

Title 10 – Community Health

Chapter 2 – Food Safety

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Legislative History

Enacted:

Ordinance 388 Amending STC Title 10: Amending Chapters 1 & 6, Repealing and Enacting Chapter 2, Enacting Chapters 9, 10, & 11 (12/4/18).

Repealed or Superseded:

Public Health and Welfare, Ord. 169 {portions pertaining to Chapter 2} (6/30/03), BIA (7/3/03).

Health and Sanitation Code, Ord. 90 (2/6/92), BIA (2/18/92) (repealing and superseding Res. 81-2-801, Res. 81-1-794, and Res. 76-7-399).

Interim Health and Sanitation Code, Res. 81-2-801 (2/26/81) (adopting the Interim Health and Sanitation Code).

Applying State Health and Education Laws and Regulations to the Reservation, Res. 96A (12/2/55).

Delegating Authority to the Sanitation and Inspection Committee, Ord. 12 (4/28/41).
Regulating the Disposal of Garbage, Ord. 3 (no date), BIA (10/13/36).

[Ed. Note. The Interim Health and Sanitation Code enacted by Res. 81-2-801 reenacted Sections I, VII, and XIII of the Health and Sanitation Code enacted by Res. 81-1-794, which the BIA disapproved. Res. 76-7-399, repealed by Ord. 90, is cited in Title 12 – Building and Construction.]

10-02.010 Purpose.

The purposes of this Chapter are:

- (A) To ensure that food handling, preparation, and service conditions are reliably safe and clean, to protect the safety of food services workers, and to minimize the risk of foodborne illnesses. Food service establishments should safeguard public health by providing consumers food that is safe, unadulterated, and honestly presented.
- (B) To help sustain the physical and cultural health of the Swinomish Indian Tribal Community and guests to the Swinomish Reservation, the Senate encourages food service establishments and temporary events to provide a variety of nutritious and healthy foods, including First Foods.

[History] Ord. 388 (12/4/18).

10-02.020 Findings.

- (A) The Senate finds that regulation of food services is necessary to ensure the availability of safe and healthy food on the Reservation, and that such regulation will benefit the health of the Swinomish Indian Tribal Community, other residents of the Reservation, and visitors to the Reservation.
- (B) The Senate recognizes that sharing food is an integral aspect of Swinomish culture, and seeks to encourage the continuation of the cultural traditions associated with the preparation and consumption of First Foods. Ceremonies, festivals, and other events that involve food are important to the Swinomish culture and economy, and the Senate seeks to ensure that such events are safe and enjoyable.

[History] Ord. 388 (12/4/18).

10-02.030 Definitions.

For the purposes of this Chapter, the following definitions shall apply. Except as provided for in this Section, the definitions in STC 10-01.050 shall also apply to this Chapter.

- (A) **“Community food service establishment”** means a permanent or temporary establishment that is open to the general public and tailored to providing food for an educational or community benefit, including, but not limited to, the social services kitchen, the fitness center kitchen, and the spiritual center kitchen. A community food service establishment may collect money for food but shall not operate for private profit.
- (B) **“First Foods”** are foods and resources that are locally harvested, prepared, and shared or sold according to the traditional customs of the Swinomish Community.
- (C) **“Food”** means prepared foods or beverages intended for human consumption. The term food as used in this Chapter does not include pre-packaged items that are sold in unopened packaging.
- (D) **“Food service establishment”** means an establishment that provides food to customers or guests. The term food service establishment includes permanent food service establishments, temporary food service establishments, and community food service establishments. The term food service establishment does not include stores that sell exclusively pre-packaged items.
- (E) **“Permanent food service establishment”** means a food service establishment that plans to operate regularly for a period greater than one month. Permanent food service establishments include restaurants, delis within gas stations, coffee shops, banquet services, and cafeterias and kitchens within schools, senior centers, and other service providers.

- (F) **“Temporary food service establishment”** means a food service establishment that plans to operate for one month or less. Temporary food service establishments include food tents at events.
- (G) **“Wares”** means items used to prepare food other than dishes, such as utensils and food contact surfaces of food preparation equipment, and “warewashing” refers to the washing of such items.
- (H) **“Worker”** means an individual who either is employed by or volunteers at a food service establishment to provide food service.

