ORDINANCE 80
TULALIP ZONING

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1.0 PURPOSE

To safeguard and promote the peace, health, safety and general welfare of the Tulalip Reservation and its people; to ensure adequate land supply for future generations through careful planning and zoning; to discourage land development in areas that pose a potential threat to public health and the Reservation's fisheries and shellfish resources; to promote and preserve the unique Indian character, identity and culture of the Tulalip Indian Reservation as the Tribes permanent homeland; to reduce the potential for conflict between new residential development and the resource-based economy of the Tulalip Indian Reservation; to provide for the orderly use of the Reservation's lands; to provide landowners with consistent standards for Reservation land use activities by providing certainty and stability in land use decision-making; and to protect and enhance the natural beauty and resources of the Tulalip Reservation.

2.0 LEGISLATIVE FINDINGS

The Board of Directors finds that:

2.1 The Tulalip Indian Reservation was established pursuant to the Treaty of Point Elliot as a permanent homeland for the Indian Tribes and bands that now comprise the Tulalip Tribes of Washington;

2.2 The Tribes federally approved Constitution and Bylaws provides that the Tribes jurisdiction shall extend to the territory within the confines of the Reservation established pursuant to the Treaty of Point Elliot.

2.3 Reservation surface and ground waters are of critical importance to the Tribes treaty fishery.

2.4 Reservation surface and ground waters are intricately related and are of critical importance to Reservation residents for use as potable water, for fish and wildlife habitat, and for aesthetic reasons.

2.5 The Tribes and its members have on-reservation reserved fishing and hunting rights and the Tribes has reserved water rights.

2.6 Fishing and hunting are a central focus of the Tribes culture and are of critical importance to the Tribes economy and the economic well-being of its members. Many tribal members are dependent upon fishing and hunting for their livelihood and subsistence.

2.7 Protection of fish and wildlife, their habitat, resources upon which they depend, and resources of importance to the tribal hatchery, is essential to the Tribes goals of preserving and increasing fish and game populations. The tribal hatchery produces substantial volumes of fish harvested by tribal members and non-members.

2.8 Reservation natural stock fisheries, the aquatic resources upon which the fishery depends for survival, and the tribal hatchery are highly vulnerable to damage from adverse impacts to

reservation waters and wetlands.

2.9 Serious concerns exist as to the ability of the Reservation's aquifers to provide adequate quantities of water or to serve the present and future needs of the Tribes and its members.

2.10 The Reservation is relatively small in size, consisting of a land area of approximately 22,000 acres, and including Tulalip Bay and Quilceda Creek;

2.11 The Reservation contains a rural road system, limited developed water and sewer systems;

2.12 A significant portion of the Reservation contains creek corridors, wetlands, and soils with seasonal high water tables unsuitable for conventional septic systems.

2.13 Future tribal and non-tribal population growth will place increasing demands upon limited Reservation land area suitable for land development.

2.14 Development activities and land uses upon Reservation lands have the potential to seriously impact and degrade Reservation natural resources, including surface and ground waters, wetlands, shorelines, fisheries, the tribal fish hatchery, wildlife, forests, plant life and other natural resources.

2.15 Future tribal and non-tribal population growth will place increasing demands upon Reservation natural resources. An integrated system of land use controls pertaining to all Reservation lands is critically needed to protect fish and wildlife, their habitat, resources upon which they depend and resources of importance to the Tribes economy and the economic well-being of its members and Reservation community.

2.16 Continued protection and enhancement of the essential Indian character of Reservation and the Reservation community is of vital importance to the Tribes. Large areas of the Reservation remain undeveloped and retain their essential Indian character. The limited development that has occurred on the Reservation has been consistent with and preserves the essential Indian character of the developed areas and of the Reservation and the Reservation community as a whole.

3.0 DEFINITIONS

3.1 Accessory Building: A subordinate building which is incidental to the principal building on the same lot.

3.2 Accessory Use: A use customarily incidental and related to the principal use on the same lot.

3.3 Animals: Animals means domesticated animals kept either as farmstead animals for profit or household pets, but does not include game animals or animals used in religious observance, for purposes of this ordinance.

3.4 Board of Directors or Board: The Board of Directors of the Tulalip Tribes.

3.5 Buffer: All areas designated as buffers pursuant to Section 23.7 and Section 24.0 and/or any areas designated as buffers in any permit, subdivision approval or variance issued under this ordinance.

3.6 Building: Any structure having a roof, designed for shelter of persons, animals or property.

3.7 Building Permit: A permit issued by the Tulalip Tribes and required under this ordinance prior to the commencement of construction on any new structure or substantial modification of any existing structure, and issued by the Tulalip Tribes.

3.8 Bulkhead: Structures erected parallel to and near the high water mark for the purpose of protecting adjacent uplands from the action of waves or currents. (Section 23.8.2).

3.9 Commercial Use: The providing of goods or services for compensation.

3.10 Comprehensive Plan: The 1994 Tulalip Comprehensive Plan, as it now exists or may hereinafter be amended.

3.11 Conditional Use: A use permitted in a zone only after review by the Planning Commission and the granting of a conditional use permit imposing such performance standards, conditions and mitigation requirements as are determined to be appropriate under the authority of this ordinance. (Section 32.0).

3.12 Correctional Facilities: Any facilities used to house offenders, prisoners, and convicts, including minimum and maximum security facilities, juvenile detention facilities and work release facilities.

3.13 Cultural Activities: Those activities which have historically occurred on the Tulalip Reservation and are important to the continuance of the Tulalip Tribes' identity and culture.

3.14 Culturally Sensitive Lands: All lands defined, designated, or determined to be Culturally Sensitive Lands, pursuant to section 24.0 of this ordinance.

3.15 Department of Community Development (DCD): The Tulalip Tribes' Department of Community Development.

3.16 Department of Environment (DOE): The Tulalip Tribes' Department of Environment.

3.17 Dock, Pier: A structure extending into the water from the shore, the purpose of which is to moor vessels and which is permanently attached to the bottom by means of piling or floating by means of flotation. (Section 23.8.4)

3.18 Duplex: A building containing two living units designed or used as a residence for two

families.

3.19 Dwelling: A building which is designed or used as a single family or multiple family residence by the occupants.

3.20 Dwelling unit: A building or portion thereof designed or used for occupancy by a single family.

3.21 Dwelling, Multi-Family: A building designed or used as a residence for three or more families.

3.22 Dwelling Single-Family: A building designed or used as a residence for one and only one family.

3.23 Environmentally Sensitive Lands: All lands designated, or determined to be Environmentally Sensitive Lands, pursuant to section 23.0 of this ordinance.

3.24 Excavation: The removal of natural earth material from its original location.

3.25 Executive Director: Executive Director of the Department of Community Development, or his or her designee.

3.26 Family: Two or more persons related by blood, marriage, or adoption, or a group of not more than six persons, not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

3.27 Filling: The depositing of any material on a site which raises the surface elevation of land or bed of a body of water or stream above its original natural elevation.

3.28 Floor area: The dimensions of a floor area built for residential or non-residential uses which shall be measured from the interior face of exterior walls on the first story and any other story connected with a fixed stairway or elevator. The measurement includes the floor area of all accessory buildings measured similarly, but excludes the floor area required for heating and other mechanical equipment, garaging of vehicles, enclosed porches, light shafts, corridors and stairwells.

3.29 Garage: A sheltered or enclosed accessory space intended for the storage of motor vehicles or boats of the residents on the premises including carports.

3.30 Government Facilities: Any facilities operated or used by a government entity or public utility for a public or tribal purpose including buildings and structures which are used for cultural activities (Section 3.11) such as a longhouse or museum.

3.31 Gross Building Area: The total square feet of space in a building measured from the exterior walls, not including open exterior steps or ornamental features extending outside of the walks.

3.32 Heavy Industrial Uses: Industrial activities that include the making of goods from raw materials, assembly, fabrication, processing, bulk handling and storage, construction and heavy transportation.

3.33 Home Occupation: An occupation carried on within a dwelling or building accessory to a residence by members of the family dwelling therein and no more than one non-resident employee under the conditions, and in accordance with the requirements, of Section 27.0.

3.34 Hydric Soils: A soil that in its undrained condition is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of hydrophytic (wetland) vegetation.

3.35 Hydrophytic Vegetation: Plants adapted to live in a wetland.

3.36 Interpretive Facilities: Any facilities providing information to the public about a site or place including its natural environment, culture, or history.

3.37 Lake: A year-round open body of water at least 2 acres in size, which supports wildlife, fish species, and other aquatic life forms.

3.38 Legal Lot: A lot shall be a legal lot if it was either created under the subdivision requirements of this ordinance, is exempt therefrom, or is a lawful non-conforming use under section 19.0.

3.39 Light Industrial Uses: Industrial activities that include those non-manufacturing uses such as research and development, wholesale trade and distribution, bulk retail businesses, and the assembling, light storage, and handling of products.

3.40 Lot: A platted parcel or tract of land that meets the setback, width, open space, and access requirements of this ordinance.

3.41 Lot Area: The total horizontal area within the lot lines.

3.42 Lot, Corner: A lot situated at the intersection of two streets, private access easements or planned streets provided that the angle of the streets does not exceed 135 degrees.

3.43 Lot Coverage: That portion of the total lot area that may be covered by principal and accessory buildings.

3.44 Lot Line, Front: The lot line separating the lot from any street and right-of-way. In the case of a "panhandle lot", the front lot line shall be defined by the Executive Director.

3.45 Lot Line, Rear: The lot line opposite and most distant from the front lot line.

3.46 Lot Line, Side: Any lot line not located at the front or rear of the lot.

3.47 Lot, Width: The dimension of the lot line at the street, or in an irregularly shaped lot, the dimension across the lot at the building line.

3.48 Modular/Mobile Home: A dwelling constructed wholly or in part in a factory and transported to a site for installation and assembly, and which require permanent connection to water, sewage disposal facilities, and electrical utilities. (Section 29.0).

3.49 Mother-in-law Units A dwelling constructed as an accessory dwelling to the principal structure to be occupied only by family members of the family residing in the principal structure under the conditions, and in accordance with the requirements, of section 14.0.

3.50 Non-Conforming Use: A lot, use of land, or use of structure which existed or was established prior to the effective date of this ordinance, and which is deemed under the provisions of section 19.0 to be lawful non-conforming uses.

3.51 Parking Space: A space on a lot within or without a building exclusive of access drives at least eight and one-half by eighteen feet used to park a vehicle and having access to a public street or alley. (Section 30.0).

3.52 Planning Commission: The Tulalip Tribes Planning Commission.

3.53 Planned Residential Development (PRD): A pattern of development which promotes innovative site planning techniques; and preserves important natural resources, environmentally sensitive lands, and natural site amenities and which meets the requirements and conditions of Section 21.0

3.54 Principal Use: The primary or predominant use to which the lot or building is or may be devoted to which all other uses are accessory.

3.55 Sign: A structure or graphics upon a structure for the display of advertising or identifying the owner or occupant or use of the premises.

3.56 Stream, Creek: Flowing body of water, perennial or intermittent, providing habitat for wildlife, fish species, and other aquatic life forms.

3.57 Structure: Any man-made assemblage of materials extending above and/or below the surface of the earth and attached thereto.

3.58 Subdivision: The division or redivision of land into two or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease or transfer of ownership. (Section 37.0).

3.59 Triplex: A building containing three units designed and intended as a residence for use by three families.

3.60 Use: The purpose land, buildings, or structures now serve or for which such is occupied or intended.

3.61 Use and Occupancy Permit: A permit issued by the Tulalip Tribes and required under this ordinance prior to the commencement of any use identified in section 4.1.2(b).

