

Title 10 – Community Health
Chapter 9 – Housing 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).

10-09.010 Purpose.

The purpose of this Chapter is to improve the health and quality of life of Tribal members and other residents of the Reservation, and to contribute to the safety and vitality of the Swinomish Indian Tribal Community.

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

10-09.020 Findings.

- (A) The Senate finds that it is of paramount importance to ensure that Tribal members and other residents of the Reservation have access to safe housing. Safe housing should feature, at a minimum: healthy indoor air quality; an exterior sealed to outside weather; functioning plumbing, heating, and electricity; and a lack of exposure to adverse health impacts.
- (B) Housing that is contaminated by mildew and mold, residues from illegal drugs, or other toxins can cause near- and long-term damage to the health of housing residents, especially children and elders, and thereby damage the Swinomish Indian Tribal Community.

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

10-09.030 Outreach and Education.

The Health Official shall prepare and make publicly available educational materials for youths and adults on housing safety, including guidelines on how to ensure healthy indoor air quality.

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

10-09.040 Construction.

This Chapter governs use of housing, and is meant to apply in addition to the provisions set forth in Title 12 and Title 13. If there is a conflict between this Chapter and Title 12 or Title 13, compliance with Title 12 or Title 13 shall be deemed compliance with this Chapter.

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

10-09.050 Definitions.

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

- (A) **“Home”** or **“Housing”** means any structure in which an individual or group of individuals resides. The terms include without limitation single-family dwellings, multi-family dwellings, mobile homes, and apartments.
- (B) **“Mobile Home”** means a motor home, recreational vehicle, or any other permanent or temporary residence that may be transported on wheels or on water. This term applies to homes that are designed to be mobile, even if they are parked or broken or otherwise immobilized. This term does not apply to a manufactured home installed at a site.
- (C) **“Resident”** means a person who uses a home as a primary residence, including without limitation a tenant, lessee, and private homeowner residing in the home. “Resident” does not include a person residing in a home for less than one month.

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

10 09.060 Exemptions.

This Chapter does not apply to the following:

- (A) Structures used on a temporary basis for purposes other than as a residence, such as tents and hunting camps.
- (B) Cars, so long as the car changes location at least once per week.

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

10-09.070 Unsafe Housing Prohibited.

It is prohibited for any adult to maintain housing in dangerous condition. A dangerous condition exists if normal use of housing results in significantly increased risk of adverse health impacts to residents. Examples of dangerous conditions include but are not limited to: exposed wiring; a leaking roof; lack of running water, plumbing, or electricity; the presence of hazardous substances; and the regular presence of noxious fumes or odors.

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

10-09.080 Indoor Air Quality.

Homes shall be free of air quality conditions that cause adverse health impacts to residents or visitors. Adverse health impacts include persistent coughing, eye watering, sneezing, dizziness, headaches, and nausea.

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

10.09.090 Mold and Mildew.

Homes shall not contain excessive mold or mildew. Mold or mildew is excessive where it is visible to the naked eye, produces a musty odor, or causes human health effects. Where present, mold or mildew must be removed and shall not be painted over or otherwise obscured. To avoid mold or mildew, homes should be well-ventilated, sealed from outside water, leaks inside the house should be repaired, and accumulation of moisture inside the house should be prevented.

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

10-09.100 Lead Paint and Asbestos.

It is prohibited to use products containing lead or asbestos in exceedance of federal standards in construction or maintenance of homes. Where a house includes existing materials known to contain lead or asbestos, residents shall take measures necessary to avoid exposing infants and children to the materials, and follow prompt disposal of any chips or waste derived from the materials. Homes built before 1978 shall not have peeling or deteriorated paint inside or outside if lived in by a child under age six.

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

10-09.110 Plumbing.

All homes must contain at least one of each of the following: sink, toilet, and bathing facility. All plumbing must be functional and free of persistent leaks. Homes must have running potable water and hot water available.

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

10-09.120 Ventilation.

Homes must have fans or other means of ventilation in bathrooms, in order to prevent the presence of accumulated moisture and mold and mildew.

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

10-09.130 Overcrowding.

A home shall not have more than four residents per bedroom in the home, except for instances in which a written policy regulates overcrowding in Tribally managed housing, in which case that policy shall apply.

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

10-09.140 Egress.

All bedrooms must have a means of egress in case of fire or other emergency. In order to provide egress, a window must have a minimum passable opening of 5.7 square feet, with a height of at least 24 inches and a width of at least 20 inches, and may not be more than 44 inches from the ground.

