

## **Title 2 – Tribal Government**

### **Chapter 7 – Tribal Police**

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#### **Legislative History**

**Enacted:**

Swinomish Tribal Police, Ord. 200 (11/12/03), BIA (11/25/03).

**Repealed or Superseded:**

Swinomish Traffic Ordinance, Ord. 107 (12/4/94) (repealing and superseding all prior traffic ordinances and laws).

Swinomish Law and Order Code, Ord. 32 Art. XVI (3/4/75), BIA (5/30/75).

Authorizing Enforcement Action by BIA, Res. 91-9-93 (9/24/91).

The Swinomish Law and Order Code, Ord. 7 Sec. 4 (6/1/38), BIA (5/30/75).

Adopting Department of Interior Regulations, Ord. 1 (undated).

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**2-07.010 Authority.**

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

[History] Ord. 200 (11/12/03).

**2-07.020 Definitions.**

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

- (A) **“Chief”** or **“Chief of Police”** means the Chief of the Swinomish Tribal Police Department appointed by the Senate.
- (B) **“Department”** means the Swinomish Tribal Police Department.
- (C) **“Reservation”** means all lands and waters within the exterior boundaries of the Swinomish Indian Reservation.
- (D) **“Senate”** means Swinomish Indian Senate.
- (E) **“Swinomish Indian Tribal Community,” “Community”** or **“Tribe”** means the federally recognized Indian Tribe reorganized pursuant to Section 16 of the Indian Reorganization Act of 1934, which is a successor-in-interest to signators of the Treaty of Point Elliot, 12 Stat. 927.

[History] Ord. 200 (11/12/03).

**2-07.030 Tribal Police – Generally.**

Tribal police officers shall be appointed by the Senate upon the recommendation of the Chief of Police to enforce the Criminal Code and all other tribal laws.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.040 Supervision.**

Tribal police will act under the direction of the Chief of Police and shall be subject to the general direction of the Senate. The Senate shall direct the Chief to conduct an investigation on all reports and charges of misconduct on the part of the tribal police and shall authorize the Chief to exercise such proper disciplinary measures as may be consistent with existing tribal regulations.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.050      Restrictions.**

Members of the tribal police force shall not be assigned or detailed for any duty not connected with the administration of law and order if such assignment or detail interferes in any way with the law and order program.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.060      Appointment of Chief of Police.**

The Chief of Police shall be appointed by the Senate.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.070      Duties of the Chief of Police.**

The duties of the Chief shall be as follows:

- (A) To be responsible to the Senate for the proper and efficient enforcement of all law for which he or she has been given authority and for the efficient service and discipline of the tribal police officers and other persons under his or her supervision;
- (B) To be responsible for arranging with the proper tribal official for the bonding of all tribal police, including him or herself, and for coverage for all tribal police and equipment under the tribe's liability insurance;
- (C) To thoroughly investigate all complaints filed by any citizen against any personnel under his or her supervision and a written report of such complaint and the investigative action including his or her findings shall be made to the Senate;
- (D) To notify the Senate in writing of any case of misconduct or neglect of duty on the part of subordinates and recommend the personnel action to be taken;
- (E) To be responsible to the Senate, to willingly and faithfully perform any and all duties the Senate may order him or her to perform and to administer the duties of office in the manner required by the Senate;
- (F) To coordinate investigative functions with state and county officers and officials, special officers, and other federal officials whenever appropriate in promoting law enforcement on the Reservation;
- (G) To notify the appropriate Washington State authority of all motor vehicles reported to the Swinomish Police as stolen or recovered; and
- (H) To perform such other duties as specified in a written job description approved and adopted by the Senate.

[History] Ord. 200 (11/12/03); Ord. 107 (12/6/94); Ord. 32 (3/4/75).

**2-07.080 Subordinate Officers.**

- (A) The Senate may appoint, upon the recommendation of the Chief, officers of subordinate rank to the Chief, including but not limited to the rank of Lieutenant and Sergeant. These subordinate officers shall answer to the Chief and provide supervision to officers of lower rank.
- (B) In addition to the minimum qualifications required for police officers, the ranking officers shall possess such other qualifications as established by the Chief of Police and the Senate.
- (C) The ranking officers shall perform such duties as may be specified in a written job description or operations manual approved and adopted by the Senate.

[History] Ord. 200 (11/12/03).

**2-07.090 Qualifications of Tribal Police.**

- (A) The minimum qualifications of all tribal police are as follows:
  - (1) Must be twenty-one (21) years of age or older;
  - (2) In sound physical condition and of sufficient size and strength to perform the duties required;
  - (3) Must possess courage, self-reliance, intelligence, and a high sense of loyalty and duty;
  - (4) Must never have been convicted of a felony;
  - (5) Must not have been convicted of any misdemeanor for a period of one (1) year prior to appointment;
  - (6) Successfully completed attendance at the Washington State Basic Law Enforcement Academy;
  - (7) Must have a minimum of a high school diploma or GED;
  - (8) Must be a U.S. Citizen;
  - (9) Must have a valid Washington State Driver's License;
  - (10) Must be able to pass a written examination, an oral examination, a physical

examination, a polygraph examination, a psychological examination, a medical examination, and a background investigation; and

- (11) Must possess such other qualifications as the Senate deems appropriate.
- (B) Preference in hiring shall be given to Native Americans in accordance with STC 14-01.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.100 Training of Tribal Police.**

It shall be the duty of the Chief to cooperate with the Senate to maintain, from time to time as circumstances require and permit, classes of instruction for the tribal police. Such classes shall familiarize the officers with the manner of making searches and arrests, the proper and humane handling of prisoners, the keeping of records of offenses and police activities, the writing of reports, and with court orders and legal forms and the duties of the police in relation thereto and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with the community in establishing better social relations.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.110 Duties of Tribal Police.**

