

**JAMESTOWN S'KLALLAM TRIBE  
TRIBAL CODE  
TITLE 29 – BUILDING AND DEVELOPMENT CODE**

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## **Chapter 29.01 General Provisions**

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### **Section 29.01.01 Purpose**

The purpose of this Title is to provide a code to cover the construction, renovation and removal of buildings on, and the development of, the trust and reservation lands of the Jamestown S'Klallam Tribe. Some provisions of this Title are incorporated by reference from standard and model building codes, the Revised Code of Washington, the Washington Administrative Code and the Clallam County Code.

This Title provides for minimum building, construction and development standards, including standards for potable water, stormwater and wastewater management, to safeguard life, limb, health, property, the environment and public welfare by regulating and controlling the following: a) the design and construction of buildings and structures, including new construction, renovations or additions to existing structures, and the mechanical, plumbing and electrical installations associated with such activities; b) the quality and quantity of materials used in activities under a), above; c) the use and occupancy of buildings and structures; d) the location and maintenance of all buildings and structures on the trust and reservation land of the Tribe; and e) Tribal trust and reservation land development.

The Tribe has developed design guidelines to assist planners, architects, Tribal staff and consultants in understanding the basic design ideas and concepts which drive functionality and the Tribe's aesthetic sense. These guidelines are available from the Tribe's administrative offices or from the Tribe's web site.

To the degree required, and if not required, to the degree feasible, the provisions of the Americans with Disabilities Act ("ADA") related to reasonable accommodations, accessible design, etc., for persons with disabilities, shall be implemented in any building and development activities undertaken on the trust and reservation lands of the Tribe under this Title.

The requirements set forth in this Title are to be interpreted in a flexible manner, in terms of measured performance rather than in terms of rigid specifications. In this way, all development, design, construction and installation work can be evaluated by accepted national or local standards, without the necessity of adopting amendments for each variable condition of the incorporated codes.

### **Section 29.01.02 Definitions**

Certain words or phrases in this Title shall be interpreted as specifically defined, when so indicated. All other words or phrases shall have their common meanings or if they are technical terms occurring in an incorporated code, shall have the meanings as specified in the relevant code.

- A. "Applicant" means any Person, as defined in this Title, that applies for a building, construction or land development permit under this Title;

- B. "Application" means the form provided by the Tribe's Administration Department that an Applicant shall use to apply for a building, construction or land development permit under this Title;
- C. "Building and Development Code" means this Title, consisting of, among other provisions, certain codes incorporated, in whole or in part, by reference;
- D. "Building Official" means the individual, within the Tribe's Administration Department, charged with the administration and enforcement of this Title, or a duly authorized representative of that Department. In this Title, or in any code incorporated by reference, the term shall be equivalent to the term "Administration Department";
- E. "Building Service Equipment" means the plumbing, mechanical, electrical, and elevator equipment, including, but not limited to, wiring, fixtures, and other accessories that provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire-fighting, and transportation facilities essential for the occupation of a structure for its designated use and occupancy;
- F. "CCC" means the Clallam County Code;
- G. "CCFD3" means Clallam County Fire District 3 that has a station in Blyn, WA on Sophus Road on Tribal Non-Fee Land;
- H. "Department" means the Tribe's Administration Department, or its authorized representative, with responsibility for implementing this Title;
- I. "Department of the Interior" or "DOI" means the US Department of the Interior and the Bureau of Indian Affairs;
- J. "Inspector" means someone employed or retained by the Administration Department to perform building, construction or land development inspections as set out in this Title;
- K. "Permit" means a document issued pursuant to the provisions of this Title by the Tribe's Administration Department that allows the Applicant to build, construct, renovate or remove structures on Tribal Non-Fee Land or develop the same. A Permit is not required if certain conditions are not exceeded, as more fully set out in Section 29.06.04, below. Note, however, that an exemption from the permit requirement does not imply exemption from other requirements of the Tribal Code such as project review requirements or cultural resources reviews;
- L. "Person" means any individual, including a Tribal citizen, an association of individuals, partnerships, private, public, Tribal or municipal corporations or LLCs, Tribal enterprises, companies, business enterprises, any county, Tribal, federal, state or local government, or any agency of such government or an elected official or employee of the Tribe;
- M. "RCW" means the Revised Code of Washington;
- N. "TEPA" means the Tribal Environmental Policy Act, Title 27 of the Tribal Code;
- O. "Tribal Non-Fee Land" means the trust and reservation land of the Tribe;
- P. "Tribal Fee Land" means land owned by the Tribe in fee simple;
- Q. "Tribal Treaty Rights Land" means land, not owned in fee simple and not held in trust or reservation status for the Tribe, in which the Tribe has an interest because of treaty rights. This may include uplands, tidelands, wetlands and open waters within the Tribe's Usual and Accustomed Area ("U&A"), which includes portions of Puget Sound and Hood Canal; and

R. "WAC" means the Washington Administrative Code.

**Section 29.01.03 Contractor Registration, Bonding and Insurance**

No Permit under this Title will be issued to an Applicant without proof that they have retained one or more contractors to perform the work to be covered by the permit and that such parties: a) are registered as a contractor with the State of Washington as provided for in RCW Title 18.27; b) have the requisite bonding as required in the RCW for contractors; and c) have sufficient insurance coverage as required by law or as required under any construction agreement to be performed on Tribal Non-Fee Land.

