

Title 15 –Business Regulations

Chapter 7 – Lodges and Restaurants

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Legislative History

Enacted:

Ordinance 305 Enacting an Ordinance Governing the Swinomish Lodge and Restaurant, (02/23/12), BIA (02/28/12).

15-07.010 This Chapter shall be referred to as the “Swinomish Lodge and Restaurant Code”.

[History] Ord. 305 (2/23/12).

15-07.020 Purpose.

The purposes of this Chapter are:

- (A) to protect against and regulate conduct within Swinomish Indian Country that threatens or affects the political integrity, economic security, and health and welfare of the Swinomish Indian Tribal Community as a unique people and a sovereign government by protecting the assets and enterprises of the Swinomish Indian Tribal Community; and

- (B) to safeguard and promote the peace, safety, morals and general welfare of the Swinomish Indian Tribal Community and its members, and of other persons present within Swinomish Indian Country.

[History] Ord. 305 (2/23/12).

15-07.030 Authority

This Chapter is enacted pursuant to authority provided by the following provisions of the Swinomish Constitution and By-Laws: Article VI, Sections 1(k) and 1(l) of the Swinomish Constitution.

[History] Ord. 305 (2/23/12).

15-07.040 Jurisdiction.

- (A) **Scope.** Swinomish Indian Tribal Community jurisdiction shall extend to all the lands and waters within the exterior boundaries of the Swinomish Indian Reservation to the maximum extent permitted by law.
- (B) **Deemed to Consent.** Any person who resides, conducts business, engages in a business transaction, receives benefits from the Tribal government, including police, fire or emergency services, acts under Tribal authority, or enters the Indian country under the jurisdiction of the Swinomish Indian Tribal Community, shall be deemed thereby to have consented to the following:
 - (1) To be bound by the terms of this Chapter;
 - (2) To the exercise of civil jurisdiction by the Swinomish Tribal Court over said person in legal actions arising pursuant to this Chapter; and
 - (3) To detainment, service of summons and process, and search and seizure, in conjunction with legal actions arising pursuant to this Chapter.

[History] Ord. 305 (2/23/12).

15-07.050 Definitions

- (A) For purposes of this Chapter, unless otherwise expressly provided, the following definitions shall apply:
 - (1) **“Lodge”** means the building or portion thereof owned and operated by the Tribe and held out to the public to be a hotel or public lodging house or place where sleeping accommodations are furnished for hire to transient guests.

- (2) **“Person”** means any individual, agent, principal, entity, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. “Person” does not include the Tribe.
 - (3) **“Reservation”** means all lands and waters within the exterior boundaries of the Swinomish Indian Reservation.
 - (4) **“Restaurant”** means any building or portion thereof owned and operated by the Tribe and held out to the public to be a restaurant, café, diner, or place where meals, or the facilities for preparing the same, are furnished to the public.
 - (5) **“Senate”** means the Swinomish Indian Senate, the governing body of the Swinomish Indian Tribal Community.
 - (6) **“Trailer Camp”** means the recreational vehicle park owned and operated by the Tribe.
 - (7) **“Tribe”** or **“Tribal”** means or refers to the Swinomish Indian Tribal Community, a Federally recognized Indian tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934, which is composed of members tracing their ancestry to the aboriginal Swinomish, Samish, Kikialus, and Lower Skagit bands of Indians.
 - (8) **“Tribal Court”** means the Swinomish Tribal Court.
- (B) All other words and phrases shall have their ordinary and customary meanings.

[History] Ord. 305 (2/23/12).

15-07.060 Record of guests — Lodge and trailer camp.

The Lodge and trailer camp shall keep a record of the arrival and departure of its guests in such a manner that the record will be a permanent one for at least one year from the date of departure.

[History] Ord. 305 (2/23/12).

15-07.070 Exclusion from Lodge and Trailer Camp.

Notwithstanding the provisions of Chapter 5 STC Title 3, the Tribe may exclude any person deemed to be a danger, whether to persons or property, from the premises of the Lodge and trailer camp.

Any person excluded from the gaming facility by the Tribal Gaming Agency on the ground that his or her criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the gaming activities of the Tribe shall also be excluded from the premises of the Lodge and trailer camp.

[History] Ord. 305 (2/23/12).

15-07.080 Liability for loss of valuables when safe furnished — Limitation.

(A) Where the Tribe

- (1) provides safes in the guest rooms for the safekeeping of any money, bank notes, jewelry, precious stones, ornaments, travel documents, negotiable securities or other valuable papers, or other valuable property belonging to the guests or lodgers of the Lodge, and
- (2) notifies the guests or lodgers by posting a notice in the guest directory, the room of the guest or lodger, or in one or more public places such as the elevators, public rooms, lobbies, public corridors, halls or entrances of the Lodge, stating the fact that such safes are provided in which such property may be deposited;

and if such guests or lodgers neglect or fail to place such property in the safes provided in the guest rooms, the Tribe shall not be liable for any loss or destruction of any such property, or any damage thereto, sustained by such guests or lodgers, by negligence of the owner, operator, or manager, or employees of the Lodge, or by fire, theft, burglary, or any other cause whatsoever.

[History] Ord305 (2/23/12).

15-07.090 Liability for loss of baggage and other property — Limitation — Storage — Disposal.