[History] Ord. 388 (12/4/18).

Subchapter I – Food and Event Safety

10-02.040 General Restrictions.

- (A) Every food service establishment must provide conditions necessary for safe, clean, and hygienic food preparation and consumption. Food service establishments shall be well ventilated, and free of noxious odors, fumes, vapors, and excessive heat. Food preparation areas shall be brightly lit.
- (B) Physical facilities shall be maintained in good repair.
- (C) Physical facilities shall be cleaned as thoroughly and as often as is necessary to keep them clean and hygienic. The premises shall be kept free of litter and standing liquids.
- (D) Food contact surfaces must be smooth, durable, and easily cleanable. Such surfaces may not contain chips, crevices, or other features that may accumulate food waste or bacteria.
- (E) The premises shall be maintained reasonably free of insects, rodents, and other pests.
- (F) Cleaning and maintenance items such as brooms, mops, vacuum cleaners, and other similar items shall be separately stored away from food and cleaned such that they do not contaminate food, food equipment, utensils, food preparation facilities, or food service items.
- (G) All live animals are prohibited in food preparation areas, except for: service animals; animals used in policing; and fish, shellfish, or mollusks in a tank.

[History] Ord. 388 (12/4/18).

10-02.050 Fireworks Food Services.

Any person seeking a fireworks food sales permit from the accounting department under STC 15-02.170(C) may fulfill the requirement to obtain a food service permit by complying with STC 10-02.290(A), Inspection and Enforcement. Any person who cooks or prepares food associated with fireworks food services may fulfill the requirement to obtain a food services permit under STC 15.02-170(C) by complying with STC 10-02.110, Worker Certification and Education. Food services associated with fireworks shall be subject to compliance with the entirety of this Section, as applicable.

[History] Ord. 388 (12/4/18).

10-02.060 Food Quality and Sourcing.

All food must be obtained from sources that comply with applicable laws. Food service establishments should obtain fresh and clean food for sale and service.

- (A) Food service establishments may serve wild-caught game animals, aquatic species, and foraged foods, so long as those foods are acquired, cleaned, stored, and cooked in a safe and hygienic manner. An animal or plant may not be received for sale or service if it is listed as an endangered, threatened, or protected species under federal, state, or tribal law.
- (B) Refrigerated food must be maintained at a temperature of 41 degrees Fahrenheit or below. Hot cooked foods must achieve and maintain a temperature of 135 degrees Fahrenheit or above prior to service.
- (C) Ice for use as a food or a cooling medium shall be made from potable drinking water.
- (D) When received by a food service establishment, shellfish shall be reasonably free of mud, dead shellfish, and shellfish with broken shells.

[History] Ord. 388 (12/4/18).

10-02.070 Exemptions.

The following food services are exempt from permitting and all other requirements of this Chapter other than Section 10-02.040 – General Restrictions and Section 10-02.060 – Food Quality and Sourcing:

- (A) First Foods. The preparation, sharing, or sale of First Foods in accordance with the traditions and customs of the Swinomish Community. Individuals preparing traditional foods are encouraged to study food preparation customs with Tribal elders. This exemption includes home-smoked or home-canned salmon.

- (B) Private, work, and government events. Any meeting, celebration, or gathering which is not carried out for commercial purposes and where food is not provided for the general public. This exemption includes shared meals served at workplaces for employees, family gatherings, weddings, and funerals.

[History] Ord. 388 (12/4/18).

10-02.080 Posting of Public Health Documents.

- (A) Every food service establishment shall post a sign, that is approved by or made available by the Health Official, explaining safe food handling and handwashing practices on the premises. The sign shall be posted such that the people cooking, preparing, and serving food can easily see it.
- (B) Every food service establishment shall have on their premises at least one (1) copy of this Chapter.

[History] Ord. 388 (12/4/18).

10-02.090 Inspections.

The owners and workers of all food service establishments shall admit the Health Official to conduct routine inspections without prior notice. The Health Official shall prepare a written report describing each inspection. The Health Official shall submit a written report to the Board of Health after each inspection of a food service establishment, and must provide the food service establishment with a copy of the written report upon request.