**Section 29.01.04 Alternate Materials and Methods of Construction or Development**

- A. This Title is not intended to prevent the use of any material or method of construction or development not specifically set out herein or in an incorporated code, if the alternate material or method has been approved by the Department prior to use or adoption;
- B. The Department may approve an alternate material or method if the Department finds that the proposed design is satisfactory and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Title in strength, effectiveness, fire resistance, durability, safety, sanitation or any other relevant standard;
- C. The Department shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding the use of any alternate material or method. The details of each action approving an alternate material or method must be recorded and maintained in the Department permanent files; and
- D. Determinations made by the Department regarding alternate materials and methods shall be treated as binding precedents on the Department for subsequent Applicants. Provided, however, upon approval by the Tribal Council, a finding may be made by the Department that a previous determination was: 1) made in error, or 2) is now non-binding due to changed circumstances since the original determination was made.

**Section 29.01.05 Applicability of Title**

The provisions of this Title do not apply to: a) construction work conducted by a public utility operating under a franchise with the Tribe; b) public utility towers and poles; c) hydraulic flood control and drainage structures; d) installations used by electricity supply or communication agencies in the generation, transmission, or distribution of electricity or for the transmission of signals, operating under a franchise agreement with the Tribe; e) electrical equipment used for radio and television transmission, provided that this exception does not exempt equipment used for the power supply to the transmitting equipment or the installation of towers and antennas.

**Section 29.01.06 Conflicting and Controlling Provisions**

- A. When provisions of this Title and incorporated codes specify different materials, methods of construction, or other requirements, the most restrictive provision shall govern;
- B. When a conflict arises between a general requirement and a specific requirement, whether in this Title or in an incorporated code, the specific requirement shall control over the general requirement; and
- C. To the extent the provisions of any incorporated code provide for sanctions or enforcement actions, whether administrative, quasi-judicial or judicial, or appeals of the same, those provisions are null and void.

**Section 29.01.07 Authority, Qualifications, Powers and Duties of Administration Department**

- A. The Department is charged with enforcing the provisions of this Title. If the staff of the Department is not qualified to act in particular situations because of a lack of training, specialized education, knowledge or expertise, the Department may utilize the services of a consultant. Examples of situations in which consultants may be used are for plan reviews and inspections;

- B. Any individual, whether staff of the Department or a consultant to the Department, engaged in plan reviews or inspections pursuant to this Title shall be an architect or engineer legally registered under the laws of the State of Washington with at least 5 years of experience as an architect, engineer, or a person with an IBC Plan Review or inspection certification in the discipline under consideration;
- C. The Department shall have the power to determine if the provisions of this Title have been complied with. Whenever the Department deems it necessary to make an inspection to determine such compliance or enforce any provision of this Title, or whenever the Department has reasonable cause to believe that there exists in any structure or upon any premises a condition or violation that makes the structure or premises unsafe, dangerous or hazardous, the Department, or its designee, may enter the structure or premises at all reasonable times to inspect or to perform any duty imposed upon the Department by this Title.
- Provided, however, that if the structure or premises is occupied, the Department must first present proper credentials and request entry, and if the building or premises are unoccupied, the Department must first make a reasonable effort to locate the owner or other individual having charge or control of the structure or premises and request entry. If entry is refused, or unattainable, the Department shall have recourse to an order from the Tribal Court to secure entry;
- D. Whenever any structure or building service equipment in a structure regulated by this Title is being used contrary to any provision of this Title, the Department may order such use discontinued and the structure, or portion of the structure, vacated by notice served on any Person causing the use to be continued. The Person shall discontinue the use within the time prescribed by the Department after receipt of notice and proceed to make the structure, or portion of the structure, comply with this Title, before its use and occupancy is resumed; and
- E. The Department may propose rules and regulations, subject to the approval of the CEO and Tribal Council, supplemental to the provisions of this Title as are deemed necessary in order to clarify its application. Such interpretations, rules, and regulations must be in conformity with the intent and purpose of the Title.