Residents must maintain a clear path to exits from the home. Furniture, trash, or other items may not be placed to hinder exit. Exits may not be barred.

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

10-09.150 Rodents and Other Pests.

Homes must be kept reasonably free of rodents, termites, cockroaches, bedbugs, lice, and other pests. To the extent rodenticide is used, it may only be deployed in a sealed container inaccessible to pets and children.

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

10-09.160 Smoke and Carbon Monoxide Detectors.

Homes must have at least one functioning smoke detector with alarm, and should have one functioning carbon monoxide detector with alarm. A combined smoke and carbon monoxide detector with alarm may be used. It is encouraged to install smoke and carbon monoxide detectors in the immediate vicinity of each sleeping area.

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

10-09.170 Child Safety.

Housing regularly accessed by children shall be kept free of unreasonably dangerous conditions for children.

- (A) Where a child under six years old resides or is present, all potentially toxic substances (such as cleaning products, batteries, alcohol, and chemicals) and prescription medications must be secured in an area inaccessible to such children.

- (B) Where a child under the age of twelve years old resides or is present, all firearms must be kept in secure areas inaccessible to such children. Firearms should be stored unloaded and with trigger locks.

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

10-09.180 Elder Safety.

Housing regularly accessed by elders shall be kept free of unreasonably dangerous conditions for elders and for persons seeking access to elders to provide assistance, including, but not limited to, persons providing meals, health care, social services, or emergency services. The term “elder” as used here follows the definition set forth in STC Title 7, Chapter 12.

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

10-09.190 Mobile Homes.

Mobile homes are subject to this Chapter, except that a mobile home may be exempt from the requirements of Section 10-09.110 under the following conditions:

- (A) The mobile home is in a mobile home park that provides access to bathroom and shower facilities; or
- (B) The mobile home has a working bathroom with a tank that is regularly pumped into a sewer or wastewater facility, and provides hot running water for handwashing.

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

Subchapter I – Contamination from Illegal Substances

10-09.200 Contamination from Illegal Substances—Preliminary Assessment.

Contamination of housing from illegal substances, as defined in this subchapter, is prohibited.

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

10-09.210 Inspection for Contamination.

The Health Official, following the procedures set forth in STC 10-06.020, is authorized to enter and inspect a home to conduct an assessment of whether there is contamination from illegal substances.

Assessment of unsafe chemicals relating to illegal substances shall initiate with a preliminary assessment by the Health Official and a consultant that is certified for drug lab cleanup by the Washington State Department of Health. Contractors and consultants shall use the appropriate personal protective equipment during the preliminary assessment.

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

10-09.220 Preliminary Assessment Procedure.

The Health Official or consultant conducting a preliminary assessment shall collect information and create a written report detailing information including, but not limited to, the following:

- (A) Property description including physical address, number and type of structures present, identification of separate functional spaces (crawl spaces, false ceilings, attic), identification of areas of dead vegetation that may indicate waste disposal, and any other observations made.
- (B) Review of available law enforcement reports that provide information regarding the manufacturing method, chemicals present, drug cooking areas, chemical storage areas, and observed areas of contamination or waste disposal.
- (C) Identification of chemicals used, based on observation, law enforcement reports, and knowledge of manufacturing method(s).
- (D) Identification and photographic documentation of areas of contamination, including potential chemical storage areas, waste disposal areas, drug cooking areas, and signs of contamination such as staining, etching, or fire damage.
- (E) Identification of adjacent units, common areas, and areas connected by common ventilation systems where contamination may have spread.
- (F) Inspection of plumbing system integrity and identification and documentation of potential disposal into the sanitary sewer or an individual sewage disposal system (such as a septic system).

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

10-09.230 Sampling and Analysis.

The Health Official shall examine the totality of the evidence documented in the preliminary assessment and make a written determination of whether it is reasonably likely that there is drug-related contamination in or around the home. If the Health Official determines that drug-related contamination is reasonably likely:

- (A) The Health Official or consultant shall collect samples for testing in an analytical laboratory equipped for such analysis. Sampling and testing shall follow industry standard practices, such as those set forth in the “Voluntary Guidelines for Methamphetamine Laboratory Cleanup Voluntary Guidelines for Methamphetamine Laboratory Cleanup” (U.S. Environmental Protection Agency, 2013); and
- (B) It shall be forbidden for any individual to reside in the house until analysis of samples demonstrates that contamination levels are below the thresholds set forth in this Chapter.