3.62 Variance: An adjustment made in the application of the specific regulations of this ordinance to a particular piece of property, where the criteria, requirements and conditions of section 31.0 are satisfied.

3.63 Wetland: All lands designated, or determined to be wetlands, pursuant to section 23.5 of this ordinance.

3.64 Yard: An open space on a lot or parcel which is required by this ordinance to be unoccupied by buildings.

3.65 Yard, Front: A space, unoccupied by buildings at the front of a lot or parcel. Minimum front yard requirements are defined by the section of the ordinance for the zone in which the lot is located.

3.66 Yard, Rear: A space, unoccupied by buildings at the rear of a lot or parcel. Minimum rear yard requirements are defined by the section of the ordinance for the zone in which the lot is located.

3.67 Yard, Side: A space, unoccupied by buildings at the side of a lot or parcel. Minimum side yard requirements are defined by the section of the ordinance for the zone in which the lot is located.

3.68 Zone: A portion of portions of the Tulalip Indian Reservation designated on the zone map as one, or more, of the zoning categories established by this ordinance.

3.69 Zoning Map: The Tulalip Official Zoning Map, Tulalip Indian Reservation, which was adopted on the 8th Day of December, 1994, and certified as part of this ordinance, and was re-adopted on the 9th Day of January, 1995, as provided in section 5.0, as the same may be hereinafter amended by tribal ordinance, and which map sets out the boundaries of the various zones authorized herein.

4.0 CERTAIN PERMITTED USES AND ACTIVITIES

4.1.1 Building Permit.

(a) It shall be unlawful for any person to commence work on any structure on Tulalip reservation without first obtaining and posting any building permit required by this section.

(b) A building permit from the Tulalip Tribes shall be required prior to the commencement of construction on the Tulalip Reservation of:

(i) Any new structure intended for single family residential, commercial, multi-family residential, industrial, business park or professional use, including any accessory

building associated with such structures; and

(ii) Any significant modification, addition, or alteration to any existing structure. Repair of an existing structure, except for repairs requiring structural changes, shall not constitute a significant modification or alteration for purposes of this subsection.

(c) Any new building permit required under this section shall be posted in plain view prior to the commencement of work, and shall remain posted until a use and occupancy permit is issued or until such permit expires, whichever is sooner.

4.1.2 Use and Occupancy Permit.

(a) It shall be unlawful for any person to undertake any use or activity on the Tulalip Reservation without first obtaining and posting any use and occupancy permit required by this section.

(b) A use and occupancy permit shall be required prior to:

(i) The use and occupation of any structure for which a building permit is required under this ordinance.

(ii) Any grading and/or clearing associated with new development on the Tulalip Reservation excluding excavations for wells, utilities, cemetery graves, excavations below finished grade for basements and footings of a structure authorized by a valid permit, landscaping and growing of crops.

(iii) Construction or repair of any bulkheads, beach access structures, or docks erected on each lot or parcel of property on land or tribal shorelands, waters and abutting uplands within the Reservation.

(iv) Alterations to a wetland or its buffer including any grading and/or clearing.

(v) Commencement of construction or repair of any hydraulic project or bridge.

(vi) Erection or repair of signs.

(c) Any use and occupancy permit issued for a commercial use under this section shall be permanently posted in a public view on the premises prior to the commencement of any use or activity authorized in such permit.

4.2 Permit Administration: The Executive Director of the Department of Community Development or his/her designee:

(a) Shall require a completed permit application, any required plans and

specifications, evidence of an interest in the land such as title, lease or contract, and payment of all required fees, prior to reviewing an application for any permit required under this ordinance;

(b) Shall review all building permit applications, and any required plans and specifications, for compliance with the requirements of the Tulalip Comprehensive Plan and the terms of this ordinance;

(c) After review, shall issue a permit to any applicant whose proposed activities and uses meet the requirements of this ordinance, and shall reject in writing any permit application that does not meet such requirements;

(d) May require the applicant to provide such information identified in section 37.1(e) as may be necessary to adequately review the permitted activities or uses for consistency with the goals, text, and policies of the Tulalip Comprehensive Plan and the provisions of this ordinance;

(e) May condition (including mitigation) or deny any permit based on significant adverse impacts to the natural or built environment;

(f) Shall, prior to issuance of any use and occupancy permit; require that an inspection be conducted to ensure that such permitted uses and activities meet the requirements of the Tulalip Comprehensive Plan and this ordinance.

4.3 Conformity with Uniform Codes: All structures on the Tulalip Indian Reservation shall be built consistent with the most recent editions of the Uniform Building Code (UBC), Uniform Fire Code, and Uniform Plumbing Code, published prior to the date of the use and occupancy permit application. These Uniform Codes shall apply to all work performed on the Tulalip Reservation except to the extent modified in this ordinance.

4.4 *[reserved]*

4.5 Conformity with Ordinance No. 129 (Tidelands Management Policies). All permits issued under Ordinance No. 80 shall be in compliance with Ordinance No. 129, the Tulalip Tribes Tidelands Management Policies. Ordinance No. 129 shall control in cases of conflict between Ordinance No. 80 and Ordinance No. 129.

5.0 ZONING MAP

5.1. Certification. The Tulalip Official Zoning Controls Map, Tulalip Indian Reservation, adopted the 8th day of December, 1994, and re-adopted on the 9th day of January, 1995, and the boundaries of various zones shown thereupon, are hereby adopted as part of this ordinance, and are incorporated herein by reference. Said map shall be certified by signature of the Chairman and the Secretary of the Board of Directors, together with the date of the adoption of this ordinance, under the following words: “This is to certify that this Tulalip Official Zoning Controls Map was adopted the 8th day of December, 1994, pursuant to Ordinance No. 56 and was readopted on the 9th day of January, 1995.” Upon such certification, said map shall

supersede the Tribal Official Zoning Controls map previously adopted under Ordinance No. 35.

5.2 Amendments. Amendments to the Tulalip Official Zoning Controls Map, Tulalip Indian Reservation, or adoption of additional zone maps, shall be made as official control amendments adopted by ordinance in accordance with the requirements of Ordinance No. 56. Such amendments, changes or additions shall be entered and certified upon the Tulalip Official Zoning Controls Map, Tulalip Indian Reservation, promptly after adoption of such ordinance. Such certification shall be by signature of the Chairman and the Secretary of the Board of Directors, together with the date of the adoption of the ordinance making such amendment, under the following words: "This is to certify that this Tulalip Official Zoning Controls Map has been amended on ____/____20___ pursuant to Ordinance No. ___."

5.3 Location of Zoning Map. Regardless of the existence of purported copies of the Zoning Map which may from time to time be made or published, the Zoning Map, which shall be located in the Department of Community Development, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures on the Reservation.

6.0 BOUNDARIES OF ZONES

Unless otherwise referred to established points, lines, or features, questions as to the location of the boundaries of zones shall be determined in accordance with the following rules:

a) The zone boundaries are the center lines of either streets or alleys unless otherwise shown.

b) Where the zone boundaries are not otherwise indicated and where the zones designated are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such zones.

c) In subdivided property, the zone boundary lines on the Official Zoning Controls Map shall be determined by use of the scale contained on such Map. Scaled distances indicated as approximately following Governmental Section Subdivision lines shall be construed as following such Governmental Section Subdivision lines.

d) The zone boundaries shall extend to all Puget Sound tidelands within the exterior boundaries of the Tulalip Indian Reservation.

7.0 CREATION OF ZONES

7.1. Zoning Categories To further the objectives and goals of the 1994 Tulalip Comprehensive Plan, and to preserve the integrity of said plan, and assure its systematic execution, the zones defined as set forth in sections 8.0 through 21.0 are hereby created, and all lands within the exterior boundaries of the Tulalip Indian Reservation shall be, and hereby are, divided into zones, the boundaries of which zones are delineated, described and depicted upon the Tulalip Official Zoning Controls Map, Tulalip Indian Reservation, adopted under section 5.0 of this ordinance.

7.2 Uses within Zones. Any use of lands within the exterior boundaries of the Tulalip Indian Reservation which is not a Permitted Use or Permitted Accessory Use and Structure within a zone upon a legal lot, a Conditional Use upon a legal lot or tribally owned tidelands for which a conditional use permit has been issued under this ordinance, a Variance for a use upon a legal lot for which a variance permit has been issued under this ordinance, or without a permit required by this ordinance, or in violation of the conditions or requirements of a permit issued under this ordinance, shall be prohibited and unlawful.

The maximum permitted density of development for each zone shall be as shown in sections 8.0 through 21.0. Development at any greater density than shown as permitted for a particular zone, shall be prohibited and unlawful.

8.0 CONSERVATION (CS)

8.1 Purpose: To protect and conserve unique areas that contain Environmentally Sensitive Lands and Culturally Sensitive Lands of importance to the Tulalip Tribes and the Reservation Community.

8.2 Permitted Uses:

(a) Maintenance of fish and wildlife habitat

(b) Nature Parks

(c) Foot trails

8.3 Conditional Uses:

(a) Interpretive facilities

(b) Single-family dwellings

(c) Tribal structures on Tribal tidelands

8.4 Permitted Density: 1 dwelling unit per 80 acres

9.0 PRIMARY FORESTRY (PF)

9.1 Purpose: To preserve and protect commercial forest land for long-term forestry and related uses.

9.2 Permitted Uses:

(a) The growing, cultivation, and harvesting of trees and activities and equipment operation incidental thereto

(b) Fish hatchery and accessory uses

(c) Fish and wildlife management

(d) Harvesting of wild crops such as bark, ferns, cones, berries, and mushrooms

(e) The construction, operation and maintenance of access roads for the management and protection of the forest lands and the removal of forest products

9.3 Conditional Uses:

(a) Quarrying and mining of minerals or other earth materials

(b) Government Facilities

(c) Single family dwellings

(d) Private Utilities

9.4 Permitted Density: One dwelling unit per 80 acres.

10.0 SECONDARY FORESTRY (SF)

10.1 Purpose: To preserve and protect commercial forest lands that are adjacent to rural land development for forestry and related uses.

10.2 Permitted Uses:

(a) The growing, cultivation, and harvesting of trees and activities and equipment operation incidental thereto

(b) Fish and wildlife management

(c) Harvesting of any wild crop such as bark, ferns, cones, berries, and mushrooms

(d) The construction, operation and maintenance of a transportation system for the management and protection of the forest lands and the removal of forest products

(e) Single-family dwellings

10.3 Conditional Uses:

(a) Quarrying and mining of minerals or other earth materials

(b) Government facilities

(c) Private Utilities

(d) Tribal structures on Tribal tidelands

10.4 Permitted Density: 1 dwelling unit per 20 acres.

11.0 RURAL AGRICULTURE (RA)

11.1 Purpose: To promote agriculture and rural residential uses while simultaneously respecting important fisheries and wildlife habitat values.

11.2 Permitted Uses:

(a) Single-family dwellings

(b) Agriculture including the keeping and raising of livestock and fowl provided they are fenced and provided the animals and their feed and waste do not negatively impact environmentally sensitive lands

(c) Home Occupations in conformance with Section 27.0

11.3 Permitted accessory uses and structures:

(a) Private garages, barns and storage buildings

(b) Other uses and structures accessory to a principal residential or agricultural use

11.4 Conditional Uses:

(a) Mining and Quarrying

(b) Government Facilities

(c) Churches

(d) Duplexes

(e) Private Utilities

11.5 Permitted Density: 1 dwelling unit per 10 acres for single family residential and two dwelling units per 10 acres for duplexes.

