

CHAPTER 4-3 LAND USE AND DEVELOPMENT

GENERAL PROVISIONS

4-3-1 Title

This Chapter shall be known as and may be referred to as the Colville Land Use and Development Chapter.

4-3-2 Authority

The Colville Land Use and Development Chapter is enacted by the Colville Business Council pursuant to its general duty and authority under Article V of the Constitution to exercise the governmental and proprietary powers of the Confederated Tribes of the Colville Reservation; to protect and preserve tribal property, wildlife, and natural resources; to cultivate and preserve Indian culture; and, to protect the health, welfare, and security of the Confederated Tribes of the Colville Reservation, its members, and the interests of all those individuals residing or owning property on the Colville Indian Reservation.

4-3-3 Legislative Intent

(a) The legislative intent of the Colville Business Council in adopting this Chapter is to preserve and protect the political integrity, the economic survival, and the health and welfare of the present and future members of the Confederated Tribes of the Colville Reservation, to exercise the Tribes' powers of self-government and self-determination over all lands of the Colville ~~Indian Reservation Tribes~~; and, to implement the Tribes' Comprehensive Land Use Policy Guidelines.

(b) It is the intention of the Colville Business Council that this Chapter implement the Planning policies adopted by the Council for the Confederated Tribes and the Colville Reservation, as reflected in the Land-Use Plan and other Planning documents. While the Business Council affirms its commitment that this Chapter and any amendment to it be in conformity with adopted Planning policies, the Council hereby expresses its intent that neither this Chapter nor any amendment to it may be challenged on the basis of any alleged non-conformity with any Planning document.

(c) The Colville Land Use and Development Chapter shall apply to all lands ~~established by zoning districts or other property uses of the Colville Reservation, notwithstanding the issuance of any patent. The provisions shall apply to and shall bind all person residing or found within the exterior boundaries of the Reservation, or having title or use or possessory interests to lands of the Reservation within the Colville Reservation set apart by the Executive Order of July 2, 1872, as modified by the Agreement of May 9, 1891. It also applies to any lands held in trust by the United States for the Tribes; all allotments (including fee interests); all lands, wherever located, wholly or partially owned by the Confederated Tribes of the Colville Reservation; any interests in lands held by the Tribes, wherever located; and any lands, wherever located, held in trust by the United States for a member or members of the Colville Tribes.~~

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4-3-4 No Use or Sale of Land or Buildings Except in Conformity with this Chapter Allowed

(a) Subject to the subchapter on non-conformities under this Chapter no person may use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Chapter.

(b) For purpose of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on or in that building or land.

(c) Nothing herein shall prohibit the acquisition of land by the Colville Tribes pursuant to the Tribal Land Acquisition Policy.

4-3-5 Fees

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for zoning, conditional-use, ~~or~~ special-use

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permits, and/or temporary use permits, subdivision plat approval, zoning amendments, variances, and other administrative relief. The amount of fees charged shall be as set forth by resolution of the Colville Business Council upon recommendation by the Planning Department.

Comment [CE(1)]: Currently there is no variance or sliding scale for this. And overlapping fees are technically required.
I suggest redrafting the fee schedule

(b) Fees established in accordance with section 4-3-5 shall be paid upon submission of a signed application, permit, or notice of appeal.

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4-3-6 Computation of Time

(a) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday (including Tribal holidays), that day shall be excluded. When the period of time is less than seven (7) days, intermediate Saturdays, Sundays, and holidays (including Tribal holidays) shall be excluded.

Comment [CE(2)]: Since the Tribes is officially a 4 day week, should Friday be added to the list of days that don't count toward time?

(b) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three (3) days shall be added to the prescribed period.

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4-3-7 Miscellaneous

(a) Words used or defined in one tense or form in this Chapter shall include other tenses and derivative forms.

(b) Words used in the singular in this Chapter include the plural and words used in the plural include the singular.

(c) As used in this Chapter, words importing the masculine gender include the feminine and neuter.

(d) In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, or table, the text shall control.

4-3-8 Zoning Maps

(a) ~~Zoning Map adopted by reference in section 4-3-8(b) or any amendment thereto shall be prepared by authority of the Colville Business Council. A certified print of the adopted approved zoning map(s) or subsequent map amendment(s) shall be maintained without change in by the Planning Department of the Confederated Tribes as long as this Chapter remains in effect.~~

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(b) ~~The boundary for each zone listed in this Chapter is indicated on the Colville Reservation Zoning Map of 1991 established by the Colville Business Council and is hereby adopted by Reference Zoning maps may be updated by Resolution of the Colville Business Council. Such maps will be reviewed and/or updated a minimum of every five (5) years.~~

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4-3-9 Superiority of Chapter

Whenever any laws enacted by any city, municipality, state government or any agencies thereof are found to be in conflict with the provisions of this Chapter, the provisions of this Chapter shall control and supersede all such laws.