- (A) **During Guest's Stay.** Except as provided for in STC 15-07.080, the Tribe shall not be liable for the loss or destruction of, or damage to any personal property brought or sent into the Lodge by or for any of its guests or lodgers, unless such loss, destruction, or damage is occasioned by the gross negligence of the Tribe, or its agents or employees; but in no event shall such liability exceed the sum of Five Hundred dollars (\$500.00), unless the Tribe shall have contracted in writing with the guest or lodger to assume a greater liability.
- (B) **Prior to or After Guest's Stay.** Whenever any person shall store his or her baggage or property at the Lodge after leaving the same as a guest or lodger, and after the relation of guest or lodger between such person and the Lodge has ceased, or shall forward or deliver the same to the Lodge before, or without, becoming a guest or

lodger thereof, and the same shall be received by the Lodge, the liability of the Tribe shall in no event exceed the sum of Five Hundred dollars (\$500.00), and the Tribe, may at its option, hold such baggage or property at the guest's risk.

- (C) **After Six Months.** When any baggage or property has been kept or stored by the Lodge for six months after the relationship of guest or lodger has ceased, or when such relationship did not exist, the Tribe, may sell the same and from the proceeds of such sale cover any expenses incurred in connection with such sale, as well as any storage that may have accrued, and any other amounts owing by such person to the Lodge. Any remaining amounts shall be deposited into the Tribe's General Fund.

[History] Ord. 305 (2/23/12).

15-07.100 Obtaining lodge or restaurant accommodations by fraud —Penalties.

- (A) Any person who
- (1) willfully obtains food, money, credit, lodging or accommodation at the Lodge or any restaurant without paying therefor, with intent to defraud the Tribe thereof; or
 - (2) obtains food, money, credit, lodging or accommodation at the Lodge or any restaurant by the use of false pretenses; or
 - (3) after obtaining food, money, credit, lodging, or accommodation at the Lodge or any restaurant, removes or causes to be removed from the Lodge or restaurant his or her baggage, without the permission or consent of the Tribe or its authorized employees, before paying for such food, money, credit, lodging or accommodation,

shall be guilty of a Class B Offense punishable according to STC 4-12.020(B), except as provided in (B) or (C) of this subsection.

- (B) If the aggregate amount of food, money, lodging or accommodation, or credit so obtained is One Thousand Five Hundred Dollars (\$1500.00) or more, such person shall be guilty of a Class A Offense punishable according to STC 4-12.020(A).
- (C) If the aggregate amount of food, money, lodging or accommodation, or credit so obtained is less than Two Hundred Fifty Dollars (\$250.00), such person shall be guilty of a Class C Offense punishable according to STC 4-12.020(C).
- (D) If the person is not subject to the criminal jurisdiction of the Tribal Court, the violation shall be prosecuted civilly and shall be subject to the following penalties:
- (1) where the amount owed is less than Two Hundred Dollars (\$200.00), by a civil penalty equal to two times the amount owed;

- (2) where the amount owed is more than Two Hundred Dollars (\$200.00), by a civil penalty equal to three times the amount owed.
- (E) Prima facie evidence of fraudulent intent shall be proof that:
- (1) food, money, credit, lodging or accommodation were obtained by false pretense or pretense of any baggage or other property, or
 - (2) the person refused or neglected to pay for such food, money, credit, lodging or accommodation upon demand, or
 - (3) the person gave in payment for such food, money, credit, lodging or accommodation, negotiable paper on which payment was refused, or
 - (4) the person absconded, or departed from, or left, the premises without paying for such food, money, credit, lodging or accommodation, or
 - (5) the person removed, or attempted to remove, or caused to be removed, or caused to be attempted to be removed his or her property or baggage.
- (F) In addition to any civil or criminal fine or other penalty, any person found to have violated this Section shall be required to pay any unpaid amounts, plus interest from the date such amount was due at a rate of eighteen percent (18%) per year compounded monthly.

[History] Ord. 305 (2/23/12).

15-07.110 Tribal Court.

All cases or controversies arising under the terms and provisions of this Chapter shall be heard only in the Swinomish Tribal Court, and only as provided in STC Title 3 Chapter 2 – Rules of Civil Procedure or Chapter 3 – Rules of Criminal Procedure, as applicable.

[History] Ord. 305 (2/23/12).

15-07.120 Appeals.

Appeals under this Chapter shall be handled in accordance with STC Title 3, Chapter 4 – Rules of Appellate Procedure.

[History] Ord. 305 (2/23/12).

15-07.130 Sovereign Immunity.

The sovereign immunity of the Tribe is not in any way waived or limited by this Chapter, or by any appeal commenced pursuant to this Chapter, and nothing in this Chapter shall constitute or be construed as a waiver of the sovereign immunity of the Tribe. Such sovereign immunity shall extend to the Tribe, the Senate, the Gaming Enterprise Management Board, the Swinomish Casino & Lodge, all Tribal officials, and all Tribal proprietary and governmental employees, staff, and agents, as to all actions taken in, or concerning, the administration or enforcement of this Chapter, and as to all actions taken pursuant to any authority of any action, decision or order authorized by this Chapter or pursuant to Chapters 2 and 3 of STC Title 3.

[History] Ord. 305 (2/23/12).

15-07.140 Severability.

The provisions of this Chapter are severable. If a court of competent jurisdiction should hold any provision of this Chapter invalid, such ruling shall not affect the validity of any other provision, such that the remaining provisions shall have full force and effect.

[History] Ord. 305 (2/23/12).

15-07.150 Effective Date.

The provisions of this Chapter shall become effective immediately upon approval by the United States Secretary of the Interior or his or her designee.

[History] Ord. 305 (2/23/12).