12.0 RURAL RESIDENTIAL (RR)

12.1 Purpose: To preserve the rural character of the outlying and sparsely populated areas as a transition zone between undeveloped lands and already developed areas.

12.2 Permitted Uses:

(a) Single-family dwellings

(b) Parks

(c) Home occupations in conformance with Section 27.0

12.3 Permitted accessory uses and structures:

(a) Private garages

(b) Storage buildings

(c) Other uses and structures accessory to a principal residential use

(d) Keeping and raising of livestock and fowl provided they are fenced and provided the animals, their feed and waste and do not negatively impact environmentally sensitive lands

12.4 Conditional Uses:

(a) Churches

(b) Mining and Quarrying

(c) Government Facilities

(d) Duplexes

(e) Private Utilities

(f) Tribal structures on Tribal tidelands

12.5 Permitted Density: 1 dwelling unit per 10 acres and 2 dwelling units per 10 acres for duplexes.

13.0 RESIDENTIAL ESTATE (RE)

13.1 Purpose: To preserve the rural character of areas which have a definite residential potential.

13.2 Permitted Uses:

(a) Single-family dwellings

(b) Duplexes

(c) Parks

(d) Home occupations in conformance with Section 27.0

13.3 Permitted accessory uses and structures:

(a) Private garages

(b) Storage buildings

(c) Other uses and structures accessory to a principal residential use

(d) Keeping and raising of livestock and fowl provided they are fenced and provided the animal, their feed, and waste do not create objectionable odors or negatively impact environmentally sensitive lands.

13.4 Conditional Uses:

(a) Churches

(b) Government Facilities

(c) Private Utilities

(d) Tribal structures on Tribal tidelands

13.5 Permitted Density: 1 dwelling unit per 5 acres for single family residential and 2 dwelling units per 5 acres for duplexes.

14.0 SUBURBAN RESIDENTIAL (SR)

14.1 Purpose: To provide for residential living at suburban residential densities in areas which are located near water and sewer utilities.

14.2 Permitted Uses:

(a) Single-family dwellings

(b) Duplexes

(c) Parks

14.3 Permitted accessory uses and structures:

(a) Private garages

(b) Storage buildings

(c) Other uses and structures accessory to a principal residential use

14.4 Conditional Uses:

(a) Duplexes and Triplexes

(b) Churches

(c) Home occupations in conformance with Section 27.0

(d) Government Facilities

(e) Private Utilities

(f) Tribal structures on Tribal tidelands

14.5 Permitted Density: 2 dwelling units per acre for single family residential, 4 dwelling units per acre for duplexes, and 6 dwelling units per acre for triplexes.

15.0 MULTI-FAMILY RESIDENTIAL (MF)

15.1 Purpose: To provide for residential living at higher residential densities in areas which are located near water and sewer utilities.

15.2 Permitted Uses:

(a) Multi-family dwellings, including apartments, townhouses and condominiums

15.3 Permitted accessory uses and structures:

(a) Storage buildings

(b) Swimming pools, Recreation Rooms

(c) Playgrounds or Recreation grounds

15.4 Conditional Uses:

(a) Churches

(b) Government Facilities

(c) Private Utilities

15.5 Permitted Density: 12 dwelling units per acre

16.0 TULALIP BAY PLANNING AREA (TB)

16.1 Purpose: To provide for governmental and community facilities and for a range of housing types.

16.2 Permitted Uses:

(a) Single-family dwellings

(b) Government facilities

(c) Health care facilities,

(d) Parks

(e) Cemeteries

16.3 Permitted accessory uses and structures:

(a) Private garages

(b) Storage sheds

(c) Other uses and structures accessory to a principal residential use.

16.4 Conditional Uses:

(a) Multi-family dwellings

(b) Educational facilities

(c) Churches

(d) Home occupations in conformance with Section 27.0

(e) Private Utilities

(f) Tribal structures on Tribal tidelands

16.5 Permitted Density: 1 dwelling unit per 5 acres for single family residential development and 12 dwelling units per acre of multi-family development.

17.0 RECREATION (R)

17.1 Purpose: To provide area for recreational uses and activities requiring large tracts of land which may be operated year-round or on a seasonal basis.

17.2 Permitted Uses:

(a) Golf courses

(b) Resorts

(c) RV Parks

(d) Camping

(e) Archery

17.3 Conditional Uses:

(a) Residential

(b) Other recreational activities

(c) Home occupations in conformance with Section 27.0

(d) Shooting Range

(e) Government facilities

(f) Private Utilities

(g) Tribal structures on Tribal tidelands

17.4 Permitted Residential Density: 1 dwelling unit per 80 acres

18.0 MIXED RESIDENTIAL COMMERCIAL (R/C)

18.1 Purpose: To provide areas for small businesses and neighborhood commercial services that are not likely to disrupt the functions of the residential area as a whole.

18.2 Permitted Uses:

(a) Single-family dwellings

(b) Duplexes

(c) Triplexes

(d) Convenience stores with and without gas pumps

(e) Neighborhood-scale retail establishments

(f) Home occupations in conformance with Section 27.0

18.3 Conditional Uses:

(a) Churches

(b) Government Facilities

(c) Private Utilities

(d) Tribal structures on Tribal tidelands

18.4 Permitted Residential Density: Density of respective residential zone applies.

19.0 COMMERCIAL (C)

19.1 Purpose: To provide retail and other commercial services to Reservation residents and the visiting public.

19.2 Permitted Uses:

(a) Retail sales

(b) Grocers

(c) Personal and professional services

(d) Indoor entertainment and amusement

(e) Hotel/Motel

(f) Restaurants

(g) Offices

(h) Governmental, cultural, educational, health care facilities

(i) Public and private utility buildings

(j) Small appliance repair and similar uses

19.3 Conditional Uses:

(a) RV Parks

(b) Recreational and park facilities

(c) Single-family, duplexes, triplexes

(d) Multi-family dwellings

(f) Correctional Facilities

19.4 Permitted Density: 7 dwelling units per acre for single family residential development, and 12 dwelling units per acre for multifamily residential development.

20.0 INDUSTRIAL (I)

20.1 Purpose: To provide for industrial uses, business park uses, and uses with special utility and transportation access requirements while minimizing negative impacts on adjoining zones and the natural environment.

20.2 Permitted Uses:

(a) Light Industrial

(b) Wholesale and retail sales

(c) Indoor entertainment and amusement facilities

(d) Hotel/Motel

(e) Restaurants

(f) Offices

(g) Governmental, cultural, educational, health care facilities

(h) Public and private power plants and utilities

(i) Outdoor storage

20.3 Conditional Uses:

(a) Heavy Industrial

(b) Testing facilities

(c) RV Parks

(d) Recreational and park facilities

(e) Single-family, duplexes, triplexes and multi-family dwellings

(g) Correctional Facilities

(h) Tribal structures on Tribal tidelands

20.4 Permitted Density: 12 dwelling units per acre

21.0 GOVERNMENTAL PLANNED UNIT DEVELOPMENT (PUD)

21.1 Purpose: To provide a zone for small and large scale governmental housing development, incorporating a single type or a variety of housing types and related or compatible uses which are planned and developed as a unit. Governmental PUDs may consist of individual lots or may have a common building site.

21.2 Rezone and Subdivision Requirement: Governmental PUDs are an overlay zone to the underlying zoning district and shall be approved as amendments to official controls in a manner provided in Ordinance 56. As for the process for reviewing and approving Governmental PUD projects, the provisions of Rezones and Subdivision regulations (Sections 34, 38, and 39 of Ordinance #80) shall be adhered to. Governmental PUDs may be required by the Tulalip Tribes for those developments that impact environmentally sensitive lands, forestry areas, culturally sensitive lands, and agriculture lands.

21.3 Applicability: Governmental PUDs may be approved in: Primary and Secondary Forestry, Commercial, Industrial, Rural Agriculture, Recreation, Rural Residential, Residential Estate, Suburban Residential, Tulalip Bay Planning Area, Multi-Family, and Mixed Residential / Commercial. The performance standards for the underlying zoning district of the Governmental PUD shall be complied with. However, flexibility in lot coverage of buildings, yards and building setbacks, space between buildings, and height restrictions may be applied in Governmental PUDs by obtaining a Variance from the Community Development Department.

21.4 Open Space: 75% of the tract or lot area shall be established as open space and/or community recreational facilities for Governmental PUDs in Primary and Secondary Forestry zones; 50% open or community space shall be established in Rural Residential and Rural Agriculture areas; and 25% open or community space shall be established in Suburban Residential, Residential Estate, Tulalip Bay, Multi-Family, and Mixed Residential / Commercial zones. Areas of open space and/or community recreational facilities for PUDs shall not be developed for any other use.

21.5 Density: Densities for Governmental PUDs shall be calculated as an average density over the development area. Where sewer is not available PUD densities shall not exceed 2 dwelling units per acre in any zone. Where sewer and public water are available the PUD density can be increased to 4 dwelling units per acre in the Rural Residential and Rural Agriculture zones and up to 6 dwelling units in the Residential Estate and Suburban Residential zones. In Multifamily

zones, or zones allowing multi-family uses as permitted or conditional uses, up to 24 dwelling units per acre may be permitted.

21.6 Minimum Size Tract: The minimum size tract for a Governmental PUD must be 5 acres. There is no minimum size tract requirement for Multifamily PUDs.

21.7 Additional Permitted Uses: Multi-family dwellings, including apartments, townhomes, and condominiums are permitted uses within Governmental Planned Unit Developments.

21.8 Additional Conditional Uses: Neighborhood-scale retail establishments are conditional uses within Governmental Planned Unit Developments.

22.0 LOT COVERAGE, BUILDING SETBACKS, BUILDING HEIGHTS

22.1 Required maximum lot coverage and building setbacks are listed as follows:

TABLE 22.1
Lot Coverage and Building Setbacks

	Maximum Lot Coverage by Buildings	Minimum Building Setback Front Yard		Minimum Building Setback Side Yard	Minimum Building Setback Rear Yard
		Arterial Street	Other Street		
Zone					
Conservation	NA	25'	20'	10'	10'
Prim. Forestry	NA	25'	20'	10'	10'
Sec. Forestry	NA	25'	20'	10'	10'
Rural Ag	35%	25'	20'	10'	10'
Rural Res.	35%	25'	15'	5'	5'
Res. Estate	35%	25'	15'	5'	5'
Suburban	50%	25'	10'	5'	5'
Tulalip Bay	50%	25'	10'	5'	5'
Recreation	50%	25'	15'	5'	5'
Res./Com.	50%	25'	15'	5'	5'
Commercial	75%	25'	15'	15'	15'
Industrial	75%	25'	15'	15'	15'

(a) Rear and side setbacks facing streets, easements, or right-of-ways shall not be less than the front setback requirement.

(b) No portion of any structure shall be closer than 5 feet from any other structure

(c) No intensive animal breeding or holding structures shall be located less than 20 feet from any residential property line, right-of-ways, or road easements.

(d) Permitted accessory structures not exceeding 7 feet in height may be located in the rear and side yard setbacks.

(e) Fences up to 6 feet high may be located in any required setback space. Fences in excess of six feet in height may not be erected unless a Conditional Use Permit is first obtained.

(f) The height of any industrial or commercial building or portion thereof abutting a residential zone may not exceed the distance to the property line.

(g) Where commercial and industrial areas abut residential zones there shall be view obscuring planting strip of a width sufficient to adequately screen the industrial uses from the residential area.

(h) No single family, duplex, or triplex residential structure shall exceed 35 feet in height except upon issuance of a variance.