They may cover, but are not limited to, such items as: a) third party review of projects for compliance with this Title; b) review by the local fire district regarding location of fire hydrants and related safety issues; c) requirements for project review by a geotechnical and/or a hydrogeological engineer, when site conditions or proposed foundation systems warrant such review; d) establishment of policies and procedures for the maintenance of Department records on occupancy status, plans, permits, and inspection reports; and e) forms, checklists, etc.

#### **Section 29.01.08 Consent to Inspection; Final Inspection**

When a Person applies for a Permit under this Title, they give consent for reasonable periodic and final inspections by the Department. If a Person refuses to allow the Department to enter a structure or premises for the purpose of inspecting work done under a Permit, the Department may revoke the Permit. Each application form shall contain a certification, signed by the Applicant, granting this consent and the Permit shall contain language indicating the consent has been granted. No certificate of occupancy may be issued without a final inspection.

#### **Section 29.01.09 Liability**

- A. Authorized representatives or employees of the Department, when acting in good faith and without malice in the discharge of official duties, shall not be held personally liable for any damage that may accrue to persons or property as a result of, or by reason of, any act or omission in the discharge of those official duties;
- B. The Tribe shall not be held to assume any liability by reason of any inspection authorized by or any permit or certificate issued under this Title; and

- C. Nothing in this Title shall be construed as relieving the responsibility of, or lessening the responsibility of, any Person from liability for damages to persons or property under this Title or under an incorporated code when operating under or performing work pursuant to this Title or an incorporated code.

**Section 29.01.10 Drinking Water and Waste Water Systems**

- A. The Applicant shall secure written approval from the Department for an on-site sewage disposal facility, meeting the requirements of this Title and the relevant provisions of incorporated codes and other titles of the Tribal Code, prior to issuance of a Permit for any structure requiring on-site sewage disposal facilities unless the site is or will be connected to an existing, approved, off-site sewage disposal or treatment system;
- B. The Applicant shall secure written approval from the Department for an on-site drinking water well, meeting the requirements of this Title and the relevant provisions of incorporated codes and other titles of the Tribal Code, prior to approval of a Permit for any structure requiring potable drinking water unless the site is or will be attached to an existing, approved, off-site drinking water system; and
- C. Where off-site waste-water treatment services or off-site drinking water services are to be utilized, an Applicant shall document, to the satisfaction of the Department, the availability of those respective services.

**Section 29.01.11 Electric Power Utilities**

- A. The Applicant shall provide documentary evidence of the availability of suitable electrical service to the proposed building or land development site, meeting the requirements of this Title and the relevant provisions of incorporated codes and other titles of the Tribal Code, prior to issuance of a Permit for any structure requiring electrical service; and
- B. The Applicant shall coordinate with Tribal staff in securing any approvals required under federal law, from DOI, for the granting of electric utility easements, to a public utility district or similar entity, across Tribal Non-Fee Land to the proposed building or land development site.

**Section 29.01.12 Propane and Heating Oil Equipment**

The Applicant shall receive written approval from the Department for the use of on-site propane or heating oil facilities and equipment, meeting the requirements of this Title and the relevant provisions of incorporated codes and other titles of the Tribal Code, prior to issuance of a Permit for any structure requiring the use of propane or heating oil.

**Section 29.01.13 Communications Utilities**

- A. The Applicant shall provide documentary evidence of the availability of suitable communications services to the site, meeting the requirements of this Title and the relevant provisions of incorporated codes and other titles of the Tribal Code, prior to issuance of a Permit for any structure requiring communications services; and
- B. The Applicant shall coordinate with Tribal staff in securing any approvals required under federal law, from DOI, for the granting of communications services easements, to a communications services company or similar entity, across Tribal Non-Fee Land to the proposed building or land development site.