4-3-10 Severability

The provisions of this Chapter are severable. Should any section or provision of this Chapter be declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such determination shall not affect the validity of the Chapter as a whole, or any part thereof, other than the specific part declared to be unconstitutional or invalid.

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4-3-11 **Definitions**

Unless otherwise specifically provided or unless clearly required by the context, the following words and phrases as defined in this section shall have the meaning indicated when used in this Chapter:

- (a) “Abutting” having a common border with, or being separated from such common border by, an alley or easement.
- (b) “Access” a means of vehicular approach or entry to or exit from property.
- (c) “Accessory Building or Use” a building or use which:
 - (1) Is subordinate to and serves a principal building or principal use;
 - (2) Is subordinate in area, extent, or purpose to the principal building or principal use served;
 - (3) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and
 - (4) Is located on the same zoning lot as the principal building or principal use.
Examples of accessory uses are private garages, storage sheds, playhouses, and swimming pools.
- (d) “Adjacent Property” those parcels of property with a boundary line nearer than 300 feet to the subject property in the residential, rural, industrial, and commercial zones, and 1,320 feet in game reserves, forestry, and agricultural zones.
- (e) “Agricultural Use” activities related to the growing and harvesting of food, feed, other crops, and animals.
- (f) “Apartment” a dwelling unit contained in a building comprising more than three (3) dwelling units, each of which has an entrance to a hallway or balcony in common with at least one (1) other dwelling unit.
- (g) “Arterial/Collector Streets” roadways which primarily serve local neighborhood residences or businesses with through traffic to other neighborhoods or streets.
- (h) “Buffer/Bufferyard” an area established to protect one type of land use from the undesirable characteristics of another. Usually applied between industrial and residential zones with the requirement being that the industrial zone must provide a buffer strip between its boundaries and that of the residential zone. The purpose is to screen any potential objectionable features resulting from the more intensive utilization of land from neighboring, less-intensive use areas.
- (i) “Building” any structure used or intended for supporting or sheltering any use or occupancy. Where independent units with separate entrances are divided by party walls, each unit is a building.
- (j) “Building line/Setback” a line on the lot, generally parallel to a lot line or right-of-way, located a sufficient distance therefrom to provide the minimum yards required by this Chapter.
- (k) “Bureau of Indian Affairs” that division of the United States Department of Interior charged with trust responsibility of the lands and resources of the Colville Confederated Tribes and the Colville Indian Reservation.
- (l) “Camper” a self-propelled vehicle designed for temporary human habitation or which provides

accessory facilities for overnight camping; also known as a recreational vehicle.

(m) "Campgrounds" sites where tent or trailer camping is allowed but water and power are not provided.

(n) "Comprehensive Land Use Policy Guide" a composite of the Land Use Policy Guide of the Confederated Tribes of the Colville Reservation, all accompanying maps, charts and explanatory material adopted by the Colville Business Council, and all amendments, thereto.

(o) "Conditional-Use Permit" a ~~permit permit issued by the Land Use Review Board or the Planning Director~~ that authorizes the recipient to make use of property in accordance with the requirements of this Chapter as well as any additional requirements imposed by the ~~Review Board~~Planning Commission, ~~or the~~ Planning Director, or the Colville Business Council.

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~
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(p) "Council" or "Colville Business Council" the governing body of the Colville Indian Reservation and Colville Confederated Tribes; ~~and the governmental body that approves, conditions or disapproves "special use" permits under this Chapter.~~

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~

(q) "Dedication" the transfer of property interest from private to public ownership for a public purpose.

(r) "Density" the per capita ratio of persons or family residential units per fixed measure of property; e.g. four single family residences per acre.

(s) "Developer" any person including but not be limited to the legal or beneficial owner(s) of a lot or parcel of land (including the holder of an option or contract to purchase), who is responsible for any undertaking that requires a zoning permit, conditional-use permit or a sign permit.

(t) "Development" the division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Chapter.

(u) "District Boundaries" those divisions of property by which the various zoning classifications (residential, commercial, industrial, etc.) of land uses are defined. District boundaries shall be displayed on the official zoning map.

(v) "Dwelling" any building or portion thereof which is designated or used for residential purposes.

(w) "Dwelling Unit" An enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

(x) "Easement" a right to use some part of the property of another for a particular purpose, such as for a driveway or for installing and maintaining a water line.