(i) The overall height of multi-family buildings shall not exceed the distance to any property line.

(j) Unless no other reasonable alternative exists principal structures shall not be placed closer than 200 feet from Primary Forest land and no closer than 150 feet from Secondary Forest land.

23.0 ENVIRONMENTALLY SENSITIVE LANDS

23.1 Purpose: Development shall be regulated by this section to preserve and protect environmentally sensitive lands which are essential to the health of the Reservation's ground and surface waters for human use and enjoyment, tribal fisheries and wildlife important to the Tribes and to protect the public health, safety and general welfare from potential hazards resulting from development on sensitive lands.

23.2 Definition: Environmentally Sensitive lands include wellhead protection zones, surface waters such as lakes, ponds, seasonal and perennial streams, springs, wetlands, and their shorelines and buffer zones; saltwater shorelines, beaches, bluffs, and all of Tulalip Bay; slopes over 15% or otherwise subject to slope instability, potential landslide or significant erosion; special soil types including hydric soils, soils unsuitable for building foundations and road beds, essential habitat for animal and/or plants considered culturally important to the Tribes, especially Fish, Eagles, Hawks, Falcons, Owls, Deer, Bear, and Cedar and Ironwood (Holodiscus discolor). The area within the berms of the closed landfill located within original Tulalip allotments T91 and T92 (now T507) is not included within the definition of Environmentally Sensitive Lands.

23.3 Identification and Mitigation: Any proposed use and occupancy permit, conditional use permit, variance, or subdivision approval for development which would impact environmentally

sensitive lands shall be permitted only after the exact location of environmentally sensitive area(s) has been identified by the proponent of the development proposal, a review of impacts to the environmentally sensitive area(s) is completed and buffer requirements or other mitigation necessary for protection of the sensitive lands have been established by the Executive Director of the Department of Community Development consistent with this ordinance and the text, goals, objectives, and policies of the 1994 Tulalip Comprehensive Plan.

The Tribal Wetland Inventory map (1993) may be used as a guide to locating streams, lakes and wetlands on the Reservation, but precise boundaries of these aquatic resources must be delineated by the applicant or proponent of the development proposal or action upon request of the Executive Director.

23.4 Review: Notwithstanding any other provision of this ordinance, the tribal decision maker may prohibit, or condition, development that will have, or potentially will have, significant adverse environmental impacts, upon or to environmentally sensitive lands. Conditions may include mitigation requirements. The Executive Director may require the development to submit information and studies to allow a full and complete review of the environmental impacts of such proposals, and of the effectiveness and sufficiency of conditions and proposed mitigation measures. The Executive Director may determine to permit such development only after a thorough review of environmental impacts is completed, and the Executive Director may impose conditions, mitigation and buffer requirements that are consistent with this ordinance and the text, goals, objectives and policies of the 1994 Tulalip Comprehensive Plan.

23.5 Wetlands

23.5.1 Definition "Wetlands" are defined as all lands of the Tulalip Indian Reservation which are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, marine shorelines, swamps, marshes, bogs, fens, and open bodies of freshwater. The area within the berms of the closed landfill located within original Tulalip allotments T91 and T92 (now T507) is not included within the definition of wetlands.

Wetlands on the Tulalip Reservation include all areas waterward from the wetland edge. If the vegetation has been removed, a wetland shall be determined by the presence of hydric soils. Regulated wetlands do not include artificial wetlands intentionally constructed from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, stormwater detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands created, restored, or enhanced as part of an approved mitigation plan are considered to be regulated wetlands.

23.5.2 Wetland Categories: The following wetland categories shall be established:

(a) Critical Value Wetlands (Category I): Those lands which meet any one of the following six criteria:

(i) The presence of species (plant, animal, or fish) listed by the Tulalip Tribes or other resource management agencies as threatened or endangered, or the presence of critical habitat documented by the Tulalip Tribes for those species.

(ii) Regionally rare and unique native wetland communities, including sphagnum bogs and fens, and estuarine wetlands.

(iii) Wetlands having direct impact on the protection and production of Tribal Fisheries enhancement projects as identified by the Tulalip Department of Environment.

(iv) Wetlands having cultural and/or spiritual significance to Tulalip tribal members.

(v) Irreplaceable wetland systems performing critical ecological functions.

(vi) Wetlands having exceptional habitat value and diversity as defined by the following characteristics: (a) those wetlands equal to or greater than 5 acres in size and having three or more wetland classes, one of which is open water; *or* (b) wetlands having 40 to 60 percent permanent open water in dispersed patches with two or more wetland classes and connected to another habitat area, either upland or aquatic, via a stream or vegetated corridor.

(b) High Value Wetlands (Category II): Wetlands classified as "High Value Wetlands" perform important ecological functions. These systems include all of those wetlands which do not meet the criteria for "Critical Value Wetlands", but fulfill any of the following criteria:

(i) Wetlands having documented habitat, recognized by the Tulalip Tribes or other resource management agencies, for sensitive or priority plant, animal, or fish species.

(ii) Wetlands with significant functions which can not be adequately replicated though creation or restoration efforts.

(iii) All riparian wetlands not meeting criteria defined for "Critical Value Wetlands".

(c) Moderate Value Wetlands (Category III): Those lands which are of minimum habitat value, are suitable for restoration or enhancement efforts, and satisfy no "critical" or "high" value criteria. Those lands may be characterized by the following features:

(i) monotypical vegetation of similar age class;

(ii) hydrologically isolated systems lacking special habitat features (snags, open water component, nesting habitat, large woody debris, etc.);

(iii) areas which are highly disturbed by human interference and/or contaminated by waste disposal.

23.6 Streams

23.6.1 Definition. "Streams" refer to those areas of the Tulalip Reservation where surface waters have sufficient flow to produce a defined channel or bed. A channel or bed does not have to contain water year-round to indicate the presence of a stream. A "stream" does not include areas identified as artificial watercourses (constructed stormwater drainage systems) unless they are used to convey class 1 or 2 streams that occurred naturally prior to construction of the artificial drainage network.

Class 1 Stream. "Class 1 stream" means all streams that flow year round during years of normal rainfall or are used by salmonids.

Class 2 Stream. "Class 2 stream" means all streams that are intermittent or ephemeral during years of normal rainfall and are not used by salmonids.

23.7 Buffers

23.7.1 Definition. "Buffers" refer to the zone contiguous with a sensitive area that is required to protect and maintain the functions and structural stability of an aquatic environment. The critical functions of a buffer associated with an aquatic system (riparian buffers) include, but are not limited to, shading, the existence of organic debris and course sediments, uptake of nutrients, stabilization of banks, interception of fine sediments, storage of overflow during high water events, protection from disturbance by humans and domestic animals, preservation of wildlife, fish and plant habitat, preservation of wildlife migration corridors, and room for slight variation of aquatic system boundaries over time due to hydrologic or climatic effects.

The critical functions of terrestrial buffers include, but are not limited to, protection of slope stability, protection from disturbance by human and domestic animals, attenuation of surface water flows from stormwater runoff and precipitation, and erosion control.

The required buffer width for freshwater wetlands or streams shall be dependent upon the class of the wetland or stream. The following buffer requirements shall apply to all freshwater wetlands and streams on the Tulalip Reservation:

23.7.2 Freshwater Wetland Buffers

(a) Critical Value Freshwater Wetlands. Buffer 200 feet. No development shall occur within a 200 foot undisturbed buffer of natural vegetation around critical value wetlands. An alteration of buffer requirements may be approved by the Executive Director based on a watershed analysis and review by the Department of Environment.

(b) High Value Wetlands. Buffer 100 feet. No development shall occur within a 100 foot undisturbed buffer of natural vegetation around high value wetlands. An alteration of buffer requirements may be approved by the Executive Director based on a watershed analysis and review by the Department of Environment.

(c) Moderate Value Wetlands. Buffer 50 feet. A 50 foot buffer shall be established around moderate value wetlands. No structures or other impervious surfaces or septic systems shall be allowed within the 50 foot buffer. Yards, gardens, decorative shrubs and trees and similar plantings and activities associated with single family residential development may be allowed within the 50 foot buffer. An alteration of buffer requirements may be approved by the Executive Director based on a watershed analysis and review by the Department of Environment.

23.7.3 Wetland Buffer Enhancement. "Buffer Enhancement" may include, but is not limited to, planting of appropriate multi-layered native vegetation (forb-grassy layer, shrub layer, tree layer), restriction of approved uses within the buffer, and use of appropriate best management practices to minimize impacts to water quality and resource values.

23.7.4 Wetland Buffer Mitigation. Any wetland created as compensation for approved wetland alterations shall have the minimum buffer required for the new classification the created wetland. Enhancement of setback areas may not be counted as mitigation credits for approved alterations. Wetlands constructed for management of stormwater runoff are exempt from buffer requirements.

23.7.5 Uninventoried Wetlands. Uninventoried wetlands shall be evaluated by the Department of Environment to determine an appropriate rating for the site. The minimum buffer requirements as listed above shall apply to the wetland.

23.7.6 Stream Buffers

(a) Class 1 Streams: Class 1 streams shall have a minimum of a 200 foot buffer of natural vegetation on both sides of the channel. The buffer width shall be a horizontal distance measured from the ordinary high water mark of the stream channel. No septic systems shall be placed within 200 feet of a Class 1 stream.

(b) Class 2 Streams: Class 2 streams shall have a minimum of a 50 foot buffer of natural vegetation on both sides of the channel. The buffer width shall be a horizontal distance measured from the ordinary high water mark of the stream channel. No septic systems, livestock, or building structures shall be placed within 100 feet of a Class 2 stream.

23.7.7 Streams and Riparian Wetlands. All streams constrained by riparian wetlands shall apply the wetland buffer requirement unless stream buffer requirements are more restrictive.

23.7.8 Wetland Alterations: Alterations to a wetland or its buffer shall be prohibited without a use and occupancy permit. No impervious surfaces or topographic changes that would adversely affect wetland hydrology shall be permitted within the approved buffer width.

23.7.9 Approved Activities within Wetlands and Wetland Buffers. Approved alterations may be allowed with a use and occupancy permit for the following activities:

Yards, gardens, decorative shrubs and trees, and similar plants and activities associated

with single family residential development may be allowed within buffer areas established for moderate value wetlands.

A wetland or its buffer may be altered to the *minimum* extent necessary to gain access to developable property or to use high and moderate value wetlands when no other reasonable alternative access exists. Alterations shall require compensation through an approved mitigation plan before the proposed access or use is allowed.

A use and occupancy permit to develop trails designed for passive recreation or educational purposes within a wetland may be issued on a case-by-case basis by the Executive Director based upon a recommendation from the Tulalip Department of Environment. Tribal members are allowed access to, and through, all wetland sites used for spiritual ceremonies.

A use and occupancy permit for placement of public and private utility corridors within buffers on all wetland categories and within moderate value wetlands shall be issued on a case-by-case basis by the Tulalip Department of Environment. Proposals to place utility corridors within critical value wetlands or high value wetlands are not encouraged, and require review by the Executive Director, based on a review by the Tulalip Department of Environment.

Logging associated with forestry practices in wetlands and their associated buffers shall be analyzed on a case-by-case basis for impacts to the watershed. The analysis shall be completed by the Department of Environment and shall include recommended buffer widths adjacent to streams and wetlands to adequately maintain water quality and fish habitat.