[History] Ord. 388 (12/4/18).

10-02.100 Enforcement Policy.

All food service establishments shall adhere to the terms of any permit, if issued, this Chapter, and all other applicable law. The Health Official shall seek to collaborate with and to educate food service establishment owners and workers to both ensure public health and allow continued operation of food service establishments. Enforcement procedures are detailed in Title 10, Chapter 6 of the Swinomish Code.

[History] Ord. 388 (12/4/18).

10-02.110 Worker Certification and Education.

- (A) All workers shall read and be familiar with the requirements of this Chapter and of the applicable food service establishment permit terms.

- (B) All workers shall either:
- (1) Possess a food handlers permit issued by the Health Official or an equivalent permit issued from another public agency or entity approved by the Health Official; or
 - (2) Be under the direct supervision and control of a person with a food handlers permit.
- (C) All workers must be familiar with the requirements of this Chapter and if interviewed by the Health Official must be able to provide the following information relating to foodborne disease prevention:
- (1) The personal hygiene measures necessary to prevent the spread of foodborne disease, including handwashing procedures;
 - (2) The hazards associated with consumption of raw or undercooked meat, poultry, eggs, and fish, and describing the conditions necessary to minimize or avoid those hazards;
 - (3) Which foods must be refrigerated, kept cool, or kept hot, and the mechanism for achieving those conditions;
 - (4) Correct procedures for cleaning and sanitizing dishes, wares, and food contact surfaces;
 - (5) The location and proper use and storage of toxic materials, the first aid kit, and cleaning materials;
 - (6) The presence of major food allergens (nuts, soy, gluten) in foods served in the establishment.

[History] Ord. 388 (12/4/18).

10-02.120 Worker Health.

Workers shall be in good health and shall not participate in the preparation, handling, or service of food under the following conditions:

- (A) If the worker experiences any of the following symptoms within the previous 24 hours: vomiting; diarrhea; jaundice; sore throat with a fever; or a fever with body temperature in excess of 102 degrees Fahrenheit; or
- (B) If the worker has an illness diagnosed by a health care practitioner due to norovirus, hepatitis A virus, *Shigella* spp., Shiga toxin-producing *Eschericia Coli*, *Salmonella Typhi*, or nontyphoidal *Salmonella*, or if the worker has recently been knowingly

exposed to the above-listed illnesses through contact with infected food or an infected individual; or

- (C) If the worker has on an exposed area of the body an open or draining lesion or a cut, unless the lesion or cut is covered with an impermeable and completely sealed bandage. If the lesion or cut is on the hands, a glove must be worn in addition to the bandage.

[History] Ord. 388 (12/4/18).

10-02.130 Hand Washing.

Workers shall keep their hands and exposed portions of their arms clean.

- (A) **Timing.** Workers shall wash their hands as frequently as is necessary to prevent food contamination. Workers shall wash their hands immediately after using the toilet room; handling raw meat or eggs; coughing, sneezing, or eating; and between food preparation tasks to prevent cross-contamination.
- (B) **Method.** Workers shall employ the following handwashing procedure. Rinse hands and lower arms under clean, warm running water. Apply soap and rub vigorously for 10 to 15 seconds while paying attention to removing soil from fingernails. Thoroughly rinse under warm running water. Immediately dry using a clean material or using an airdrying device.
- (C) **Hand antiseptic.** Use of hand antiseptic is a helpful supplement to hand washing but does not substitute for hand washing. Workers must use clean, disposable gloves when directly handling ready-to-eat foods.

[History] Ord. 388 (12/4/18).

10-02.140 Hygienic Practices.

Workers shall maintain good hygiene at all times during food preparation, handling, or service, and must meet the following specific requirements:

- (A) Workers must wear clean clothes. If used, aprons, smocks, or other clothes-covering attire must be clean.
- (B) Workers involved in food preparation must remove all jewelry from their hands and avoid use of nail polish, or wear gloves.
- (C) Workers experiencing persistent coughing, sneezing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food or clean equipment.