**Chapter 29.02**  
**Codes Incorporated by Reference**

**Sections:**

**Section 29.02.01 General Provisions Related to Codes Incorporated by Reference**

**Section 29.02.02 International Building Code**

**Section 29.02.03 International Residential Code**

**Section 29.02.04 International Plumbing Code**

**Section 29.02.05 International Mechanical Code**

**Section 29.02.06 International Fire Code**

**Section 29.02.07 National Electrical Code**

**Section 29.02.08 International Energy Conservation Code**

**Section 29.02.01 General Provisions Related to Codes Incorporated by Reference**

- A. For a code incorporated by reference into this Chapter, where “name of jurisdiction,” “chief appointing authority of the jurisdiction” or similar phrases appear, insert instead “The Jamestown S’Klallam Tribe.”;
- B. As set out in the respective subsections of this Chapter covering incorporated codes, code provisions may be: a) applicable and mandatory, or b) applicable and a guideline, or c) not applicable. The Department may further clarify these categories by regulation, as appropriate;
- C. Whenever the term “guideline” or “guidance” is used in this Title or an incorporated code, it shall mean that the referenced parts of the incorporated code are to be used in a flexible manner and not as a set of strict requirements. It is the intent of the Tribal Council that where code provisions are designated as guidelines, that a Person using them should not ignore them but give reasonable consideration to their provisions with the goal of accomplishing the intent of the guideline;
- D. All codes incorporated by reference are hereby adopted and made a part of this Title to the degree, and in the manner indicated in the respective subsections of this Chapter covering their incorporation;
- E. The Department shall monitor the implementation of this Title and its incorporated codes and make recommendations for changes to this Title to the Tribal Council, as warranted; and
- F. It will be unlawful for any Person to violate any applicable, mandatory provisions of: a) this Title, or b) an incorporated code while engaging in activities on Tribal Non-Fee Land that fall within the purview of this Title.

**Section 29.02.02 International Building Code**

- A. The International Building Code (IBC) contains the minimum building code standards for the Tribe, including any requirements for testing, maintenance and periodic inspections. The IBC shall apply to the construction, building, alteration or renovation of structures on Tribal Non-Fee Land. Clarifications to the incorporation by reference of the IBC, if any, may be set out in an amendment to this section or by rules or regulations issued by the Department;
- B. The IBC, as incorporated into this Title, is clarified as follows:
  - 1. Chapter 1, Administration, Section 102, Applicability, Subsection 102.2, Other Laws, is modified to read as follows: “The provisions of this code shall not be deemed to nullify any provisions of Tribal or federal law.”;
  - 2. Chapter 5, General Building Heights and Areas, shall be treated as a guideline, not a set of absolute requirements, unless otherwise required by federal law;



3. Chapter 07, Fire Resistance-Rated Systems, shall be treated as a guideline, not a set of absolute requirements, unless otherwise required by federal law;
4. Chapter 08, Interior Finishes, shall be treated as a guideline, not a set of absolute requirements, unless otherwise required by federal law;
5. Chapter 09, Fire Protection Systems, specifically the provisions related to sprinkler systems, shall only apply to buildings of 10,000 square feet or more. Section 907, Fire Alarm and Detection Systems, shall be modified as follows: for buildings of less than 15,000 square feet, the provisions will not apply; for buildings over 15,000 square feet, the provisions of Section 907, as written, shall apply;
6. Chapter 11, Accessibility, shall be used as a guideline, and not a set of absolute standards, unless otherwise required by federal law;
7. Chapter 13, Energy Efficiency, specifically the provisions of ASCE 07-75 related to structural design and inspection requirements for building elements, shall be used as a guideline, and not a set of absolute standards, unless otherwise required by federal law;
8. In applying the provisions of Chapter 16, Structural Design, the following modifications shall apply: ASCE 7-05 shall be used to determine design requirements, except that designs for wind loads shall rely on the relevant provisions of the Uniform Building Code (UBC) 1997;
9. Chapter 17, Structural Tests and Special Inspections, shall be treated as a guideline and not a set of absolute requirements. In applying the provisions of Chapter 17 of the IBC, the added conditions, set out in ASCE 7-05, Section 11.8, shall be considered in determining the need for soil reports in Seismic Design Category D situations;
10. Chapter 18, Soils and Foundations, shall be used as a guideline, a not as a set of absolute requirements, unless otherwise required by federal law; and
11. Chapter 34, Existing Structures, shall be used as a guideline, and not as a set of absolute standards, unless otherwise required by federal law;
12. The following IBC appendices are incorporated by reference: Appendix B – Board of Appeals; Appendix D - Fire Districts; Appendix E – Supplementary Accessibility Requirements; Appendix F – Rodent Proofing; Appendix G – Flood-Resistant Construction; Appendix H – Signs; and Appendix J – Grading; and
13. The following IBC appendices are not incorporated by reference: Appendix A; Employee Qualifications; Appendix C – Group U-Agricultural Buildings; and Appendix I – Patio Covers.

**Section 29.02.03 International Residential Code**

- A. The International Residential Code (“IRC”) contains the minimum standards for residential construction for the Tribe on Tribal Non-Fee Land, including any requirements for testing, maintenance and periodic inspections; and
- B. The provisions of the IRC related to wind design criteria shall be used as a guideline, and not as a set of absolute standards, unless otherwise required by federal law.