23.8 Marine Shorelines:

23.8.1 Definition. "Marine Shorelines" shall include the coastal area along the Puget Sound to include tidal and intertidal areas, bay areas, beaches, backshore areas, pocket beaches, accretion beaches, estuaries, erosional bluffs, feeder bluffs, coastal wetlands, kelp beds, and other critical saltwater and brackish water habitats associated with the Puget Sound. The marine shorelines of the Tulalip Reservation are inventoried as estuarine wetlands and are considered to be critical resource value lands. However, because the coastal shoreline environments of the Tulalip Reservation have distinct physical characteristics and land use concerns different from those associated with the freshwater wetland systems, specific restrictions governing development in, and adjacent to, the marine shorelines are identified in this section.

23.8.2 Bulkheads: Replacement, repair, and the construction of new bulkheads shall be prohibited unless a use and occupancy permit containing conditions to minimize impacts to shoreline environments has been issued by the Executive Director.

23.8.3 Beach Access Structures and Mechanisms: Roads, stair structures, cables and other beach access structures or mechanisms shall be prohibited unless a use and occupancy permit containing conditions to minimize impacts to shoreline environments has been issued by the

Executive Director.

23.8.4 Docks and Piers: Construction and repair of docks and piers shall be prohibited unless a use and occupancy permit has been issued by the Executive Director to minimize impacts to shoreland environments.

23.8.5 Principles and Practices: The following principles and practices shall be employed in designing and reviewing all development proposals on shorelands.

(a) Bulkheads shall be constructed only where there is a proven hazard to developed property by wave action.

(b) Access structures shall minimize slope disturbance and care shall be taken to prevent any further slope instability.

(c) Where bulky access structures, such as stair towers, are the only alternative for access, shared access structures shall be encouraged to minimize disturbance to the beach environment.

(d) All structures in the shoreline environment shall be constructed of materials which do not release toxic substances into the water and shall be designed to blend into the natural shoreland environment.

(e) Any construction and grading activities in the beach environment shall not impact shellfish beds.

23.9 Steep Slopes:

All slopes greater than 15% shall be governed by this section to protect the health, safety, and welfare of citizens and to protect the environment against unsafe and unnecessary degradation.

23.9.1 Design and Review: The following principles and practices are to be employed in designing and reviewing all subdivision and/or development projects on steep terrain on the Tulalip Reservation.

(a) Where development is proposed on slopes greater than 15%, the Executive Director may apply development standards and/or conditions that serve to mitigate adverse impacts to the natural or built environment. The Executive Director may require a soil or slope engineering study to determine adverse impacts. Conditions or requirements may include special site design, structural standards, erosion control measures, clearing and grading plans, reduced scale and densities or other measures necessary to protect life and property.

(b) Site disturbance shall be severely limited or prohibited on slopes exceeding 45%, or on slopes determined to be unstable and where slope failures have occurred or are likely to occur. At a minimum, a 50 to 100 foot building setback from the top of slopes exceeding 45% shall be required.

(c) Clearing on steep slopes or buffer areas shall be minimized and measures employed to stabilize and revegetate these slopes shall be taken following disturbance.

24.0 CULTURALLY SENSITIVE LANDS

24.1 Definition: Important archaeological and spiritual sites, historical buildings, monuments, cemeteries, and other significant sites contributing to the local Indian history and important to the continuance of the Tulalip Tribes' identity and culture.

24.2 Purpose: To preserve and protect those archaeological, historic, and spiritual sites important to the continuance of the Tulalip Tribes' identity and culture.

24.3 Identification of Cultural Resources: The Executive Director, after consultation with the Tribes Cultural Resource Specialist shall have the authority to map and designate lands as culturally sensitive. Currently identified culturally sensitive lands are listed in the 1994 Comprehensive Plan, but may also include those areas that are confidential and known only to Tribal members. The Executive Director may designate and treat a site as culturally sensitive consistent with the definition contained in this ordinance regardless of whether it has been previously mapped and designated as such.

24.4 Confidentiality: A "Map of Culturally Sensitive Lands" shall be held by the Tulalip Tribes. A map indicating the location of sites that are confidential and known only to Tribal members shall also be held by the Tulalip Tribes, subject only to in camera review by the Planning Commission, Board of Directors or Tribal Court in the event of appeals.

24.5 Buildings and Structures: A 100-200 foot buffer requirements may be established by the Executive Director, after consultation with the cultural resources specialist, for all development proposals adjacent to historically significant buildings or structures.

24.6 Natural Areas: Those cultural areas that derive their special significance from their natural character or pristine state shall be protected from adverse impacts by a buffer to be established by the Executive Director, after consultation with the cultural resources specialist, which buffer shall not exceed 500 feet.

24.7 Archaeological Sites: Significant archaeological sites shall be protected by a buffer to be established by the Executive Director after consultation with the cultural resources specialist, which buffer shall not exceed 500 feet.

24.8 Variance: Variances to buffer requirements established in this section may be granted only after a formal review and recommendation by the Department of Environment and issuance of a variance by the Executive Director of the Department of Community Development pursuant to Section 31.0.

25.0 GENERAL CONDITIONS

The following general conditions shall apply to all lands within the exterior boundaries of the

Tulalip Indian Reservation:

25.1 Construction Practices:

Erosion measures which are sufficient to prevent sediment transport to surface waters shall be employed during any construction or grading activities within the exterior boundaries of the Tulalip Indian Reservation. Where sensitive lands are impacted by proposed development, stormwater management and erosion control plans shall be required. Any practices employed shall meet the Department of Ecology's Stormwater Management Program guidelines.

25.2 Hydraulic Projects (Excluding Bridges):

No hydraulic projects, including but not limited to culverts, fill, diversions or waterwheels, shall occur in any streams, wetlands, or marshes within the exterior boundaries of the Tulalip Indian Reservation without review by the Tulalip Department of the Environment and issuance of a use and occupancy permit by the Executive Director containing conditions that minimize impacts to fish and wildlife habitat, and drainage and flood control.

25.5 Bridges: Bridges on the Tulalip Indian Reservation shall be prohibited unless in conformance with the following procedures:

(a) A use and occupancy permit issued by the Executive Director shall be required prior to construction of any bridge within the exterior boundaries of the Tulalip Indian Reservation.

(b) Bridge construction shall occur within a time frame identified in writing by the Tulalip Tribes.

(c) Bridge maintenance or replacement shall occur only after written consent has been obtained from the Tulalip Tribes.

26.0 SIGNS

26.1 Signs not in conformance with the standards and limitations contained this section shall be prohibited in all zones.

26.2 Signs Advertising Commercial or Industrial Activities and Uses: One free-standing sign and no more than two signs attached to the principal structure, may be erected for each use within a commercial or industrial zone. Free-standing signs allowed shall not exceed 16 feet in height or 350 square feet in size, unless a conditional use permit is first obtained and conditions imposed that address adverse impacts to aesthetics, light and glare.

26.3 Signs Identifying Uses within a Shopping Center, Business or Industrial Park: One free-standing sign identifying an on-premises complex of commercial, industrial, or business park buildings and uses such as a shopping center may be erected at each major entrance to the complex of uses, not to exceed 500 square feet in size. The sign shall not exceed 16 feet in

height, unless a conditional use permit is first obtained and conditions imposed that address adverse impacts to aesthetics, light and glare.

26.4 Billboards: No free standing billboards advertising products, off-reservation business, use, or activity shall be permitted on the Tulalip Reservations.

26.5 Other Signs One free standing sign and two signs attached to the principal structure identifying recreational, religious, cultural, neighborhood commercial, educational, health care or governmental facilities may be erected in zones where such uses are permitted provided the signs does not exceed 32 square feet in size. Free-standing signs shall not exceed 16 feet in height, unless a conditional use permit is first obtained and conditions imposed that address adverse impacts to aesthetics, light and glare.

26.6 Obstruction of Vision: No sign shall be placed in a position that obstructs the vision of any motorist traveling or entering a public or private right-of-way, or in any way constitutes a traffic hazard.

26.7 Artificial Lighting: Artificial lighting of signs shall be hooded or shaded so that direct light of lamps will not result in glare when viewed from surrounding properties or rights-of-way. Flashing or blinking lights will be permitted by conditional use permit.

26.8 Temporary Signs: Signs advertising temporary activities, such as the sale and rent of premises, elections, and events shall be allowed, provided they are removed when the purpose for which the sign was erected has terminated.

26.9 Prohibition of Signs on Utility Poles: No signs, temporary or otherwise, shall be allowed on utility poles on the Tulalip Reservation.

27.0 HOME OCCUPATIONS

27.1 Home occupations that do not conform to the limitations in this section shall be prohibited in all zones.

27.2 Incidental and Subordinate: The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes.

27.3 Traffic Limitations: No traffic shall be generated by such home occupation in greater volumes than 15 Average Daily Trips (ADT) in any residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

28.0 MOTHER-IN-LAW UNITS

28.1 Applicability: Mother-in-law units that do not conform to the limitations in this section shall be prohibited in all zones.

28.2 Requirements: A single Mother-in-Law unit associated with a single family residential

housing unit may be permitted in addition to the density permitted in the underlying zone provided it meets the following requirements:

(a) The unit is occupied by family members of the family residing in the principal dwelling with which the apartment is associated.

(b) The unit is served by a septic system or sewer and served by public water or a private well.

29.0 MODULAR HOMES, MOBILE HOMES AND TRAVEL TRAILERS

29.1 Applicability: All modular homes, mobile homes, and travel trailers that do not conform to the limitations in this section shall be prohibited in all zones.

29.2 Modular Homes: Modular Homes shall be constructed on foundation walls and shall conform to manufacturer's specifications, and shall conform to electrical codes of the State of Washington, as the same now exists or may hereafter be amended.

29.3 Mobile Homes: Mobile homes shall be placed and securely tied to concrete footings and meet current electrical codes of the State of Washington.

29.4 Travel Trailers: Travel trailers and other recreational vehicles which provide sleeping space, shall not be permitted in public or private recreational areas intended for these accommodations unless a use and occupancy permit is first obtained.

30.0 PARKING

30.1 Every building hereafter erected, moved, reconstructed, or structurally altered shall be provided with off-street parking areas as provided in this section, and such parking areas shall be made permanently available and maintained for parking purposes. No use or occupancy permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved by DCD as conforming to the standards of this section. Every lot used as a public or private parking area shall be developed and maintained in accordance with this section.

30.2 Size Requirements: Each parking space shall be at least eight and one-half feet wide and eighteen feet long exclusive of access drives and aisles having access from a public thoroughfare or private access easement.

30.3 Parking Spaces Required: Two off-street parking spaces for each permanent residential dwelling unit is required. Driveways maybe counted as one parking space.

30.4 Multiple Dwelling Units: For multiple dwelling units two off street parking spaces per dwelling unit are required.

30.5 Commercial and Industrial: For commercial, industrial and recreation uses the required

off-street parking spaces are listed in Table 30.5.

