

**Title 3 – Tribal Court**  
**Chapter 9 – Courts of Special Jurisdiction**

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**Legislative History**

Enacted:

Ordinance 382 Enacting STC Title 3, Chapter 9 (9/11/18).

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**3-09.010 Authority.**

This Chapter is enacted pursuant to authority provided by Article VI, Section 1(a), (b), (k), (l), (o), (q) and (s), Article VI, Section 3, and Article IX, Section 1 of the Swinomish Constitution.

[History] Ord. 382 (9/11/18).

**3-09.020 Definitions.**

Unless specifically stated elsewhere in this Chapter, the meaning of the terms used in this Chapter shall be defined as follows:

- (A) **“Authorizing Jurisdiction”** means a jurisdiction which has established an agreement with Swinomish Tribal Court to authorize an Eligible Person to participate in the Swinomish Wellness Court in lieu of or in addition to any sentence imposed in a criminal matter.
- (B) **“Eligible Person”** means all Swinomish Indian Tribal Community members and all other non-member Native Americans residing or receiving treatment on the Reservation.

- (C) **“Participant”** means an Eligible Person that is under the jurisdiction of the Swinomish Healing to Wellness Court, having been admitted to the Wellness Court and agreeing to comply with all policies and Wellness Court requirements.
- (D) **“Reservation”** means all the lands and waters within the exterior boundaries of the Swinomish Indian Reservation.
- (E) **“Swinomish Tribal Court”** means the court established in Title 3, Chapter 1 of the Swinomish Tribal Code.
- (F) **“Swinomish Healing to Wellness Court”, “Wellness Court”, or “Swinomish Wellness Court”** means the court established in Section 3-09.030 of this Chapter.

[History] Ord. 382 (9/11/18).

### *Subchapter I – Healing to Wellness Court*

#### **3-09.030 Establishment of Swinomish Healing to Wellness Court.**

- (A) The Swinomish Healing to Wellness Court is hereby established as a court of special jurisdiction pursuant to Article IX, Section 1 of the Swinomish Constitution.
- (B) Eligibility for participation in the Wellness Court shall be established by the Wellness Court through written policy using the following factors:
  - (1) the needs of the Swinomish Indian Tribal Community;
  - (2) the professional competencies of the Wellness Court team; and
  - (3) national best practices for rehabilitative or drug treatment courts, with particular focus on research and reporting from other tribal Healing to Wellness Courts.
- (C) Swinomish Wellness Court shall not be a court of record, meaning any information obtained, used or disclosed by a member of the Wellness Court team, including the Participant, while the Participant is under the jurisdiction of the Wellness Court shall not be used as evidence against the Participant in any other proceeding in the Swinomish Tribal Court or any other court in any other jurisdiction. All Wellness Court records are privileged and confidential and shall not be disclosed to any person or entity without prior informed consent from the Participant in writing, as defined by relevant Swinomish and federal laws and regulations.

[History] Ord. 382 (9/11/18).

### **3-09.040 Purposes of Wellness Court.**

This Chapter shall be interpreted and construed so as to implement the following purposes and policies:

- (A) to offer a rehabilitative alternative to incarceration in order to reduce patterns of recidivism among vulnerable members of our community and thereby increase public safety;
- (B) to identify and screen Eligible Persons swiftly during the pendency of a criminal case;
- (C) to invite Eligible Persons who have committed a crime that is directly or indirectly related to substance abuse or addiction issues;
- (D) to support Participants through data-informed treatment methods;
- (E) to emphasize wellness, accountability, and personal responsibility as sober and productive community members; and
- (F) to promote life-long substance abuse recovery and the reintegration of Tribal members into the community.

[History] Ord. 382 (9/11/18).

### **3-09.050 Scope and Jurisdiction.**

- (A) In order to be eligible for participation in Swinomish Healing to Wellness Court, an Eligible Person must meet, inter alia, the following criteria:
  - (1) be an Eligible Person accused of a crime that is directly or indirectly related to substance abuse or addiction issues; and
  - (2) be listed as a named defendant in a case originating in:
    - (a) the Swinomish Tribal Court; or
    - (b) an Authorizing Jurisdiction.

- (B) The Wellness Court team, as enumerated in Section 3-09.070, may prescribe additional eligibility criteria consistent with the policy factors pursuant to Section 3-09.030(B) and the purposes of this Chapter pursuant to Section 3-09.040.
- (C) The Wellness Court shall have jurisdiction over any case that is transferred to it by the Swinomish Tribal Court or an Authorizing Jurisdiction.
- (D) The Wellness Court shall have jurisdiction and authority to hold a Participant in criminal contempt of court if a Participant violates any of the court-ordered terms of Wellness Court participation. Sanctions for criminal contempt of court may include, but are not limited to, committing a Participant to the custody of a Senate approved jail.

[History] Ord. 382 (9/11/18).