Additional modifications, if any, to the IRC may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Section 29.02.04 International Plumbing Code**

The International Plumbing Code (“IPC”) contains the minimum plumbing standards for the Tribe on Tribal Non-Fee Land, including any requirements for testing, maintenance and periodic inspections. Modifications, if any, to the IPC may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Section 29.02.05 International Mechanical Code**

The International Mechanical Code (“IMC”) contains the minimum mechanical standards for the Tribe on Tribal Non-Fee Land, including any requirements for testing, maintenance and periodic inspections. Modifications, if any, to the IMC may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Section 29.02.06 International Fire Code**

The International Fire Code (“IFC”) contains the minimum fire standards for the Tribe on Tribal Non-Fee Land, including requirements for testing, maintenance and periodic inspections, if any. Modifications, if any, to the IFC may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Section 29.02.07 National Electrical Code**

The National Electrical Code (“NEC”) contains the minimum electrical standards for the Tribe on Tribal Non-Fee Land, including requirements for testing, maintenance and periodic inspections, if any. Modifications, if any, to the NEC may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Section 29.02.08 International Energy Conservation Code**

The provisions of the International Energy Conservation Code (“IECC”), as amended from time to time, issued by the International Code Council, shall be used for increasing energy efficiencies in buildings designed for construction or renovation under this Title on Tribal Non-Fee Land. The provisions of the IECC shall be treated as a guideline, not as a set of absolute requirements, unless otherwise required by federal law. Modifications, if any, to the IECC may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Section 29.02.09 Stormwater Management Code**

The provisions of the “Low Impact Development - Technical Guidance Manual for Puget Sound,” issued by the Puget Sound Partnership, shall be used as a guide for developing stormwater management plans for projects and land development proposals under this Title on Tribal Non-Fee Land and may be referred to as the “Stormwater Management Code.” The Manual shall be treated as a guideline and not as a set of absolute requirements, unless otherwise required by federal law. Modifications, if any, to the publication may be set out in an amendment to this section or by rules or regulations issued by the Department.

**Chapter 29.03**  
**Land Classifications and Setbacks**

**Sections:**

**Section 29.03.01 Tribal Non-Fee Land Classifications**

**Section 29.03.02 Setbacks**

**Section 29.03.01 Tribal Non-Fee Land Classifications**

- A. Tribal Non-Fee Land may be categorized in one of three general classifications: residential land, commercial land or resource land;
- B. Residential Land shall be those Tribal Non-Fee Land sites targeted for single-family and multi-family dwelling units and any accessory buildings normally found on such land, such as garages, gazebos, sheds, etc.;
- C. Commercial Land shall be those Tribal Non-Fee Land sites targeted for economic development activities such as, but not limited to, sites for facilities for resorts, gaming, industrial, manufacturing, business offices, etc.; and
- D. Resource Land shall be all Tribal Non-Fee Land not falling under subsections B. or C., above. Generally, it shall include lands used for habitat preservation, agriculture, etc.

**Section 29.03.02 Setbacks**

- A. Property line setbacks for all structures, whether residential, commercial, or accessory to residential or commercial, shall be determined on a case-by-case basis by the Department. To determine what setbacks should be used, the Department will first consider what is being proposed for the site and then it will consider what the CCC zoning provisions would require if the site were still under county jurisdiction. Although the Department is not required to apply the provisions of the CCC in these determinations, they will be given substantial weight in making the setback determination;
- B. Setbacks between structures will be determined on the same basis as setbacks from property lines as specified in A., above;
- C. Setbacks from wells and drainfields will be determined on the same basis as setbacks from property lines as specified in A., above; and
- D. Setbacks from streams, bodies of water, bluffs, banks and cuts will be determined on the same basis as setbacks from property lines as specified in A., above. Additionally, minimum setbacks from bluffs, banks and cuts declared unstable by published Soils Conservation Service Slide Hazard Area Studies, or by the 1978 Coastal Zone Atlas of Washington, as updated from time-to-time, shall be the height of the bluff, bank or cut, not to exceed 100 feet, or as recommended by an approved soils engineer. Bluff, bank or cut setbacks shall be measured from the rim or top of the bluff, bank or cut.

**Chapter 29.04**  
**Environmental Review of Proposed Projects**

**Sections:**

**Section 29.04.01 Tribal Environmental Review and Approval of Proposed Projects**

**Section 29.04.02 Federal Environmental Review and Approval of Proposed Projects**

**Section 29.04.01 Tribal Environmental Review and Approval of Proposed Projects**

- A. The Tribe has adopted a Tribal Environmental Policy Act (TEPA) which contains various provisions which anyone undertaking land development or building or construction projects on Tribal Land must be in compliance with. In addition, certain projects may trigger a review under NEPA. The Planning Department is responsible for determining if TEPA and/or NEPA apply to a proposed project. The Planning Department will provide review forms and checklists to anyone proposing a land development or building project on Tribal Land to complete and submit for review. The TEPA environmental checklist will be reviewed by the Planning Department before a Permit is issued by the Department under this Title; and
- B. The Department, in conjunction with the Planning, will ensure that the requirements of the TEPA and NEPA are addressed by anyone applying for a Permit under this Title.