TABLE 30.5
Commercial / Industrial / Recreation Uses - Off-Street Parking

(a)	Motels and Hotels	one unit per room
(b)	Restaurants	one per table plus 1.5 per banquet room seat plus one per employee per shift
(c)	Drive-in restaurants	one per 75 sq.ft. of gross floor area
(d)	Stadiums, churches, theaters, sports arena, auditorium, and all assembly places with fixed seats	one per four seats or eight feet of bench or pew
(e)	Assembly halls without fixed seats	one per 75 feet of gross floor area
(f)	Bowling alleys	5 per lane
(g)	Schools, elementary, junior, junior high and senior high, public and private	One space for each 12 seats in the auditorium or assembly room plus one space for each employee plus sufficient off-street space for safe loading and unloading
(h)	Colleges or commercial schools for adults	One per 4 seats in classroom, plus one per employee
(i)	Tennis courts, racquet clubs, handball courts and other similar commercial recreation	One per 40 sq.ft. of gross floor area used for assembly, plus 2 per court
(j)	Libraries, art galleries, museums	One per 250 sq.ft. of gross floor area
(k)	Motor vehicle or machinery repair, without sales	One per 200 sq.ft. of gross floor area
(l)	Motor vehicles sales and service	One per 1000 sq.ft. of gross floor area, plus one per 1500 sq.ft. of outdoor display area
(m)	Retail stores and personal service shops	4.5 per 1000 sq.ft. of gross leasable area
(n)	Barber and beauty shops	3 per operator

(o)	Financial institutions, office buildings, public utility and governmental buildings, real estate offices	3 per 1000 sq.ft. of gross floor area, minimum 5
(p)	Warehouses, storage buildings, except mini-self-storage	One per 2000 sq.ft. of gross floor area or one per employee
(q)	Mini-self-storage	One per 50 storage cubicles plus one per 50 storage cubicles to be located at the project office
(r)	Manufacturing and industrial uses of all types, except a building used exclusively for warehouse purposes	One per 1000 sq.ft. of gross floor area or one per employee present during the largest shift change, whichever is greater
(s)	Utility and communication establishments without regular employment	One space
(t)	Day care centers	One per employee plus off-street loading and unloading area equivalent to one space for each 10 children

30.6 Undefined Parking Requirements. Where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the Executive Director. Such determination shall be based on DCD staff investigation, parking requirements for comparable land uses, and comparative data as may be available and appropriate for the establishment of minimum parking requirements.

30.7 Location of Parking Spaces. Except as permitted under subsection 30.9, parking spaces serving dwelling units shall be located on the same lot with the building they serve.

30.8 Joint Use. Up to 50 percent of the required parking for two or more uses may be provided by a common parking lot when it can be demonstrated that one or more of the uses is primarily a night time activity and the others primarily day time activities. Such joint parking shall be prohibited unless authorized by a conditional use permit.

30.9 Improvement and Maintenance. Every off-street parking area or automobile storage area capable of holding three or more automobiles shall be developed and maintained in the following manner:

30.9.1 Paved Parking: Parking and access areas shall be paved or surfaced and maintained so as to eliminate dust and mud.

30.9.2 Barriers: Fixed barriers not less than six inches high shall be installed at the forward end

of each parking space. Barriers shall be not less than four feet from the property line, easement, or right-of-way.

30.9.3 Parking Adjacent to Residential Areas: Parking and access areas abutting residential zones shall be separated from the residential zone by a view-obscuring fence not less than six feet high and a planting strip not less than five feet in width.

30.9.4 Parking Lights: All lights shall be hooded or shaded so that glare from the lamp does not fall on adjacent properties or public rights-of-way.

31.0 VARIANCES

31.1 Required Submissions. Applicants for a variance shall at the request of the Department of Community Development submit such plans, statements, and documents as reasonably required for evaluation of the proposal.

31.2 Executive Director Decision Authority. The Executive Director shall hear and decide applications for variances from the terms of this zoning ordinance.

31.3 Limitations. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated, and that the following circumstances are found to apply, to-wit:

(a) Because of the special circumstances applicable to the subject property, including size, shape, topography, environmental and cultural characteristics, location, or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classification.

(b) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

32.0 CONDITIONAL USES

32.1 Required Submissions. Applicants for a conditional use permit shall at the request of the Planning Commission, or any hearing examiner appointed by the Planning Commission, submit such plans, statements, and documents as reasonably required for evaluation of the proposal.

32.2 Planning Commission Decision Authority. The Planning Commission, subject to appropriate conditions and safeguards as provided by this ordinance, shall hear and decide applications for conditional use permits.

32.2 Conditions/Mitigation/Denial. The Planning Commission may impose conditions and mitigation requirements to protect the health, safety, welfare and rights of the citizens on the Reservation, and to assure consistency with the provisions of this ordinance and the text, goals,

policies and objectives of the comprehensive plan. The Planning Commission shall have the authority to condition, require mitigation, or deny based upon significant adverse impacts to the natural and built environment. Such conditions may include the posting of bonds to insure continued compliance with the conditions of the use permit. The Conditional Use Permit when issued shall contain a written order of the required conditions and a schedule for compliance.

32.3 Disapproval. If, in the judgment of the Planning Commission, no conditions could be imposed that would mitigate significant adverse impacts to the environment, insure the compatibility and harmony of the use or structure within the spirit of this ordinance, and protect the health, welfare, safety, lands and rights of persons on the Reservation, a Conditional Use Permit shall not be issued.

32.4 Specific Conditional Uses. The following Conditional Uses may be approved by the Planning Commission only if each of the following criteria are fulfilled:

The facility is located to minimize impact on community life and areas of local economic importance.

The facility is not located closer than 1 mile, or is separated by a natural or physical barrier which provides the necessary separation, from any schools, cultural and religious buildings and sites, recreational sites, entertainment facilities, retail/commercial centers with a high employee population or customer traffic, or established residential areas.

The site is served by public facilities and services adequate for the proposed use, including waste disposal, water supply, and fire protection.

The facility shall be located such that law enforcement officers can respond to a call for assistance within five (5) minutes under typical conditions.

A minimum eight (8) foot high fence is required between the facilities and all property boundaries with landscaped street frontage which effectively screens the site from adjacent properties.

Site lighting shall not produce levels of illumination or glare that would pose a nuisance or hazard for motorists on public rights-of-way.

The applicant shall submit a security plan which, at a minimum, is consistent with applicable American Corrections Association security standards. This plan shall identify staffing levels and scheduling, building security, an escape search plan, and provisions for immediate public notification or escapes.

33.0 NON-CONFORMING USES

33.1 Applicability: The following lots, uses of land, and uses of structures, which existed, or were established prior to the effective date of this ordinance, shall be deemed to be lawful non-conforming uses, and may continue subject to the provisions of this section:

(a) Any lot, tract or parcel of land (1) on fee lands which was recognized as a legal building lot by Snohomish County prior to the effective date of this ordinance, except lots established under County law through boundary line adjustments that would not be permissible under the provisions of this ordinance, or (2) established or platted under provisions of tribal law or federal regulations prior to the effective date of this ordinance.

(b) Any structure or building erected or in actual use, and any non-criminal actual use of a structure or building existing or established, prior to the effective date of this ordinance. Any structure or building erected subsequent to the date of this Ordinance on a legal non-conforming lot or parcel shall meet all other provisions of this Ordinance except minimum lot size.

33.2 Replacement: If any non-conforming structure is over 50% destroyed by fire or other casualty, such structure may be rebuilt within provided that such reconstruction occurs within two years.

34.0 SUBDIVISIONS

34.1: Unless lawful non-conforming lots, or otherwise exempt pursuant to this ordinance, all subdivisions that have not been approved under this ordinance shall be prohibited.

34.2 Subdivision application: Prior to filing a subdivision application an applicant is strongly encouraged to arrange a meeting with the Tulalip Tribes Department of Community Development to discuss the proposal. Upon submitting an application, the Department of Community Development shall transmit copies of the proposed subdivision application to the Planning Commission and to departments and agencies for comment. Information of the nature set forth in 37.3(g) may be requested to review the consistency of the subdivision application with the Zoning Ordinance and Comprehensive Plan and review the proposed subdivision's impact on the natural and built environment.

34.3 Subdivision review: The Planning Commission shall review all proposed subdivisions and make recommendations to the Board thereon with reference to approving or recommending any modifications necessary to assure conformance with the comprehensive plan goals, policies and objectives and conditions and conformance with the minimum requirements of tribal utilities and service providers for roads, water and/or sewer, power, fire protection, cable, and schools.

34.4 Minimum subdivision standards: The following minimum subdivision standards shall apply to all new subdivisions on the Reservation:

(a) Utilities: Utility easements meeting the standards of all utility purveyors serving the subdivision shall be required in all subdivisions.

(b) Water and Sewage disposal: All subdivisions shall be served by adequate water and sewer systems meeting the standards and requirements of the Tulalip Utility Ordinance.

(c) Roads: All subdivisions shall be served by an opened, constructed, and

maintained road to which the road system within the subdivision must connect.

(d) Drainage: All subdivisions shall include a drainage plan based on the standards set forth in the Washington Department of Ecology Stormwater Management Manual as the same exists or may hereafter be amended.

(e) Sensitive Lands: All subdivisions impacting environmentally and culturally sensitive land shall include protection measures consistent with the standards and requirements of this ordinance.

34.5 Minor modifications: Minor modifications to approved subdivisions may be made by the Executive Director without Planning Commission, or Board review provided the modifications do not create new lots or adversely affect the public health, welfare, and safety and are generally consistent with the conditions of subdivision approval.

34.6 Exempt Subdivisions: The subdivision requirements and the permitted density requirements of sections 8.0 through 20.0 of this ordinance shall not apply (1) to the creation of any parcel from or upon any property held in trust by the United States for a member of the Tribe, by virtue of a gift of land which is approved by the Secretary of the Interior under federal statutes or regulations; (2) to the creation of any parcel established by a distribution or division of land that occurs pursuant to the descent and distribution provisions of 25 U.S.C. Sec. 371, et seq., or by virtue of an Indian probate proceeding under federal statutes or regulations; or (3) to the creation of any parcel established by virtue of a partition or sale decree authorized by 25 U.S.C. Section 403(a)(1) or by virtue of a partition under 25 CFR Section 152.33.

35.0 BOUNDARY LINE ADJUSTMENTS

35.1 The Executive Director or his or her designee shall have the authority to approve boundary line adjustments which would allow for an adjustment of boundary lines to legal lots, provided:

(a) No new lots are created.

(b) Only one boundary line adjustment within any 5-year period.

36.0 TRIBAL MEMBER FAMILY SUBDIVISIONS

36.1 Purpose: Provide a simple process for Tulalip Tribal members to divide fee land among family members for single family residential home sites while providing for safe sewage disposal and drinking water supply and helping ensure that the result is one buildable homesite for any individual Tribal member.

36.2 Applicability: This section only applies to the act of an enrolled Tulalip Tribal member applicant to divide fee land on the Tulalip Reservation into two or more parcels for use as homesites, and to convey an interest in anyone such parcel for no consideration to one Tulalip Tribal member who is the applicant's spouse, brother, sister, lineal ancestor, lineal descendant, or

collateral heir.

36.3 Required Submissions: Applicants for approval of tribal member family subdivisions shall provide Community Development with:

a. Proof of applicant's ownership of the property, Tribal membership, and qualifications of grantee(s). No Tribal member shall be qualified to possess more than one (1) homesite created under the authority of this section at any given time.

b. A soil and site evaluation ("perc test"), where an on-site sewage treatment system will be used, prepared by an on-site sewage treatment system designer or Professional Engineer licensed by the State of Washington. The soil and site evaluation must establish the suitability of the proposed parcel(s) for an on-site sewage treatment system, and recommend the suitable type of system and the amount of land necessary to accommodate the system and a suitable reserve area.

c. A scaled site plan that demonstrates that proposed parcels can accommodate site utilities including any wells and on-site sewage treatments systems, access and utilities easements, existing and proposed structures, building setbacks, and environmentally sensitive areas and buffers. Boundaries and buffers for environmentally sensitive areas must be approved by the Tulalip Department of Environment.

d. A survey prepared by a licensed land surveyor showing existing and proposed parcel lines, legal descriptions of proposed parcels and setting forth the Tribes' right of first refusal in section 36.8.

e. Proof of access to all proposed parcels.

f A copy of the proposed instrument of conveyance containing the Tribes' right of first refusal in section 36.8.

g. Other plans, statements, and documents as reasonably required for the evaluation of the proposal.

