

Title 10 – Public Health and Welfare
Chapter 12 – COVID-19 Communicable Disease

Sec.

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Legislative History

Enacted:

Ordinance 420 Amending STC Title 10, Chapter 12 (5/4/21).
Ordinance 417 Establishing STC Title 10, Chapter 12 (4/28/21).

10-12.010 Authority.

This Chapter is enacted pursuant to authority provided by Article VI, Sections 1(i), (k), (l), and (r), and 5(c) of the Swinomish Constitution and the inherent powers of the Swinomish Indian Tribal Community.

[History] Ord. 417 (4/28/21).

10-12.020 Intent.

It is the intent of the Swinomish Indian Tribal Community to protect and promote the health of our elders, our children, and all community members from the risks of the COVID-19 virus pandemic to the greatest extent possible through the Tribe's public health capabilities while respecting individuals' dignity, liberty, health information privacy, right to due process and other legally-protected interests.

[History] Ord. 417 (4/28/21).

10-12.030 Definitions.

- (A) For the purposes of this Chapter, unless explicitly stated otherwise, the following terms shall have the following meanings:
- (1) **“Public Health Officer”** means a person who has public health and/or medical expertise and is designated by the Tribe to inform and advise the Tribe on matters affecting the health of the Tribe, its members and Reservation residents, and who shall carry out the legal mandates of this Chapter and directives related to medical and public health issues.
 - (2) **“Communicable disease”** means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means, including transmission via an intermediate host or vector, food, water, or air.
 - (3) **“Contact”** means a person exposed to an infected person, animal or environment that may lead to infection.
 - (4) **“Detention”** as used in this Chapter shall mean the physical restriction of activities of an individual by confinement for the purpose of controlling or preventing a serious and imminent threat to public health.
 - (5) **“Infectious agent”** means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease in humans.
 - (6) **“Isolation”** means the separation, for the period of communicability, of infected persons from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of an infectious agent from those infected to those who are susceptible or who may spread the infectious agent to others.
 - (7) **“Quarantine”** means the limitation of freedom of movement of such persons as have been exposed to, or who are reasonably suspected based upon evidence of the type ordinarily relied upon by public health professionals, to have been exposed to, an infectious agent, for a period of time and in such manner as to prevent contact with and transmission of disease to those not yet exposed.
 - (8) **“Reservation”** means the Swinomish Indian Reservation.
 - (9) **“Tribe”** means the Swinomish Indian Tribal Community.

- (10) **“Swinomish Tribal Court”** means the court of the Swinomish Indian Tribal Community established in Article IX of the Swinomish Constitution.
- (B) All other terms, unless explicitly stated otherwise, shall have their ordinary and customary meanings.

[History] Ord. 417 (4/28/21).

10-12.040 Conditions and Principles for Voluntary and Involuntary Isolation and Quarantine.

- (A) The Public Health Officer, to the greatest extent possible consistent with the protection of public health, shall comply with and utilize the following conditions and principles when acting to isolate or quarantine a person or group of persons under this Chapter:
- (1) Isolation or quarantine must be by the least restrictive means necessary to prevent the spread of a communicable disease to others and may include, but are not limited to, confinement to private homes or other public or private premises;
 - (2) Isolated individuals are to be confined separately from quarantined individuals to the extent that separation is practicable;
 - (3) The health status of isolated or quarantined individuals must be monitored regularly, to determine if they require continued isolation or quarantine;
 - (4) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a communicable disease that the Public Health Officer believes poses a significant threat to the health and safety of other quarantined individuals, the quarantined individual is to promptly be placed in isolation;
 - (5) Isolated or quarantined individuals are to be discharged from isolation or quarantine, as applicable, as soon as practicable when the Public Health Officer determines that they pose no substantial risk of transmitting a communicable disease that would constitute a serious or imminent threat to the health and safety of others;
 - (6) The needs of a person isolated or quarantined must be addressed to the greatest extent possible in a systematic and competent fashion, including, but not limited to, providing or providing access to adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care;

- (7) Premises used for isolation or quarantine are to be maintained in a safe and hygienic manner by those using premises for isolation or quarantine, to minimize the likelihood of further transmission of infection or other harm to persons isolated and quarantined;
- (8) To the extent possible, cultural and religious beliefs should be considered in addressing the needs of individuals, and establishing and maintaining isolation or quarantine premises; and
- (9) Isolation or quarantine shall not abridge the right of any person to rely exclusively on spiritual means alone through prayer to treat a communicable disease in accordance with religious tenets and practices, nor shall anything in this Chapter be deemed to prohibit a person so relying who is infected with a communicable disease from being isolated or quarantined in a private place of their own choice, provided, it is approved by the Public Health Officer, and all laws, rules and regulations governing control, sanitation, isolation and quarantine are complied with.

[History] Ord. 420 (5/4/21); Ord. 417 (4/28/21).

10-12.050 Voluntary Isolation or Quarantine.

