilities, fire, police, public health, education, job services, sewer, water, environmental and land use, transportation, utility services, and economic development.
- (d) "Local Retail Sales Tax" means the combined Washington local retail sales taxes applicable in the area.

(e) "Quarter" shall mean a three-month period, each quarter immediately succeeding the next. The first quarter begins in the first day of the first month that the tribal cigarette tax is imposed.

(f) "Quarterly Average Sales" means the sum of the retail sales made during two quarters divided by two.

(g) "Retail Selling Price" shall mean the ordinary, customary, or usual price paid by the consumer for each tobacco product, less the tax levied by this Code.

(h) "State" shall mean the state of Washington.

(i) "Tobacco Products" shall mean 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. "Tobacco Product does not include cigarettes.

(j) "Tribe" shall mean the Lummi Nation.

(k) "Tribal Cigarette Tax" shall mean the tax or taxes enacted as provision(s) of tribal law on the units of cigarettes sold and on the purchase of cigarettes by retail buyers.

(l) "Tribal Member" shall mean an enrolled member of the Lummi Nation.

(m) "Tribal Tax Stamp" shall mean the stamp or stamps that indicate the Lummi Nation cigarette tax imposed under this title is paid or that identify those cigarettes with respect to which another tribal tax is imposed..

(n) "Wholesale Distribution Price" shall mean the price paid for each tobacco product by the Tribe together with all freight charges and

other expenses incurred by the Tribe in their receipt and distribution.

Chapter 21.03 Retail Sales of Cigarettes and Tobacco Products

21.03.010 Non-governmental Sales Prohibited

Retail locations established by the Lummi Nation shall be the only locations within the Lummi Reservation where the sale of Cigarettes and Tobacco Products are allowed.

Chapter 21.04 Taxes

21.04.010 Cigarette Tax

(a) Beginning on February 1, 2005, the Lummi Nation shall impose the taxes detailed in this Chapter on all retail sales of cigarettes within the boundaries of the Lummi Reservation. The tax rate shall be as follows:

(1) For the first 36 months (“phase-in period”), the tax rate shall equal 80 percent of the Washington State cigarette tax expressed in cents per cigarette, plus an amount equal to 80 percent of the state and local retail sales taxes. The phase-in period may be reduced in accordance with sub-section (b) below.

(2) No later than 36 months after the initial imposition of tax under this section, and subject to any reduction of the phase-in period under sub-section (b) below, the tribal cigarette tax shall be equal to 100 percent of the Washington State cigarette tax expressed in cents per cigarette, plus an amount equal to 100 percent of the state and local retail sales taxes.

(b) If, during any quarter, the number of cartons of cigarettes that are sold at retail outlets exceeds by at least ten percent the quarterly average sales of the two quarters preceding the imposition of the Tribal cigarette tax, the 36 month phase-in period shall be reduced by three months. These reductions shall be cumulative. The quarterly average sales baseline shall be determined by a third party auditor hired by the Lummi Nation.

21.04.020 Tax Stamp

All Cigarettes sold within the Lummi Nation shall bear a Tribal Tax Stamp indicating that the tax imposed under this Chapter has been paid.

21.04.020 Tax Revenue

(a) Tax revenue collected under this Chapter from individuals who are not members of the Lummi Nation shall be expended solely for Essential Governmental Services. Specifically, revenue may not be expended on the retail enterprises selling the cigarettes.

(b) Tax revenue collected under this Chapter from members of the Lummi Nation may be expended for any purpose.

Chapter 21.05 Distribution

21.05.010 Wholesale Distribution

Wholesale distribution of Cigarettes or Tobacco Products by the Lummi Nation to a retailer shall be upon a cash basis for the wholesale distribution price which shall have added to it the tax levied in Section 21.04.010 of this Chapter.

Chapter 21.06 Sales Restrictions

21.06.010 Minimum Age for Purchase

Cigarettes and Tobacco Products may not be sold to any person under the age of eighteen (18) years. All purchasers appearing under the age of 40 shall be required to present identification to a retailer prior to the purchase of Cigarettes or Tobacco Products.

Chapter 21.07 Severability

21.07.010 Severability

If any provision of this Code or its application to any persons or circumstance is held invalid, the remainder of this Code, or the application of the provision to other persons or circumstances is not affected.

Title21pub08