- (D) Workers involved in food preparation shall prevent hair from contacting exposed food and clean dishes, wares, and equipment.
- (E) Workers must immediately clean up substances produced by the human body (such as excrement, vomit, phlegm, etc...) and take all measures necessary to minimize the spread of contamination to food, workers, and guests.

[History] Ord. 388 (12/4/18).

10-02.150 No Smoking, Vaping, or Chewing Tobacco.

Smoking or vaping of any substance is prohibited while preparing or serving food at a food service establishment.

[History] Ord. 388 (12/4/18).

10-02.160 Poisonous or Toxic Materials.

To reduce the risk poisonous or toxic materials can pose to workers and guests, the following measures are required:

- (A) Labelling. Containers of poisonous or toxic materials shall bear a prominent label identifying the material by name and stating that it is poisonous or toxic.
- (B) Storage. Poisonous or toxic materials shall be stored in a dry and secure area where they cannot contaminate food, food equipment, utensils, or other food service items. The materials shall also be stored in an area that is inaccessible to children and animals.
- (C) Alternative materials. Use of poisonous or toxic materials is discouraged, and food service establishments should use non-toxic alternatives when possible. Only those poisonous or toxic materials that are required for the operation of a food establishment, such as the cleaning and sanitizing of equipment and the control of insects and rodents, shall be allowed in a food establishment.
- (D) Responsible use. Poisonous or toxic materials may only be used in such a manner so as not to endanger the health of workers, guests, or other persons.

[History] Ord. 388 (12/4/18).

10-02.170 Waste Disposal.

Refuse containers with impervious liners shall be provided in food preparation areas. Such containers shall be emptied at least daily and more often if necessary. Where single-use service items are provided, refuse containers with plastic liners must be provided for guest use and must be emptied at least daily and more often if necessary. Food service

establishments are encouraged to provide separate refuse containers for trash, compost, and recycling. Accumulated wastewater (such as water from handwashing or dishwashing at a temporary food service establishment, or water from mopping) shall not be poured on the ground or in sinks used for food preparation.

[History] Ord. 388 (12/4/18).

Subchapter II – Permanent Food Service Establishments

10-02.180 Code Provisions Applicable to Permanent Food Service Establishments.

Code Sections 10-02.180 – 10-02.230 shall only apply to permanent food service establishments.

[History] Ord. 388 (12/4/18).

10-02.190 Physical Requirements for Permanent Food Service Establishments.

All permanent food service establishments must have the following physical conditions:

- (A) Materials for indoor floor, wall, and ceiling surfaces shall be smooth, durable, and easily cleanable throughout the food preparation area.
- (B) Carpet is only allowed outside of the food preparation area and must be closely woven and easily cleanable.
- (C) Materials for floor, wall, and ceiling surfaces must be nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishments, and areas subject to spray cleaning.
- (D) Outer openings must be protected from the entry of insects and rodents by filling or closing holes and other gaps along floors, walls, and ceilings; using closed, tight-fitting windows; and using solid, tight-fitting doors. Where insects, rodents, or other pests are present in the area, all windows and doors that are left open must have fine mesh screens.
- (E) Outdoor walking and eating areas must be surfaced with materials that minimize dust and mud.
- (F) Toilet rooms must be enclosed.

[History] Ord. 388 (12/4/18).

10-02.200 Facilities and Equipment for Permanent Food Service Establishments.

All permanent food service establishments must have the following facilities and materials:

- (A) A dedicated sink available for hand-washing, with hot water and soap, posted instructions on safe handwashing requirements, and a clean method of hand-drying. The sink may be located in a bathroom that is easily accessible for workers.
- (B) An easily-accessible bathroom for workers. The bathroom may be open to food service establishment guests, provided that guest usage does not substantially restrict regular worker access.
- (C) Food service gloves.
- (D) An adequately stocked first-aid kit which includes bandages sufficient to fully cover cuts or sores, and face masks for individuals who may have contagious illness. The first aid kit must be stored separately from all food products.
- (E) Cleaning materials, including non-toxic cleaning spray and sponges or towels for food contact surfaces, a mop and floor cleaning supplies, and a vacuum (where there are carpeted surfaces or rugs). Cleaning materials must be stored separately from all food products.
- (F) Refrigerated space as necessary to keep all perishable foods at a safe storage temperature.
- (G) Free, potable drinking water and drinking utensils for workers and guests.
- (H) Timers and a metal stemmed thermometer or digital temperature measuring device as necessary to ensure safe food preparation and service.
- (I) A functioning fire extinguisher.