- (A) Voluntary Isolation or Quarantine should always be used as a first option unless the Public Health Officer has determined that in the Officer's professional judgment:
 - (1) Seeking and relying only upon voluntary compliance would create a risk of serious harm;
 - (2) There is reason to believe that the person or group of persons is, or is suspected to be, infected with or exposed to a communicable disease that could spread to others if remedial action is not taken; and
 - (3) There is reason to believe that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for purposes of isolation or quarantine.

[History] Ord. 420 (5/4/21); Ord. 417 (4/28/21).

10-12.060 Involuntary Isolation or Quarantine.

- (A) **Petition.** The Office of the Tribal Attorney may petition the Swinomish Tribal Court ex parte for an order authorizing involuntary detention of a person or group of persons for purposes of isolation or quarantine pursuant to this section:

- (1) The petition shall specify:
 - (a) The identity of all persons or groups to be subject to isolation or quarantine;
 - (b) The premises where isolation or quarantine will take place;
 - (c) The date and time at which isolation or quarantine will commence;
 - (d) The suspected communicable disease or infectious agent if known;
 - (e) The anticipated duration of isolation or quarantine based on the suspected communicable disease or infectious agent if known;
 - (f) The measures taken by the Public Health Officer to seek voluntary compliance or the basis on which the Public Health Officer determined that seeking voluntary compliance would create a risk of serious harm; and
 - (g) The medical basis on which isolation or quarantine is justified.
- (2) The petition shall be accompanied by the declaration of the Public Health Officer attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the Swinomish Tribal Court's consideration.

(B) Order for Involuntary Isolation or Quarantine.

- (1) The Swinomish Tribal Court shall issue an order directing isolation or quarantine of an individual or individuals if the Court finds by a preponderance of the evidence that isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others. If the Court finds that isolation or quarantine is not necessary to prevent a serious and imminent risk to the health and safety of others, then the order directing isolation or quarantine shall be vacated.
- (2) A Swinomish Tribal Court order directing isolation or quarantine as a result of an ex parte hearing shall:
 - (a) Specify a maximum duration for isolation or quarantine for no more than 14 calendar days, provided, however, that the order may be extended by the Court for an additional period of no more than 14 days if the Court finds by a preponderance of the evidence that such an extension of the period of isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others;

- (b) Identify the isolated or quarantined persons or groups by name or shared or similar characteristics or circumstances;
 - (c) Set forth the Court's factual findings warranting isolation or quarantine pursuant to this section;
 - (d) Include any conditions that the Court finds are necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section;
 - (e) Specify the premises where isolation or quarantine will take place;
 - (f) Be served upon the individual or individuals who are ordered to isolate or quarantine, along with a copy of the petition and notice of the ability to seek relief from isolation and quarantine.
- (C) **Service.** Service of orders under this Chapter shall be done by a method or methods most likely to provide effective notice to the affected individual or individuals as promptly as possible and with the lowest risk of transmission, including by mail to the last known address of the affected individual(s), by affixing the order to the residence of the affected individual(s), by email if the email address of the affected individual(s) is known, or by text message if the cell phone number of the affected individual(s) is known. The Court may also order service by any other reasonable method the Court deems effective so long as it does not involve direct contact with the affected individual or individuals
- (D) **Relief from Isolation and Quarantine.** An individual or group of individuals ordered by the Swinomish Tribal Court to be isolated or quarantined may apply to the Swinomish Tribal Court for an order to show cause why isolation or quarantine should not be terminated. The Petitioner will bear the burden of proving by a preponderance of the evidence that continued isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others. The Court shall either issue an order directing continuing, with or without modifications, the isolation or quarantine of an individual or individuals if the Court finds that isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others. If the Court finds that isolation or quarantine is not necessary to prevent a serious and imminent risk to the health and safety of others, then the order directing isolation or quarantine shall be vacated. The Court shall be accessible to such individuals in a manner that does not require physical appearance at the Court. The Court shall set a hearing on the application to show cause within forty-eight (48) hours of its filing. The individual or individuals who are ordered to isolate or

quarantine may be represented by an attorney at their expense, or may appear telephonically or by internet-based video.

[History] Ord. 420 (5/4/21); Ord. 417 (4/28/21).

10-12.070 Penalties.

Orders issued pursuant to this Chapter shall have the same enforceability as other orders of the Swinomish Tribal Court. Violation of such an order shall be a civil infraction with a fine of up to \$1,000.00, or up to \$500.00 per day in the case of a continuing infraction. The procedure for issuance, response and order regarding the civil infraction shall follow the procedure set forth in STC 5-01.090 - 5-01.180. Notice of the violation is proper when it is personally served, mailed to the last known address of the violator, or affixed to the door of the address where the violator is ordered to isolate or quarantine.

[History] Ord. 417 (4/28/21).

10-12.080 Severability.

The provisions of this Code are severable. If any provision of this Code or its application to any person or circumstances is held invalid in any court, the invalidity does not affect other provisions or applications of this Code which can be given effect without the invalid provision or application.

[History] Ord. 417 (4/28/21).