36.4 Executive Director Decision Authority: The Executive Director or his or her designee shall have the authority to approve tribal member family subdivisions consistent with the requirements of this section.

36.5 Minimum Parcel Size: The minimum parcel size for parcels created by tribal member family subdivisions shall not exceed the density allowed in the underlying zone providing enough land to accommodate necessary primary and reserve areas for on-site sewage treatment systems, wells, site utilities, access and utility easements, building setbacks, environmentally sensitive areas and buffers, existing and proposed structures, driveways and other development, and maintaining the horizontal separation between on-site sewage treatment systems and other items such as wells described in Table IV of WAC 246-272A-0210. In no case where an on-site sewage treatment system will be used shall the proposed parcels be smaller than the minimum

land areas shown in Table X of WAC 246-272A-0320.

36.6 Standards for on-site sewage treatment systems. The design standard for any on-site sewage treatment system installed on parcels created by tribal member family subdivisions and for the purposes of determining the minimum parcel size for such parcels shall be the minimum design requirements of the Washington State Department of Health On-Site Rules, WAC 246-272A-0230 through WAC 246-272A-0238. Each parcel utilizing an on-site sewage treatment system shall include a primary area for the installation of the on-site sewage treatment system and a reserve area that is protected and maintained for the replacement of the system in the event of primary drainfield failure. Soil and site evaluations ("perc tests") shall meet the requirements of WAC 246-272A-0220.

36.7 Exemptions: Tribal member family subdivisions shall not be subject to the subdivision requirements of section 34.0. All other requirements of this ordinance shall apply.

36.8 Right of First Refusal: In the event that any owner, including any subsequent grantee and contract vendee of any parcel created under section 36.0 shall decide and agree with a third party, after acquiring such parcel or any interest therein to sell the parcel or any portion thereof, the owner shall within ten (10) days thereafter offer the same to the Tribes for the price and on the terms of the intended sale. The Tribes shall have sixty (60) days from the delivery of the otherwise acceptable, bonafide offer in which to accept or reject it.

37.0 DUTIES OF, AND PROCEEDINGS BEFORE, DEPT. OF COM. DEV.

37.1 Responsibilities of DCD. The Tulalip Tribes Department of Community Development (DCD) shall administer this Ordinance. The DCD shall maintain files of all applications and permits and decisions rendered by the Tulalip Tribes. In addition to the other authority conferred by this Ordinance, the responsibilities and authority of DCD shall include, but not be limited to the following:

(a) Receipt of applications for permits and approvals required by this ordinance.

(b) Review of development, subdivision and boundary line adjustment applications to determine consistency with the tribal comprehensive plan and zoning ordinance.

(c) Circulation of application to other tribal offices and government agencies affected by the proposed action.

(d) Provide staff recommendation to responsible decision-making official(s) or commissioners as to the consistency of the proposed action to the comprehensive plan, zoning ordinance, and comments received.

(e) Requirement of information. To require an application for a building permit, use and occupancy permit, conditional use permit, variance, comprehensive plan amendment, rezone, or subdivision to submit such information as deemed necessary for the evaluation of the subject application, including without limitation a site plan, legal description, location map, and

structural design plans.

(f) Notices. To give notices required by this ordinance. Where published notice is required, the publication shall be by one publication in a newspaper of general circulation in the county of Snohomish or the City of Marysville and in any official publication of the Tulalip Tribes of Washington, and shall be posted on the affected property at least seven days before the date of said hearing. The published notice of hearing may summarize the matter(s) subject to the hearing and need not set forth the contents of the application or proposal(s) in detail or verbatim. When required published notice of a hearing has been given and a quorum of the Board or Planning Commission is not present at the hearing, the hearing place, date and time of the hearing shall be automatically continued until the place, date and time of the next regular Board or Planning Commission meeting and further published notice of the hearing need not be given.

37.2 Variance proceedings.

(a) Upon receipt of a variance application, the Department of Community Development shall give notification thereof as provided in 37.1(f).

(b) The notice shall provide an opportunity of not less than 15 days for interested parties to submit, in writing, comments or evidence, in support or, or in opposition to, the application.

(c) The applicant shall be provided a copy of all comments and evidence received by DCD.

38.0 DUTIES OF, AND PROCEEDINGS BEFORE, THE PLANNING COMMISSION

38.1 General Duties and Authority of Planning Commission. In addition to exercising the authority conferred by the provisions of Ordinance No. 56, and by other provisions of this Ordinance, the Planning Commission may:

(a) Review staff recommendations and other correspondence.

(b) Conduct hearings and evaluate testimony regarding the application of this ordinance.

(c) Make written findings of fact based upon the testimony and exhibits presented at the hearing and his own investigation of the issue under study.

(d) Appoint a hearing examiner, generally or for particular matters, to conduct any hearing required or allowed to be held by the Planning Commission on any matter within its authority, to take evidence at such hearing, and to propose findings of fact, conclusions of law and a decision to the Planning Commission for its consideration.

(e) Make any decision concerning any matter within its authority based upon the record made before the hearing examiner, and the proposed findings, conclusions and decision

made by the hearing examiner, without conducting a further hearing.

(f) At its option, the Planning Commission may also conduct a further hearing prior to making a decision on any matter heard by an appointed hearing examiner.

(g) Approve, disapprove and condition any application for a conditional use permit.

(h) Require the applicant to submit such information as deemed necessary for evaluation of the application which may include information of the nature described in 38.1(e).

38.2 Proceedings on Conditional Use Permit Applications. A public hearing shall be conducted by the Planning Commission, or a hearing examiner appointed by the Planning Commission, on all conditional use permit applications.

(a) Notification. Upon the filing of an application for a conditional use permit as set forth in Sections 31.0 and 32.0 above, the Planning Commission shall set the time and place for a public hearing on such matter. DCD shall give published notice of the time, place and purpose of the conditional use hearing as provided in 38.1(f).

(b) Conduct of Hearings. The rules and conduct of hearings shall be established by the Planning Commission, or, where a hearing examiner has been appointed to conduct the hearing, by the hearing examiner.

(c) Record: A written non-verbatim record of the hearings held before the Planning Commission, and before any hearing examiner appointed by the Planning Commission, and of any findings, conclusions, or decision proposed by a hearing examiner, and/or adopted by the Planning Commission, shall be made and kept on file at the tribal office. Such hearings shall also be tape recorded. The Planning Commission's decision shall be in writing, with written findings and conclusions.

(d) Final Orders of the Planning Commission. Decisions of the Planning Commission issuing, conditioning or denying a conditional use permit shall be mailed on the date of issuance to the applicant and other parties of record who have made written request for a copy of decisions, which mailing shall be certified mail return receipt requested. The decision of the Planning Commission shall be final and conclusive unless timely appealed to the Board of Directors pursuant to section 40.0.

38.3 Proceedings on Comprehensive Plan and Zoning Ordinance Amendments, Rezones, and Subdivisions.

(a) Recommendation. The Planning Commission shall recommend a decision to the Board of Directors on each rezone or subdivision application, comprehensive plan amendment, or zoning ordinance amendment, that it considers. Such recommendation shall be by the affirmative vote of no less than a majority of the total members of the Planning Commission, which recommendation shall be by a recorded motion incorporating findings of fact and expressing the reasons for Commission action and referring expressly to the maps, descriptive,

or other matters intended by the Commission to constitute the plan, amendment, alteration, addition, or extension thereto. The indications of approval by the Commission shall be recorded on the map and descriptive matters by the signatures of the chairman and secretary of the Commission.

(b) Hearing. Before recommending approval or disapproval of a comprehensive plan amendment, zoning ordinance amendment, rezone, or subdivision application to the Board of Directors, the Planning Commission, or a hearing examiner appointed by the Planning Commission, shall hold at least one public hearing, and may hold additional public hearings. The rules of conduct for such public hearing(s) shall be established by the Planning Commission, or the appointed hearing examiner.

(c) Notice. DCD shall give published notice of the time, place and purpose of each hearing as provided in 38.1(f).

(d) Submittal to Board. A copy of the recommended decision of the Planning Commission shall be submitted to the Board not later than ten (10) days following the acts by the commission and be accompanied by the motion of the commission approving the same, together with a statement setting forth the factors considered at the hearing, and an analysis of findings considered by the Commission to be controlling.

39.0 HEARINGS AND PROCEEDINGS BEFORE THE BOARD OF DIRECTORS

39.1 Proceedings on Planning Commission Recommendations Concerning Comprehensive Plan and Zoning Ordinance Amendments, Rezones, and Subdivisions. The Board of Directors shall make the final decision on all recommendations of the Planning Commission concerning comprehensive plan and zoning ordinance amendments, rezones and subdivisions.

(a) Approval at Regular or Special Meeting. Upon receipt of the Planning Commission's recommendation, the Board of Directors may, at a regular or special meeting, approve, adopt and certify such recommendation by ordinance. The applicant, and any opposing party of record before the Planning Commission, shall be given not less than 7 days notice of such meeting by mail, and may submit written comments for the consideration of the Board.

(b) Hearing. In the event the Board of Directors sees fit to amend, alter or change the recommendation of the Planning Commission, the Board shall hold at least one public hearing, on the proposal as amended, altered or changed, and shall adopt its own findings of fact and statement setting forth the factors considered at the hearing and its own analysis of findings considered by it to be controlling.

(c) Notice. DCD shall give published notice of the time, place, and purpose of Board hearings required by this Ordinance as provided in 38.1(f).

(d) Submittal Requirements. The Planning Commission and Board of Directors shall have the authority to require the applicant to submit such information as deemed necessary for evaluation of the plan amendment, zoning ordinance amendment, subdivision or rezone

application including without limitation information of the nature set forth in 38.1(e).

(e) Conduct of Hearings. The rules of conduct of hearings before the Board shall be established by the Board of Directors. A written non-verbatim record of the hearings and the findings, recommendations, orders and conditions established by the Planning Commission and Board of Directors shall be made and kept on file at the tribal office. In addition, the hearing shall be taped, and the tapes preserved and made available for the Board to review in the event of an appeal.

(f) Conditions and Mitigation: In issuing approvals for rezones and subdivisions, the Board of Directors may set forth conditions and mitigation requirements consistent with this zoning controls ordinance and the text, goals, policies, and objectives of the comprehensive plan. The Board of Directors shall have the authority to condition, require mitigation including impact fees, or deny a subdivision and rezone request based on significant adverse impacts to the natural or built environment.

(g) Form and Finality of Board Decision. The final decision and certification of the Board of Directors approving any comprehensive plan amendment, zoning ordinance amendment, or rezone shall be adopted by ordinance. Denials of rezones, and approvals or denials of subdivisions, shall be by resolution. Upon issuance of the Board decision, copies of the decision shall be mailed promptly to the applicant and any parties of record. The decision of the Board shall be final and conclusive unless timely appealed to the Tulalip Tribal Court pursuant to section 40.0.

39.2 Board Initiated Comprehensive Plan or Zoning Ordinance Amendments. When it deems it to be in the public interest, the Board of Directors may initiate consideration of an ordinance establishing official controls, or amendments to the zoning ordinance, zoning map, or the comprehensive plan.

(a) Referral to Planning Commission. Board initiated official controls, or amendments to the zoning ordinance, zoning map, or the comprehensive plan, shall be referred to the Planning Commission and considered and processed as provided in sections 38.3 and 39.1.