**Section 29.04.02 Federal Environmental Review and Approval of Proposed Projects**

- A. Projects on Tribal Non-Fee Land that involve a “Federal Action,” as defined in NEPA, may require review under NEPA and a sign-off from the federal agency associated with the Federal Action (such as grant funding for a construction project on Tribal Non-Fee Land); and
- B. The Applicant sponsor of a project that triggers a Federal Action review will be responsible for coordinating with the Department of Administration to insure such review is completed in a timely manner and that all information required for such review is provided to the reviewing agency. The Department of Administration will confirm that the NEPA requirements, if applicable, are addressed before a Permit is issued under this Title.

**Chapter 29.05**  
**Non-NEPA Federal Reviews and Approvals**

**Sections:**

**Section 29.05.01 Non-NEPA Federal Reviews and Approvals**

**Section 29.05.02 Trust-to-Reservation Applications**

**Section 29.05.03 Certain Projects Subject to US Department of Interior Review and Approval**

**Section 29.05.01 Non-NEPA Federal Reviews and Approvals**

Certain proposed development projects on Tribal Fee Land may require the conversion of the land to trust status before the project can proceed. Other proposed development projects on existing Tribal Non-Fee Land may require the issuance of a less-than-fee real property right, such as a leasehold estate, to another party. Both of these activities will require the involvement of DOI, as outlined in this Chapter.

- A. Fee-to-Trust Applications - The Department will insure that Applicants and Tribal staff involved in the project application process, where a conversion of Tribal Fee Land to trust status is required, understand the steps involved in such a conversion. This Chapter of this Title briefly outlines the requirements set out in federal laws and regulations for conversion of property into trust status. However, before any final decisions are made regarding a proposed project, the Department will insure that Applicants consult with those members of the Tribal staff charged with preparing and submitting such applications and that the Applicant's activities are coordinated with such staff;
- B. Applications to the DOI under Title 25 of the Code of Federal Regulations ("CFR") for conversion of Tribal Fee Land to trust land may be categorized several ways, primarily related to the proposed use of the site after conversion: a) gaming vs. non-gaming; b) no change-in-use vs. change-in-use; and c) economic development vs. non-economic development; and
- C. Generally, gaming related fee-to-trust applications, change-in-use applications and economic development related applications must meet additional approval requirements. If an application involves any of these categories, then additional requirements must be met and an allowance must be made for the additional time involved in seeking those approvals. Tribal staff involved in processing the fee-to-trust applications must be consulted to ascertain how much time must be factored into the development schedule for these fee-to-trust categories.

**Section 29.05.02 Trust-to-Reservation Applications**

(Reserved)

**Section 29.05.03 Certain Projects Subject to US Department of Interior Review and Approval**

- A. Certain development projects on Tribal Non-Fee Land may involve a situation where another person or entity, whether a private 3<sup>rd</sup> party, or a Tribal non-government entity, such as a Tribally chartered corporation, is to receive a leasehold or related property interest in the Tribal Non-Fee Land. The agreement or lease representing that interest must be approved by the DOI pursuant to the provisions of Title 25 of the Code of Federal regulations, as amended from time-to-time. Those regulations cover, among other things: "Leases and Permits," "Rights-of-Way Over Indian Land" and "Leasing of Tribal Lands for Mineral Development."; and
- B. The Department shall insure that the Applicant coordinates with the members of the Tribal staff responsible for obtaining approvals of any such agreements or leases and that the Applicant complies with the requirements under sub-section 29.05.01.1, above. Applicants will be advised of possible delays in securing such reviews and approvals from the DOI.

**Chapter 29.06**  
**Building Permits and Related Requirements**

**Sections:**

**Section 29.06.01 Building Permit Required; Responsibility**

**Section 29.06.02 Other Requirements**

**Section 29.06.03 Permit Posting Requirement**

**Section 29.06.04 Exemptions to Building Permit Requirement**

**Section 29.06.01 Building Permit Required; Responsibility**

- A. A Permit is required to develop Tribal Non-Fee Land or construct, alter or change any building or structure as provided for in this Title. Such Permit will be applied for on suitable forms provided by the Department to an Applicant. A Permit may be issued: a) without conditions, or b) with conditions;
- B. The Department may charge reasonable fees for its services, as approved by the Tribal Council from time-to-time, to help defray the costs of processing applications for a Permit and for providing subsequent inspection services;
- C. No Permit shall be issued to make a change unless the changes are in conformity with the provisions of this Title and the relevant mandatory provisions of incorporated codes
- D. It shall be the responsibility of the developer or contractor developing land, constructing, altering or changing any building or structure to obtain the Permit; and
- E. A Permit may be issued with conditions. Those conditions, unless stipulated otherwise in the Permit, must be met before any other activity is undertaken by the Applicant under the Permit. Failure to follow the designated sequence when conditions apply may subject the Applicant to an Enforcement Order and stoppage of the work under the Permit. The Department may lift an Enforcement Order if and when it is satisfied that the terms of a Permit, with conditions, is being complied with fully.