Duties of tribal police shall be as follows:

- (A) To promptly obey all orders of the Chief of Police or the Tribal Court when assigned to that duty;
- (B) To lend assistance to fellow officers;
- (C) To report and investigate all violations of any law or regulations coming to his or her notice or reported for attention;
- (D) To arrest all persons observed violating the laws and regulations for which he or she is responsible;
- (E) To inform himself or herself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest;
- (F) To prevent violations of the laws and regulations;
- (G) To report to his or her superior officers all accidents, births, deaths, or other events or impending events of importance;

- (H) To abstain from the use of narcotics and from excessive use of intoxicants and to refrain from engaging in any act which would reflect discredit upon the police department;
- (I) To refrain from the use of profane, insolent, or vulgar language;
- (J) To use no unnecessary force or violence in making an arrest, search, or seizure;
- (K) To keep all equipment furnished in responsible repair and order;
- (L) To report the loss of any and all property issued to him or her in connection with official duties;
- (M) To use firearms only when necessary in arresting or overtaking a person who has committed a felony or in preventing the commission of a felony against person or property;
- (N) To serve as a Deputy Special Officer or Deputy County Sheriff if directed to do so by the Senate and to coordinate his or her functions as a tribal police officer with his or her functions as a federal officer or county officer; and
- (O) To perform such other and additional duties as may be specified in a written job description or operations manual approved and adopted by the Senate.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.120 Supervision and Conduct of Tribal Police.**

- (A) The tribal police officer is responsible to the Chief and must willingly and faithfully perform any and all duties the Chief may order him or her to perform.
- (B) The officer shall administer his or her duties in the manner required by the supervisor and all official communications coming to the attention of or initialed by the police officer should be routed through the established chain of command.
- (C) Officers shall obey all laws, rules and regulations, and shall be held strictly accountable for any act or omission prejudicial to good order and discipline.
- (D) Officers will cooperate with outside government agencies when cooperation is consistent with the tribal law but shall ever bear in mind that their primary responsibility is to the Tribe.
- (E) Officers shall be fair and impartial in all their dealings with the public. Tact and patience shall be used in all official contacts, but officers shall employ enough firmness to ensure obedience to the law.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.130 Code Enforcement Officers.**

- (A) The Senate shall appoint uniformed, sworn employees authorized to investigate, enforce, and issue infractions under designated Chapters of the Swinomish Tribal Code.
- (B) Code enforcement officers shall perform their duties in accordance with accepted, contemporary practices and department policy. All assigned duties and tasks are expected to be performed in an effective, efficient and safe manner.
- (C) Code Enforcement Officers receive direct supervision from any full-time police officer or higher ranking officer.
- (D) Code enforcement officers will receive semi-annual written performance evaluations by the Chief or his or her designee.

[History] Ord. 200 (11/12/03).

**2-07.140 Qualifications of Code Enforcement Officers.**

- (A) The minimum qualifications of code enforcement officers shall be as follows:
  - (1) Must be twenty- one (21) years of age;
  - (2) Must have a minimum high school diploma or GED;
  - (3) Must be a U.S. Citizen;
  - (4) Must possess a valid Washington State Driver's License;
  - (5) Must have a reasonably clear driving record;
  - (6) Must be able to pass a thorough background check including a criminal history background check and/or polygraph examination; and
  - (7) Must possess such other qualifications as the Senate deems appropriate.
- (B) Preference in hiring shall be given to Native Americans in accordance with STC 14-01.

[History] Ord. 200 (11/12/03).

**2-07.150 Conflict of Interest.**

No officer or employee of the tribal police force shall permit any member of his or her immediate family to interfere in any way with the performance of official duties nor shall the officer discuss or make available to his or her family or any other person any information that was obtained by his or official position that is not otherwise public record. This Section is in no way meant to prevent the officers or employees from release of such information to other law enforcement officers, courts, or other authorized persons. Failure to comply with this section shall be grounds for dismissal under Section 2-07.150 of this Chapter.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.160 Terms of Employment.**

Except as may be expressly directed in this Chapter, all aspects of the employment of all personnel of the Swinomish Police Department shall be subject to the terms and conditions of the Swinomish Tribal Personnel Policies and Procedures.

[History] Ord. 200 (11/12/03).

**2-07.170 Use of BIA Enforcement.**

The Bureau of Indian Affairs, Branch of Law Enforcement, is hereby authorized to enforce the Swinomish Indian Tribal Community Tribal Code when requested or in the event a situation may arise that would necessitate that action.

[History] Ord. 200 (11/12/03); Resolution 91-9-93 (9/24/91).

**2-07.180 Repealer.**

This Chapter repeals and supersedes Article XVI of Ordinance 32.

[History] Ord. 200 (11/12/03).

**2-07.190 Severability.**

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances, is not affected.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

**2-07.200 Effective Date.**

This Chapter shall take effect and be enforced immediately from and after its approval by the Secretary of the Interior or the Secretary's designated representative.

[History] Ord. 200 (11/12/03); Ord. 32 (3/4/75).

## Annotations

### **STC 2-07.110**

#### NOTES OF DECISIONS

Who may arrest? 1

#### 1. Who May Arrest?

Tribal Reserve Officers have the same authority enforce tribal law and to execute tribal bench warrants as full time officers. *Edge v. SITC*, Cr-5/94-071, Cr-10/96-400 (Swinomish Ct.App. December 3, 1996).