[History] Ord. 388 (12/4/18).

10-02.210 Dishwashing and Warewashing.

Every permanent food service establishment shall employ an effective means of cleaning, sanitizing, and drying dishes, wares, and other items used in food preparation or service (such as utensils, wares, and pots and pans).

- (A) Sanitization may occur either by chemical treatment or high temperature.
- (B) Items must be air dried or dried with a clean and dry towel dedicated to that purpose.

- (C) If the food service establishment requires a continuous flow of dishes or wares, there must be a sink with three separate basins (used for washing, rinsing, and sanitizing). If the sink used for dish and warewashing only has two basins, dish and warewashing must only occur before or after food preparation.

[History] Ord. 388 (12/4/18).

10-02.220 Food Service.

- (A) Where foods are held in a display or other service area, cold foods must be refrigerated with ice or other means and hot prepared foods must be kept warm with warming pans or other devices. Foods may not be held in a display or self-service area for more than three (3) consecutive hours.
- (B) Where foods are provided for self-service (such as in a buffet or salad line) guests must use a new plate for each visit to the food service area.

[History] Ord. 388 (12/4/18).

10-02.230 Mobile Food Service.

A mobile food service facility, such as a food truck, constitutes a permanent food service establishment under this Chapter.

- (A) A mobile food unit that is based in a permanent food service establishment on the Reservation, and that only serves pre-prepared foods, may rely on the physical facilities of the permanent food service establishment to satisfy the requirements of this Chapter. Such a unit is required to have adequate facilities to maintain proper hot and cold food temperatures at all times prior to food service, and must also provide hand sanitizer for workers and guests.
- (B) A mobile food unit that is not based in a permanent food service establishment, or that requires food preparation in the mobile unit, must meet the specifications listed below in lieu of the otherwise applicable requirements for a permanent food service establishment, as determined by the Health Official.
 - (1) The ability to maintain proper hot and cold food temperatures during storage and transit;
 - (2) Adequate facilities for cooling and reheating of foods;
 - (3) Adequate handwashing facilities;
 - (4) Adequate warewashing facilities;

- (5) A regularly cleaned and sanitized mobile food unit that is dry and well-lit;
 - (6) Durable and smooth floors, counters, and food contact surfaces with no carpeting;
 - (7) Sanitary removal of waste water and garbage.
- (C) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package is sealed.
- (D) Mobile food units must have overhead protection, such as roofing, a ceiling, or umbrellas, that covers the food preparation and food service areas. The purpose of this provision is to limit food exposure to sun, rain, and foreign materials.

[History] Ord. 388 (12/4/18).

Subchapter III – Temporary Food Service Establishments

10-02.240 Code Provisions Applicable to Temporary Food Service Establishments.

Code Sections 10-02.240 – 10-02.310 shall only apply to temporary food service establishments.

[History] Ord. 388 (12/4/18).

10-02.250 Sanitation Facilities Required.

Water supply, toilets, and refuse containers shall be available to the public within five hundred (500) feet of the food service area.

[History] Ord. 388 (12/4/18).

10-02.260 Water Supply.

Safe water shall be supplied in ample quantity to meet the requirements of every person reasonably expected to attend. When water must be transported by the sponsor or others to satisfy this requirement, it shall be transported, stored and dispensed in a sanitary manner. The use of common drinking utensils is strictly prohibited.

[History] Ord. 388 (12/4/18).

10-02.270 Toilet Facilities.

An adequate number of flush toilets, chemical toilets, or privies shall be provided and maintained in a clean and sanitary condition. The location and construction of such facilities shall not cause pollution or health hazards. Toilet facilities shall be provided with toilet paper and shall include hand cleaning facilities (either hand sanitizer or hot water and soap) at all times.

[History] Ord. 388 (12/4/18).