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

10-09.240 Residue from Illegal Substances—Thresholds.

The presence of chemicals relating to the manufacture, use, or storage of illegal substances is prohibited in and around housing.

Chemicals are considered present when concentrations of chemicals are sufficient to cause adverse health impacts to residents or when concentrations exceed the thresholds set forth below:

- (A) Surface wipe samples and vacuum samples for methamphetamine shall not exceed a concentration of 1.5 $\mu\text{g}/100\text{ cm}^2$.
- (B) If there is evidence of iodine contamination on materials or surfaces that will not be removed, surface wipe samples for iodine shall not exceed a concentration of 22 $\mu\text{g}/100\text{ cm}^2$.
- (C) Surface wipe samples for lead shall not exceed a concentration of 40 $\mu\text{g}/\text{ft}^2$, and vapor samples for mercury shall not exceed a concentration of 1.0 $\mu\text{g}/\text{m}^3$.
- (D) Vapor samples of volatile organic compounds shall not exceed 1.0 parts per million.
- (E) Soil, surface water, and groundwater around the house (including the septic system) shall not contain levels of lead, mercury, or methamphetamine equivalent to the concentrations set forth above in Sections (A)-(C), and shall not have a pH measurement less than 6 or greater than 8.

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

10-09.250 Decontamination.

Any home in which the presence of substances exceeds the thresholds set forth in Section 10-09.240 shall be deemed a contaminated home and unfit for residence.

- (A) All residents and guests of a contaminated home will be issued an “Emergency Order” under STC 10-06.040. Residents and guests must dispose of or thoroughly clean items likely to be contaminated, such as clothing, stuffed animals, toys, linens, and blankets. A resident may not re-enter a contaminated home without express written permission from the Health Official.
- (B) In order for a contaminated home to be deemed fit for residence, a contractor that is certified for drug lab cleanup by the Washington State Department of Health must certify in a written report that the contractor has completed decontamination measures and that analysis of samples taken from the home no longer exceed the thresholds set forth in Section 10-09.240.
- (C) In the year following completion decontamination, and after providing reasonable notice to the inhabitants, the Health Official is authorized to enter a home that has been determined to be decontaminated to assess whether that home remains decontaminated. If the Health Official determines that it is reasonably likely the home has become contaminated again, the Health Official may conduct additional sampling as provided under Section 10.09.230 above. It is not necessary for the Health Official to conduct a preliminary assessment in this instance.
- (D) The cost of decontamination shall be borne as determined by the Health Official based on degree of fault. The person responsible for the cost may include without limitation the homeowner, leaseholder, tenant, sub-tenant, or a third party responsible for the contamination. The Health Official shall issue an order setting forth liability for decontamination expenses, taking into the degree of fault by each party, based on the information gathered in the preliminary assessment, sampling, decontamination, and interviews with the resident(s) and leaseholder or homeowner. The Health Official’s order must set forth the findings of fact and the rationale justifying the allocation of liability, and shall be appealable to the Board of Health using the procedures set forth in Section 10-06.030.

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

Subchapter II – Enforcement of Housing Safety Code

10.09.260 Enforcement Policy.

The Health Official strives to work collaboratively with homeowners and tenants to achieve safe housing at the lowest reasonable expense, and will seek cooperative solutions that allow homeowners and tenants to remain in their housing whenever reasonably possible. The intent of inspection and enforcement under this Chapter is to ensure that those living on the Reservation have and maintain safe housing. Enforcement procedures are set forth in STC Title 10, Chapter 6. For housing owned by the Tribe, the Health Official shall coordinate with the Housing Official.

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

10-09.270 Enforcement and Eviction Procedures.

The Health Official shall have authority to enforce this Chapter for all housing on the Reservation, subject to the procedures to in STC Title 10, Chapter 6. The Housing Official retains concurrent authority to regulate housing owned by the Tribe, under STC Title 13, Real Property and Housing.

- (A) In any instance in which the Board of Health issues an order of eviction to a resident, the resident or homeowner shall coordinate with the Health Official and Housing Official as appropriate to establish a plan for coming into compliance with the Housing Safety Code. The plan shall allow for temporary access by the resident, an appropriately qualified contractor, and the Health Official and Housing Official as necessary and appropriate to cure the violation.
- (B) Prior to any individual re-occupying the home, the Health Official or Housing Official must conduct an inspection and conclude that there are no remaining violations of this Chapter and there is no longer a serious risk to human health.

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