

CHAPTER XIV

SALE, DISTRIBUTION AND TAXATION OF
TOBACCO PRODUCTS

Section 1

Title

This chapter shall be known as the Shoshone Bannock Tobacco Ordinance

Section 2

Definitions

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

(a) "Tribe" shall mean the Shoshone-Bannock Indian Tribes.

(b) "Council" shall mean the Fort Hall Business Council.

(c) "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.

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

(e) "Tobacco Outlets" shall mean a Tribally licensed retail or wholesale business selling tobacco products of the Fort Hall Indian Reservation.

(f) "Operator" shall mean an enrolled member of the Shoshone-Bannock Tribe licensed by the Tribe to operate a Tobacco Outlet and make wholesale or retail sales of cigarettes to Indians or Non-Indians within the confines of the Fort Hall Reservation, when such sales are exempt from the State of Idaho tax upon the sale of tobacco products.

Section 3

Licensing of Tobacco Outlets

The Council may license one or more Tobacco Outlets within the Fort Hall Reservation, providing the operator has obtained a permit from the Land Use Policy Commission for establishing and operating a business.

Section 4

Nature of Outlet

Each Tobacco Outlet licensed hereunder shall be managed by an operator pursuant to a license granted by Council hereunder.

Section 5

Application for Tobacco Outlet License

Any enrolled member of the Shoshone Bannock Tribes may apply upon an application form provided by the Council for a Tobacco Outlet License. The Tribal Secretary shall receive and process applications, and be the official representative of the Tribe and the Council in matters relating to Tobacco Outlets excise tax collections, etc. Each application shall be accompanied by an application charge or fee of Fifty Dollars (\$50).

Section 6

Tobacco Outlet License

Upon approval of an application, the Council shall issue the applicant a Tobacco Outlet License for a one-year period which shall entitle the operator to establish and maintain one Tobacco Outlet on the Fort Hall Indian Reservation. The license shall be non-transferable. It shall be renewable at the discretion of the Council each year by filing a new application form and payment of the application fee as provided in Section 5.

Section 7

Excise Tax Imposed

There is levied and there shall be collected as hereinafter provided, a tax upon the distribution of all cigarettes sold or distributed by a Tobacco Outlet in the amount of eight cents per package, which tax may be adjusted and changed by the Council. The Council may levy an additional tax upon the distribution of cigarettes and other tobacco products as it deems desirable. The excise tax levied hereunder shall be added to the retail selling price of tobacco products sold to the ultimate consumer.

Section 8

Purchase of Tobacco Inventory

All wholesale purchases of cigarettes and tobacco products by a Tobacco Outlet shall be from wholesalers within the State of Idaho. Exception to this section can be made as to cigarettes or other tobacco products that cannot be purchased from an Idaho wholesaler. The Tribe shall have no legal responsibility for any unpaid bills owed by a Tobacco Outlet to a wholesaler supplier or to any other person. The operator shall make arrangements with his wholesalers to send copies of his Purchase Invoices to the Tribal Office, P.O. Box 306, Fort Hall, Idaho 83203.

Section 9

Restricted Sales to Non-Indians

An operator may not sell more than five cartons of cigarettes per sale to a non-Indian. The Council may restrict sales of other tobacco products to non-Indians as it deems necessary.

Section 10

Restricted Sales to Minors

An operator may not sell any tobacco products to any person under the age of 18 years.

Section 11

Other Business by Operator

An operator may conduct other business simultaneously with managing a Tobacco Outlet for the Tribe. The other business may be conducted on the same premises and the operator shall not be required to maintain separate books of account for the other business

Section 12

Tribal Liability and Credit

An operator is forbidden to represent or give the impression to any supplier or any other person with whom he does business that he is an official representative of the Tribe, authorized to pledge Tribal credit or financial responsibility for any of the expenses of his business operation. The operator shall hold the Shoshone-Bannock Tribe harmless from all claims and liability of whatever nature. The Tribal Council may revoke the operator's Outlet license if it is not operated in a business like manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

The operator shall maintain at his expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks. The liability insurance shall have coverage of at least \$10,000 per person and \$25,000 per incident.

Section 13

Audit and Inspection Bond

All of the books and other business records of the Tobacco Outlet shall be available for inspection and audit by the Tribal Council or its authorized representative at any reasonable time.

The excise taxed owed the Tribe shall be remitted to the Tribal Offices monthly with reports thereof on forms to be supplied by the Tribe. The operator shall furnish a satisfactory bond to the Tribe in the principal amount of \$10,000.00 guaranteeing his payment of excise tax.

Section 14

Revocation of Tobacco Outlet Licenses

Failure of an operator to abide by the requirements of this chapter and any additional requirement imposed by the Council will constitute grounds for revocation of the operator's Tobacco Outlet license, as well as the penalties provided in Section 15, below.

Section 15

Violation - Penalties

Any person violating the provisions of this ordinance shall be guilty of an offense and subject to a fine in Tribal Court of not less than \$50.00 nor more than \$250.00 and forfeiture of all remaining stock of tobacco products distributed hereunder and situate in his Tobacco outlet. The Tribal law enforcement officers shall be empowered to seize forfeited tobacco products.

Section 16

Severability

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