

## **Title 11 – Utilities**

### **Chapter 7 – Solid Waste**

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#### **Legislative History**

**Enacted:**

Codifying Title 11, Ord. 195 (11/5/03), BIA (11/25/03).

**Repealed or Superseded:**

Defining “Swinomish Village” and Prohibiting Dangerous Dogs, Ord. 144, Section 1 (11/8/00), BIA (11/27/00) (amending Ord. 90, as amended)  
Health and Sanitation Code, Ord. 90 (2/6/92), BIA (2/18/92) (repealing and superseding Res. 76-7-399, Res. 81-1-794, and Res. 81-2-801).  
Swinomish Indian Tribal Utility Ordinance, Ord. 65, Art. VIII Solid Waste Service (10/10/89), Enacting Res. 89-10-95, BIA (10/23/89).  
Interim Health and Sanitation Code, Res. 81-2-801 (2/26/81) (adopting the Interim Health and Sanitation Code).  
Health and Sanitation Code, Res. 81-1-794 (1/5/81).  
Delegating authority to the Sanitation and Inspection Committee, Ord. 12 (4/28/41).  
Regulating the Disposal of Garbage, Ord. 3, BIA (10/13/36).

**Noted:**

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

[Ed. Note. The state health and education laws of 1955 included laws regarding solid waste.]

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**11-07.010 Definitions.**

- (A) For the purposes of this Chapter, unless explicitly stated otherwise, the following terms shall have the following meanings:
- (1) **“Garbage”** means putrescible animal and vegetable wastes resulting from the preparation, cooking and consumption of food including but not limited to: wastes from markets, storage facilities, handling and sale of produce and other food products.
  - (2) **“Health Administrator”** means the Director of the Swinomish Tribal Health Program or his/her authorized representative(s).
  - (3) **“Planning Department”** means the Office of Planning and Community Development, the tribal organization responsible for all land-use planning and zoning within the exterior boundaries of the Reservation.
  - (4) **“Public Health Service Recommended Standards”** means official publications of the U.S. Public Health Service.
  - (5) **“Public Nuisance”** means any activity that arises from unreasonable, unwarranted, or unlawful use of private property and results in a material annoyance, inconvenience, discomfort, or health hazard.
  - (6) **“Putrescible Wastes”** means discarded materials of an organic composition that decompose or rot to form foul-smelling products.
  - (7) **“Rubbish”** means all non-putrescible wastes, except ashes, including but not limited to cans, paper, glass, wood, and scrap metal.
  - (8) **“Sanitarian”** means the Indian Health Service Environmental Health professional stationed at the Northwest Washington Service Unit.
  - (9) **“Solid Wastes and Refuse”** means all putrescible and non-putrescible discarded solid and semi-solid materials including but not limited to: garbage, household hazardous wastes, rubbish, ashes, dead animals, abandoned vehicles and machinery, construction, demolition, and industrial wastes. It does not include sewage, hazardous waste, irrigation return flows, or industrial discharges that would be defined as point sources under the U.S. Clean Water Act.
  - (10) **“Village,” “the Village area,” or “Swinomish Village”** means the area consisting of all of Swinomish Allotment T38-F, all of Swinomish Allotment T1005, and a portion of Swinomish Allotment T1003, and having the following legal description:

Swinomish Allotment T38-F:

The North ½ of the Northeast ¼ of the Northwest ¼ of the Southwest ¼ of Section 36, Township 34 North, Range 2 East, W.M., Skagit County, Washington

Swinomish Allotment T1005:

The Southeast ¼ of the Southwest ¼ of the Northwest ¼ of Section 36, Township 34 North, Range 2 East, W.M., Skagit County, Washington, except the north twenty (20) feet thereof.

A Portion of Swinomish Allotment T1003:

Government lots 7, 8 and 9 of Section 36, Township 34 North, Range 2 East, W.M., Skagit County, Washington; except that portion of Government Lot 9 lying southwesterly of the southwesterly line of the road right-of-way granted to Skagit County on June 6, 1955, and recorded as Document No. 122-222 in the records of the Bureau of Indian Affairs, Portland, Oregon. There is excepted from said parcel the following portion of Govt. Lot 9, beginning at the northwest corner of Govt. Lot 9, thence easterly along the North line of said Govt. Lot 9, a distance of 150 feet; thence southerly along a line parallel to and 150 feet distant from the West line of said Govt. Lot 9, a distance of 100 feet; thence westerly along a line parallel to and 100 feet distant from the North line of said Govt. Lot 9, a distance of 150 feet to the West line of said Govt. Lot 9; thence northerly along the said West line, a distance of 100 feet to the point of beginning.