10-02.280 Refuse Containers.

An adequate number of animal resistant and fly tight refuse containers shall be provided. Refuse containers must be emptied at least daily and more as necessary to prevent overflow. Special events and temporary food service establishments are encouraged to provide separate containers for compost and for recycling. The area used for a special event or temporary food service establishment must be left in a clean and sanitary condition.

[History] Ord. 388 (12/4/18).

10-02.290 Inspection and Enforcement.

- (A) Any individual or entity, other than the Tribe, wishing to operate a temporary food service establishment on the Reservation shall notify the Health Official at least ten (10) days prior to commencement of operations. The Health Official, may, at his or her discretion, require the operator to provide plans for compliance with this Chapter, may impose reasonable conditions as necessary to ensure public safety, and may further require the operator to pay a reasonable fee as necessary to allow for adequate inspection and enforcement.
- (B) Temporary food service establishments must allow the Health Official to conduct inspections at any time when the temporary food service establishment is in operation. If the inspection of a temporary food service establishment reveals violations of this Chapter, the temporary food service establishment must come into compliance within four (4) hours, and must immediately take all measures necessary to safeguard public health pending compliance.
- (C) If the temporary food service establishment fails to achieve compliance within four (4) hours following an inspection or refuses to allow inspection, the Health Official is authorized to issue an Emergency Order under Chapter 6 of this Title. Any temporary food service establishment permit shall be automatically revoked and the temporary food service establishment must immediately cease operations.

[History] Ord. 388 (12/4/18).

10-02.300 Facilities and Equipment for a Temporary Food Service Establishment.

Temporary food service establishments shall maintain on-site at all times:

- (A) Metal stem or digital food thermometer (if cooking raw meat);
- (B) Sanitizing solution (bleach spray bottle and disposable paper towels or bucket with one teaspoon bleach per gallon of water and wiping cloths);
- (C) Handwashing station consisting of at least a five-gallon insulated container with a spigot that provides a continuous flow of warm (100-120°F) running water, soap, paper towels, and a five-gallon container to collect wastewater;
- (D) Adequate supply of disposable gloves;
- (E) Dishwashing station consisting of a covered food waste container with plastic liner; wash bucket; rinse bucket; sanitizing bucket; and area to air dry equipment or dishes;
- (F) Covered trash can(s) in food preparation area with plastic liners for food waste;
- (G) Covered container for wastewater (i.e., dirty water from handwashing or dishwashing); and
- (H) A fire extinguisher and an adequately stocked first aid kit.

[History] Ord. 388 (12/4/18).

10-02.310 Conditions and Weather.

There shall be no standing water or mud at the site of the special events and temporary food service establishment. A temporary food service establishment may not take place or operate during dangerous weather conditions, such as lightning storms, high winds, or excessive cold or heat.

[History] Ord. 388 (12/4/18).

Subchapter IV – Community Food Service Establishments

10-02.320 Code Provisions Applicable to Community Food Service Establishments.

Code Sections 10-02.320 – 10-02.340 shall only apply to community food service establishments.

[History] Ord. 388 (12/4/18).

10-02.330 Food Service for Community Food Service Establishments.

The Tribe values the cultural and community health importance of community food preparation. The Health Official may authorize a variance from the requirements of this Chapter for a community food service establishment, if the Health Official makes a written finding that the facilities and conditions at the community food service establishment meet the purposes of this Chapter. Where the Health Official authorizes such a variance, the Health Official must set forth in writing any specific alternative mandatory prescriptions necessary to meet the purposes of this Chapter, and such mandatory prescriptions shall become enforceable under this Chapter.

[History] Ord. 388 (12/4/18).

10-02.340 Food Handlers' Permit Requirement.

The individual responsible for operation of a community food service establishment must possess a food handlers permit issued by the Health Official or an equivalent permit issued from another public agency or entity approved by the Health Official. That individual need not be physically present in order to supervise volunteers at the community food service establishment, so long as the responsible individual ensures that the establishment meets the requirements of this Chapter, and reviews the requirements of the community food service establishment permit and this Chapter with each volunteer who will prepare or serve food.

[History] Ord. 388 (12/4/18).