**3-09.060 Case Referral.**

- (A) A case may be referred to the Swinomish Wellness Court by the Swinomish Tribal Court or any Authorizing Jurisdiction.
- (B) Upon a Participant's successful completion of Wellness Court program requirements or early termination from Wellness Court, the Wellness Court shall transfer jurisdiction of such Participant's case(s) back to the referring jurisdiction for any final disposition.

[History] Ord. 382 (9/11/18).

**3-09.070 Wellness Court Team.**

- (A) The following positions or departments shall be considered the permanent team members of the Swinomish Wellness Court, responsible for facilitation of the Swinomish Wellness Court and support and supervision of all Wellness Court Participants:
  - (1) Tribal Court Judge and any necessary personnel assigned by the Tribal Court Judge;
  - (2) Tribal Prosecutor;
  - (3) Tribal Advocate;
  - (4) Swinomish Probation Office;
  - (5) Swinomish Police Department;
  - (6) Cultural Department;

- (7) Behavioral Health Specialist;
  - (8) Wellness Program; and
  - (9) Didg<sup>w</sup>álič Wellness Center.
- (B) The departments listed in subsections (A)(4)-(9) of this Section shall ensure that a representative of the department is present at all Swinomish Wellness Court team meetings and Wellness Court proceedings.
- (C) The Tribal Court Judge is authorized to supplement the membership of the Wellness Court team with additional members as needed to expand the scope of professional competencies for the Wellness Court program.
- (D) The roles and responsibilities of Wellness Court team members shall be enumerated in a Wellness Court Policy and Procedure Manual which shall be kept by the Swinomish Tribal Court and publically available for review upon written request to the Tribal Court.
- (E) The Wellness Court team shall designate one of its members to serve as Wellness Court Program Administrator. The Wellness Court Program Administrator shall be responsible for managing the Wellness Court team meetings and program activities, disseminating information to team members in a timely fashion, and performing any other duties established in the Wellness Court Policy and Procedure Manual.

[History] Ord. 382 (9/11/18).

**3-09.080 Ethical Considerations.**

- (A) Team members shall follow all applicable Swinomish and federal laws and regulations with regards to maintaining the confidentiality of protected information.
- (B) Team members shall obtain informed consent in writing prior to the release or disclosure of any information otherwise protected under federal law and shall follow all applicable federal laws and regulations regarding the sufficiency of informed consent.
- (C) Wellness Court records, including Participant information and disclosures, shall be maintained securely and in accordance with all relevant Swinomish and federal requirements.

- (D) Wellness Court team members shall counsel, advise or otherwise interact with Wellness Court Participants only within the boundaries of their professional competencies and shall support Participants through referral for all other matters.
- (E) Team members shall respect the cultural values and traditions of the Swinomish people and endeavor to promote healing to wellness that is consistent with those cultural values and traditions.

[History] Ord. 382 (9/11/18).

**3-09.090 Authorizing Jurisdictions.**

- (A) Any court possessing jurisdiction over an Eligible Person may, by specific agreement, enter into a relationship wherein the Swinomish Healing to Wellness Court accepts jurisdiction over an Eligible Person for purposes of participation in the Swinomish Wellness Court and supervision by the Swinomish Wellness Court team.
- (B) An Eligible Person referred to Swinomish Wellness Court shall have all rights and responsibilities granted under this Chapter, regardless of the jurisdiction from which he or she was referred.

[History] Ord. 382 (9/11/18).

**3-09.100 Policy and Procedure Manual.**

Swinomish Wellness Court shall adopt a Policy and Procedure Manual detailing the following:

- (A) eligibility requirements for admission to Wellness Court;
- (B) procedures for admission and participation in Wellness Court;
- (C) judicial procedures for adjudication of referred cases;
- (D) procedures for record storage and security;
- (E) procedures for Participant information disclosure and confidentiality;
- (F) Wellness Court rules and code of conduct;
- (G) Wellness Court program duration and phase requirements;
- (H) Wellness Court incentives and sanctions;

- (I) Wellness Court team member roles and responsibilities; and
- (J) any other necessary policies for implementation and operation of the Swinomish Wellness Court consistent with the provisions of this Chapter.

[History] Ord. 382 (9/11/18).

**3-09.110 Five-Year Review.**

- (A) Within five years of the effective date of this Chapter, and no later than every fifth year thereafter, the Wellness Court team shall convene and assign one team member the responsibility of facilitating a review of the Wellness Court program.
- (B) The Wellness Court team shall review the Policy and Procedure Manual and any relevant research concerning best practices for wellness courts.
- (C) The assigned team member shall prepare a Wellness Court Report detailing the number of Participants and case outcomes, but shall not disclose any Participant's protected information regardless of prior informed consent for Wellness Court participation.
- (D) The Wellness Court Report shall include recommendations for policy evaluation or modification.
- (E) The Wellness Court Report shall be presented to the Senate by the Tribal Court Judge during a regularly convened Senate session.
- (F) The Wellness Court Report shall be considered public record and available for review upon written request to the Swinomish Tribal Court.

[History] Ord. 382 (9/11/18).