(b) Failure to Act Deemed Recommended Approval. Failure of the Planning Commission to report on matters referred to it within forty (40) days after the reference, or such longer period as may be designated by the board when making the reference, shall be deemed to be recommended approval of such matter by the Planning Commission, after which the Board may proceed to act upon the matter pursuant to section 39.1 as if it had received an actual Planning Commission recommendation of approval.

39.3 Conditional Use Permit Appeals. Proceedings of the Board of Directors on appeals of Planning Commission decisions issuing, conditioning or denying conditional use permits shall be as provided in section 40.0(b).

40.0 APPEALS

40.1 Appeals of Executive Director (1) Decisions Issuing, Denying, Conditioning or Revoking Use and Occupancy Permits, Issuing, Denying or Conditioning Variances or Tribal Member Family Subdivisions, or Imposing Civil Penalties,' (2) Administrative Determinations; or (3) Enforcement Orders. Executive Director decisions (I) issuing, denying, conditioning, or revoking an use or occupancy permit, (ii) issuing, denying or conditioning a variance or Tribal Member Family Subdivisions, or (iii) imposing civil penalties, and administrative determinations and enforcement orders issued by the Executive Director, shall be final and conclusive unless appealed to the Tulalip Tribal Court by written notice of appeal filed with the Clerk of the Court within fifteen (15) days following the effective date of the decision. The Tribal Court may reverse or modify a decision of the Executive Director only if it determines that the decision was arbitrary and capricious or exceeded the authority of the Executive Director under this ordinance.

40.2 Appeals of Planning Commission Decisions Issuing, Conditioning or Denying a Conditional Use Permit. Decisions of the Planning Commission issuing, conditioning or denying a conditional use permit, shall be final and conclusive unless appealed to the Board of Directors within fifteen (15) days of the Planning Commission's decision. The Board shall review the Planning Commission's decision, including the findings of the fact and conclusions, at its next regular meeting after filing of the appeal with the Board, or at a special meeting set by the Board to occur not more than 30 days from the Board's receipt of the appeal. The Board may affirm, modify, amend, or alter the decision of the Planning Commission and shall render its decision in writing based upon written findings of fact and conclusions. The Board may, but is not required to, take further testimony to supplement the record on review. In the event the Board desires to take further testimony, it shall call a public hearing. DCD shall give published give notice of the time, place, and subject matter of the hearing as provided in 38.1(f).

40.3 Appeals of Board of Director Decisions on Comprehensive Plan Amendments, Zoning Ordinance Amendments, Rezones, Subdivisions, and Conditional Use Permits. Decisions of the Board of Directors on Comprehensive Plan Amendments, rezones, subdivision applications, and conditional use permits shall be final unless appealed to the Tulalip Tribal Court by written notice of appeal filed with the clerk of the Court within fifteen (15) days of the issuance of the Board decision. The jurisdiction of Tribal Court on appeals shall be limited to determining whether the decision subject to review was arbitrary and capricious, unlawful, or in excess of jurisdiction, in which case the Court shall vacate the decision and remand the matter to the Board of Directors for further proceedings consistent with the Tribal Court's decision.

40.4 Standing to Appeal. An appeal under this section may only be filed by a party adversely affected by the decision in question.

40.5 Tribal Court Review of Appeals. Tulalip Tribal Court review of any appeal under this section shall be on the record before the decisionmaker who made the appealed decision. The Tribal Court shall not take further evidence. In any appeal authorized by this ordinance, the Tribal Court shall give substantial weight and deference to decision(s) and determination(s) of the Executive Director, the Planning Commission, and the Board of Directors.

41.0 CIVIL ACTIONS BY EXECUTIVE DIRECTOR

The Tulalip Tribal Court shall have jurisdiction over civil actions by the Executive Director, on behalf of the Tulalip Tribes, for injunctive relief to enforce, and/or recover civil penalties assessed in, any enforcement order issued under this Ordinance. In any such civil action, the Tribal Court may, in addition to granting other relief, authorize the Executive Director, or his/her designates, to enter land and conduct the abatement and/or remediation required by any enforcement order, and may, under its continuing jurisdiction, award damages for the costs and thereof, and for environmental or resource losses or damages occasioned by violations of this Ordinance or an Enforcement Order. In any civil action authorized by this ordinance, the Tribal Court shall give substantial weight and deference to decision(s) and determination(s) of the Executive Director.

42.0 FEES

42.1 Civil Penalties: The Executive Director may, in an Enforcement Order issued under section 43.2, assess a civil penalty of:

(a) Up to $500.00 against the landowner or any other responsible party who (a) uses, occupies, or completes work upon land or a structure in violation of this ordinance, or without, or in violation of, a permit required by this ordinance, or (b) subdivides land without an approval required by this ordinance, or (c) violates the conditions or mitigation requirements of a permit, subdivision approval, or variance, or (d) violates any provision of this ordinance;

(b) A minimum of $5,000 against any person who constructs, installs, repairs, or replaces any structure or performs other work on Tribal tidelands in violation of the requirements of Ordinance 129;

(c) $100.00 per day against any person who violates any Enforcement Order issued under section 43.2, in which case the Order shall so state.

42.2 Fee Sheet: Applicants for building permits shall pay a building permit fee to the Tulalip Tribes consistent with the "Building Permit Fees" standards set forth in the most recent Uniform Building Code (UBC) published prior to the date of the permit application for the following permitted activities:

Residential Building Permits (new "stick built" homes)

Commercial, Multi-family, Industrial, Business Park or Professional Office Permits
(Commercial, multi-family, industrial, business park or professional office building permits)

Major Alterations
Major Alterations include additions that represent a 25% or greater addition to the floor space or roof space of the original building structure.

Miscellaneous Use Permits
(Garages, alterations, carports, sheds, demolition, signs, retaining walls,

concrete structures, etc.)

Marine
(Bulkheads, Staircases, Docks)

Applicants for the following activities and uses shall pay the following established and non-refundable fees to the Tulalip Tribes prior to submittal and review of an application:

Grading/Clearing	$50.00 Minimum + $50 per acre
Mobile Homes	
Single-wide	$150.00
Double-wide	$175.00
Triple-wide	$200.00
Variances	$500.00
Conditional Use Permits	
Mineral	$2,500.00
Other	$1,500.00
Home Occupation	$200.00
Subdivisions	$2,500.00 + $500.00 per lot
Rezones	
< 10-acres	$500.00
10 to 50-acres	$800.00
> 50-acres	$1,000.00
Boundary Line Adjustments	$125.00
Appeals	$500.00

43.0 ENFORCEMENT

43.1 Invalid Use or Occupancy Permit: Use of any property, building or structure erected subsequent to the enactment of this Ordinance without a valid use permit shall be and is hereby declared to be a public nuisance and may result in the imposition of fines as set forth in Section 30.3.

43.2 Enforcement Orders: In the event of (1) any use of, occupancy of, or completion of work upon, land or a structure in violation of this ordinance, or without, or in violation of, a permit required by this ordinance, (2) subdivision of land without an approval required by this

ordinance, (3) violation of any condition or mitigation requirement of a permit, variance or subdivision approval, or (4) violation of any provision of this ordinance, the Executive Director may issue an administrative Enforcement Order requiring any landowner or other responsible party to (1) cease such use, occupancy, and/or work upon land and/or a structure, and/or such violation, (2) abate such work and/or structure, (3) not sell or occupy lots divided without an approval required by this ordinance, and/or (4) remediate any adverse environmental effects of such work, use or occupancy of land, and/or violation. Such order may also require compliance with any condition or mitigation requirement or any permit, variance and/or subdivision approval. Such order shall advise of the right to appeal issuance of the same to Tribal Court by notice of appeal filed with the Court Clerk within 30 days of the service of the order. Such order shall be served personally, or by certified mail, return receipt requested. Service by mail shall be deemed completed three days after mailing.

43.3 Revocation of Use and Occupancy Permit A use and occupancy permit may be revoked after notification by registered United States mail to the owner of record or lessee of violation of the provisions of this Ordinance. Grounds for revocation of a use and occupancy permit shall be limited to violations of the terms and conditions of the permit, and/or violation of provisions of this ordinance, regarding the subject matter for which the permit is issued. Prior to revocation, the landowner shall be given written notice of the violation and be provided 30 days to correct the violation.

43.4 Notification of Revocation Notification of revocation of the use permit may be appealed to the Board of Directors, within the time required by Section 40.3. In the event of an appeal to the Board of Directors, any revocations of a permit shall be stayed until final decision of the Board.

44.0 TRADITIONAL AND CULTURAL BUILDINGS AND ACTIVITIES

Consistent with the provisions of the Tribes' Constitution and Bylaws, and with the Tribes' desire to preserve the tradition and culture of the Tribes, nothing in this Ordinance shall prohibit tribal members from using their lands in a manner that is consistent with the Tribes' tradition, culture, and history.

45.0 IMMUNITY

The sovereign immunity of the Tulalip Tribes is not in any way waived or limited by this Ordinance, or by any civil suit commenced pursuant to this Ordinance. Such sovereign immunity shall extend to the Tribe, it Board of Directors, and all tribal officials, employees, staff, and agents, as to all actions taken in, or concerning, the administration or enforcement of this Ordinance, and as to all actions taken pursuant to authority of any Tribal Court order authorized by this Ordinance.

46.0 LIBERAL CONSTRUCTION

The provisions of this Ordinance shall be liberally construed to further the purposes hereof.

47.0 SEVERABILITY

If any part of Ordinance #80 is declared void or unenforceable by a court of competent jurisdiction, the remaining provisions of Ordinance #80 shall not be impaired, and shall continue in full force and effect.

48.0 INCONSISTENCY OR CONFLICT

In the event of inconsistency or conflict between any provision(s) of Ordinance #80, and any provision(s) of Ordinance No. 56, the provision(s) of Ordinance #80 shall control.

49.0 CERTIFICATION

The undersigned hereby certify the above Ordinance was adopted by the Board of Directors of the Tulalip Tribes of Washington at a special meeting on the ___ day of _____, 1994, with a quorum present by a vote of ____ for and ____ against after public hearings duly noted; The undersigned further certifies the foregoing Ordinance No. 80 was re-adopted by the Board of Directors of the Tulalip Tribes of Washington at a regular meeting on the 9th day of January, 1995 with a quorum present, by a vote of ____ for and ____ against.

_____
Stanley G. Jones, Sr., Chairman

ATTEST:

_____
Herman Williams, Jr., Secretary

Legislative History

Adopted by Laws of December 8, 1994
Readopted by Laws of January 9th, 1995
Amended by Reso. #96-034, Laws of March 2, 1996
Amended by Reso. #96-087, Laws of July 13, 1996
Amended by Reso. #96-087A, Laws of October 5, 1996
Amended by Reso. #97-045, Laws of March 1, 1997
Amended by Reso. #97-046, Laws of March 1, 1997
Amended by Reso. #97-062, Laws of April 11, 1997
Amended by Reso. #00-093, Laws of March 7, 2000
Amended by Reso. #02-353, Laws of Oct. 5, 2002
Amended by Reso. #02-422, Laws of Dec. 7, 2002
Amended by Reso. #2006-075, Laws of March 9, 2006
Amended by Reso. #2006-196, Laws of June 15, 2006
Amended by Reso. #2008-309, Laws of Oct. 3, 2008

Amended by Reso. #2009-156, Laws of May 1, 2009

Related Laws

Ordinance #32, Laws of November 7, 1970 (Land Zoning)
Ordinance #35, Laws of June 2, 1973 (Land Zoning)
Ordinance #35A, Laws of December 15, 1984 (Tribal Construction Projects)
Ordinance #53, Laws of January 10, 1981 (Planning Enabling)
Ordinance #56, Laws of March 6, 1982 (Planning Commission)