- (B) All other terms, unless explicitly stated otherwise, shall have their ordinary and customary meanings.

[History] Ord. 195 (11/5/03); Ord. 144 (11/8/00); Ord. 90 (2/6/92);

**11-07.020 Illegal Dumping.**

- (A) It shall be unlawful for any person or persons to unload solid waste any place within the exterior boundaries of the Reservation, other than the place or places designated by the Senate.
- (B) It shall be unlawful to dump refrigerators, ice boxes, and other appliances with movable doors anywhere within the exterior boundaries of the Reservation. Dumping of such appliances shall be punished to the full extent provided by law because children may play in the appliances and become entrapped.
- (C) **Penalties.**

All persons who violate this Section shall be subject to the following penalties:

- (1) A civil fine of up to five hundred dollars (\$500) per violation;
- (2) Each day the person remains in violation shall constitute a separate offense, punishable by up to \$100 per day; and
- (3) Clean up costs.

[History] Ord. 195 (11/5/03); Ord. 3 (no date); BIA (10/13/36).

**11-07.030 Sanitary Storage.**

All solid waste shall be stored so that it does not:

- (A) Attract rats, flies, mosquitoes, or other disease-carriers; and
- (B) Constitute a safety hazard or a public nuisance.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.040 Storage Container Standards.**

- (A) Individual cans for outside storage of solid waste shall be made of rust-and-corrosion resistant metal (or equivalent heavy-duty plastic), of water-tight, leak-proof and weather-proof construction, and equipped with tight-fitting insect and rodent-proof lids.
- (B) 55-gallon oil drums are strictly prohibited as solid waste storage containers.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.050 Sufficient Storage Containers.**

Each residence or place of business shall have a sufficient number of approved outdoor containers to accommodate all solid waste materials accumulated between collections.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.060 Draining of Garbage.**

Garbage shall be drained and wrapped before being placed in storage containers.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.070 Placement of Outdoor Storage Containers.**

Unless containers are placed on a smooth, impervious surface, storage racks or container

supports shall be provided for individual containers to minimize corrosion and to prevent breeding of insects and harboring of rodents.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.080 Temporary Storage of Certain Rubbish.**

Certain types of rubbish may be temporarily stored in a manner other than containerization. Such rubbish includes bundled brush, bundled newspapers, packing cases, and other similar materials that may be handled by the collection vehicle. These materials shall not be placed out for collection more than twenty-four (24) hours before the scheduled pick-up.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.090 Junk Automobiles and Similar Refuse.**

Junk automobiles, appliances, mobile homes, campers, boats, travel trailers, and similar materials shall not be allowed to accumulate on the premises. The owners shall be responsible for the disposal of this type of solid waste material in a manner acceptable to the Health Administrator, such as arranging for a salvage company to remove it from the Reservation.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.100 Collection of Solid Waste.**

Solid Waste collection and disposal services in the Village Area shall be managed and provided for a fee by the Utility Authority. The Utility Authority may contract with a private company for solid waste collection and disposal services.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92); Ord. 65 (10/23/89).

**11-07.110 Collection Vehicle Standards.**

The collection of solid waste shall be by means of covered vehicles of such construction as to be readily cleanable and to prevent spillage of refuse during loading and transporting to the disposal area. Collection vehicles are to be emptied at the end of each working day. Refuse should not be allowed to carry over from one day to the next.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.120 Solid Waste Collection Schedule.**

Solid waste shall be collected and disposed of at a frequency sufficient to prevent public nuisances and health hazards.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.130 No Solid Waste Disposal Sites.**

No solid waste disposal sites shall be allowed within the exterior boundaries of the Reservation.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).

**11-07.140 Solid Waste Production, Transportation, and Disposal.**

(A) **Liability.** Any person who produces, transports, accepts, or disposes of solid waste on the Reservation in any manner, or participates or acquiesces in the same with some other person, shall be liable to the Tribe for all costs of remediation, including but not limited to:

- (1) Clean-up costs;
- (2) Court costs; and
- (3) Enforcement costs.

(B) **Defenses.** No liability shall attach if the potentially liable party can prove, by a preponderance of the evidence, that his or her production, transportation, acceptance, or disposal of the solid waste was due to:

- (1) An act of God;
- (2) An act of war; or
- (3) An act or omission of a third party, other than an employee or agent of the potentially liable party, or a third party with whom the potentially liable party had a contractual relationship.

[History] Ord. 195 (11/5/03); Ord. 90 (2/6/92).