**Section 29.06.02 Other Requirements**

- A. A Permit approved pursuant to this Title shall comply with all other relevant and applicable provisions of the Tribal Code, including, but not limited to, the TEPA; and
- B. A completed Permit application shall include, at a minimum, the following:
- A complete application worksheet;
  - An accurate plot plan;
  - Two sets of structural drawings in hard copy and one set in electronic file format, if applicable; If applicable, a complete application for an on-site sewage disposal system; otherwise, proof of an available connection to an existing wastewater treatment system;
  - If applicable, a complete application for an on-site well; otherwise, proof of an available connection to an existing drinking water system;
  - A site map with the location of: a) proposed structures, b) electrical power and communications easements, c) propane and/or heating oil equipment and facilities;
  - A complete drainage and stormwater plan;
  - A complete road approach plan; and
  - A certification from the CCFD3 that the plans for the proposed structures and site have been reviewed by its staff for hydrant locations and fire safety issues.

**Section 29.06.03 Permit Posting Requirement**

- A. The Applicant shall post a copy of the permit issued pursuant to this Title at a conspicuous location on the development or construction site. The permit shall remain posted until a final inspection has been completed and a Certificate of Occupancy is issued by the Department; and
- B. The posting requirements under subsection 29.06.03 A., above, shall be in addition to any other posting requirements which may be imposed by other titles of the Tribal Code.

**Section 29.06.04 Exemptions to Building Permit Requirement**

“Work Exempt From Permit” under the IBC and IRC is adopted and amended as follows:

- A. Exemptions from permit requirements of this Title shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Title or any other laws or regulations of the Tribe or applicable laws or regulations of the Federal Government;
- B. The work exempt from permit under IRC Section 105.2 (1) is amended to read: One-story detached buildings used as tool and storage sheds, playhouses, agricultural buildings and similar uses, provided that such buildings are for private use only and are accessory to single family dwellings and provided the floor area does not exceed 400 square feet. Eaves may project not more than 24 inches beyond the wall line;
- C. The work exempt from permit under IBC Section 105.2 (6) is amended to read: Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route;
- D. The work exempt under IBC/IRC Sections 105.2 is amended to include the following exemption: Minor construction and alteration activities to existing single-family dwellings (R-3 and IRC) and their accessory structures where the total valuation, as determined by the Building Official or as documented by the applicant to the satisfaction of the building official, does not exceed \$1,500.00 in any 12-month period; provided that, the construction and/or alteration activity does not affect any structural components or reduce existing egress, light, air, and ventilation conditions. This exemption does not include electrical, plumbing, or mechanical activities. The permit exemption shall not otherwise exempt the construction or alteration from the substantive standards of the codes enumerated in Section 19.27.031 RCW, as amended and maintained by the state building code council under Section 19.27.070 RCW.

**Chapter 29.07**  
**Certificate of Occupancy; Inspections and Records**

**Sections:**

**Section 29.07.01 Certificate of Occupancy and Inspections**

**Section 29.07.02 Records**

**Section 29.07.01 Certificate of Occupancy and Inspections**

- A. The Certificate of Occupancy shall be applied for coincidentally with the application for a Permit;
- B. The Department will conduct periodic inspections of all work done under a Permit. A final inspection will be done before a Certificate of Occupancy is issued by the Department asserting that all work was done in compliance with the Permit and this Title;
- C. Additionally, prior to a Certificate of Occupancy being issued, two (2) sets of As-Built Drawings in hard copy, and one (1) set in electronic file format, shall be filed with the Department with a certification by the contractor that all work has been done in accordance with the requirements of the relevant Permit. A State of Washington Registered Civil Engineer or Land Surveyor shall prepare and sign the As-Built drawings; and
- D. If all conditions of the Permit and this Title have been met, a Certificate of Occupancy shall be issued within ten (10) days after the final inspection is completed.

**29.07.02 Records**

A record of all Certificates of Occupancy, As-Built Drawings and related compliance documentation shall be kept on file, for each project, by the Department.



**Chapter 29.08**  
**Violations and Enforcement**

**Sections:**

**Section 29.08.01 Violations**

**Section 29.08.02 Enforcement**

**Section 29.08.03 Administrative and Judicial Appeals**

**Section 29.08.01 Violations**

- A. A violation of the provisions of this Title is: a) any substantive action or omission that violates a provision of this Title, or b) any substantive action or omission that violates a condition of any permit issued pursuant to this Title; and
- B. A violation of the provisions of this Title is hereby determined to be detrimental to the public health, safety, and environment of the Tribe and Tribal community and is hereby declared to be a public nuisance, subject to prevention, removal, or abatement at the expense of the Person creating, causing, or committing such violation.

**Section 29.08.02 Enforcement**

- A. The provisions of this Title and the codes adopted by reference into this Title are subject to the enforcement and penalty provisions contained in this Title and other enforcement provisions of the Tribal Code, unless preempted by federal law. If an enforcement provision of this Title conflicts with an enforcement provision of another Title of the Tribal Code, the enforcement provision of this Title shall be given precedence;
- B. Any Person that violates this Title or the provisions of a Permit issued pursuant to this Title shall be liable for all damage to Tribal Non-Fee Land, and structures thereon, arising from such violation, including the cost of restoring the affected site, or affected structures, to their condition prior to such violation;
- C. Whenever any work is being done contrary to this Title or the incorporated codes, the Department may order the work stopped (“Enforcement Order”) by notice in writing served on any Person engaged in the work or causing the work to be done, and that Person shall stop work immediately until authorized by the Department to proceed with the work;
- D. The Department shall develop rules, under its rulemaking authority granted under this Title, setting out appropriate fines, sanctions and mitigating actions related to its enforcement of the provisions of this Title. Such rules shall be approved by the Tribal Council and copies provided to each Applicant for a Permit;
- E. The preference under this Title for enforcement of its provisions by the Department shall be, in order, the following: a) an administrative, negotiated resolution between the Department and the alleged violator, with fines, sanctions or mitigation actions, as appropriate; b) an appeal action, by either party, on the administrative determination under a), above, conducted as an administrative hearing before the Tribal Council; and c) a judicial appeal action, by either party, before the Tribal Court; and
- F. The Department shall not issue any permit, license or other development approval on a development proposal site subject to an enforcement order under this Title; provided, however, that the Department may issue such permits when the covered activity is meant to rectify or correct Enforcement Orders.

**Section 29.08.03 Administrative and Judicial Appeals**

- A. All appeals arising from decisions issued by the Department or other authorized official of the Tribe acting under this Title shall be classified as either administrative appeals or judicial appeals.

Administrative appeals shall be made as provided for in this Chapter. All administrative appeals must be exhausted before judicial appeals are sought by an Applicant;

- B. To the degree any code incorporated into this Title contains provisions related to appeals of decisions issued by an adopting jurisdiction or its authorized representative under the incorporated code, those provisions are struck and the provisions of this Chapter on enforcement and appeals are substituted in their place and shall apply;
- C. Appeals of administrative decisions to approve, deny, or issue a Permit with conditions must be filed within 14 calendar days from the date the written decision was mailed, hand-delivered, or otherwise served on the Applicant;
- D. Appeals shall be heard by the CEO of the Tribe or their designee, whose decision shall be final and conclusive unless an appeal is filed with the Tribal Council within 5 calendar days of the date the written decision of the CEO was mailed, hand-delivered, or otherwise served on the Applicant; and
- E. Final decisions by the Tribal Council on appeals from administrative decisions issued by the CEO under this Title shall be considered as an exhaustion of administrative remedies. Any further appeals will be to the Tribal Court as provided for in the Tribal Code and shall be classified as judicial appeals.

**Chapter 29.09**  
**Miscellaneous Provisions**

**Sections:**

**Section 29.09.01 Severability**

**Section 29.09.02 Cooperation**

**Section 29.09.01 Severability**

If any provision of this Title is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section or portion shall be deemed a separate provision of this Title and such holding shall not affect the validity of the remaining portions of this Title.

**Section 29.09.02 Cooperation**

The Department may request, and shall receive, so far as is required in the discharge of its official duties, the assistance and cooperation of other officials, departments and entities of the Tribe.

**Chapter 29.10**  
**Codification and Amendments**

**Sections:**

**Section 29.10.01 Codification**

**Section 20.10.02 Amendments**

**Section 29.10. Codification**

Title 29 Building Development Code shall take effect ten (10) days after the date of adoption by the Tribal Council. The Building Development Code was codified as a Title of the Tribal Code on November 4, 2010 by Resolution #42-10.

**Section 20.10.02 Amendments**

Title 29 Building and Development Code was amended at the February 2, 2017 Tribal Council meeting by a motion, and again on May 1, 2017 with Tribal Council Resolutions #18-17.