(y) "Exterior Storage" outdoor storage of fuel, raw materials, products, and equipment. In the case of lumberyards, exterior storage includes all impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers stored outdoors.

(z) "Family" an individual or two or more persons related by blood, marriage, adoption, or

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guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

(aa) "Floodplain" floodplains may be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous with a lake, stream, or stream bed whose elevation is greater than the waterpool elevation but equal to or lower than the 100-year flood elevation. Inland depressional floodplains are flood-plains not associated with a stream system but which are low points to which surrounding lands drain

(bb) "Floodway" the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this Chapter, the term refers to that area designated as a floodway on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the Planning Department.

(cc) "Forest Use" area containing mature woodlands, woodlands, and/or young woodlands. Activities related to the management and primary production of forest, fish and game resources.

(dd) "Height of Building" the vertical distance measured from the lowest ground elevation to the highest point on such structure. Does not apply to flagpoles, towers, and other similar nonbuilding structures.

(ee) "Home Occupation" Any occupation of a service charter which is clearly secondary to the main use of premises as a dwelling place and does not change the character thereof or have any exterior evidence of such secondary use. This occupation shall be carried on or conducted only by members of a family residing in the dwelling.

(ff) "Impervious Surfaces" impervious surfaces are those which do not absorb water. They consist of all buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute impervious surfaces.

(gg) "Indian Health Service" that division of the United States Public Health Service charged with the trust responsibility of protecting the health of members of the Confederated Tribes of the Colville Reservation and other Indians.

(hh) "Industrial Use" the adding of value, by processing raw or bulk materials, the end products of which are offered for use, or marketed for use at sites other than those at which the end products are produced.

(ii) "Lakes and Ponds" natural or artificial bodies of water which retain water year around. A lake is a body of water of two (2) or more acres. A pond is a body of water less than two (2) acres. Artificial lakes and ponds may be created by dams or may result in excavation. The shoreline of such bodies of water shall be measured from the maximum condition rather than from the permanent pool in the event of any difference.

~~(jj) "Land Use Review Board" or "Review Board" the group of persons appointed under this Chapter when performing the functions delegated to it by this Chapter.~~

~~(kkj)~~ "Lot" a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title and which is occupied by or designated to be developed for one (1) building or principal use, including such open spaces and yards as are designed and arranged or required by this Chapter for such building, use, or development.

~~(kkll)~~ "Lot Area/Size" the total horizontal area within the boundary lines of a lot excluding public and private streets and shorelands.

(~~mmll~~) “Lot of Record” any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

(~~mmmm~~) “Major Highways” roadways primarily designed to carry through traffic between communities or regions.

(~~oenn~~) “Marina” a facility which, as a commercial use, provides moorage or wet or dry storage for watercraft and which may offer marine-related sales and services, a dock or basin providing secure moorings for motorboats, sailboats, and yachts, and offering supply, repair, and other facilities.

(~~oopp~~) “Mobile Home” a transportable, single family dwelling intended for permanent occupancy which is more than thirty-two (32) feet in length and eight (8) feet in width, which by original design is capable of being moved on public streets and highways.

(~~eepp~~) “Mobile Home Parks” a mobile home park is a tract of land developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.

(~~qq#~~) “Motel and Hotel” a building or group of buildings used, or intended to be used, for the lodging of more than ten (10) persons for compensation.

(~~rrss~~) “Nonconforming Use” any use of land or a structure or premises which was lawfully established or built and which has been lawfully continued, but which does not conform to the regulations of the zone in which it is located as established by this Chapter or amendments thereto.

(~~ss~~) “Open Space” land used for outdoor recreation, resource protection, amenity, safety or buffer, including structures incidental to these open spaces uses, but excluding yards required by this Chapter and land occupied by dwellings or impervious surfaces not related to the open space.

(~~uuu~~) “Owner” the person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

(~~vuuu~~) “Parcel” the area within the boundary lines of a development.

(~~wwwv~~) “Person” the word “person” includes individuals, firms, organizations, corporations, associations and any other similar entity.

(ww) “Planning Commission” or “Commission” means the group of persons appointed under this Chapter when performing the functions delegated to it by this Chapter.

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(xx) “Planning Committee” the term shall refer to the Management & Budget Community Development Committee of the Colville Business Council when it is performing the functions delegated to it by this Chapter.

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(yy) “Planning Department” the term shall refer to the Planning Department of the Colville Confederated Tribes.

(zz) “Plat” a plan or map dividing a tract of land into lots or parcels considered to be units or property.

(aaa) “Public Improvement” any improvements, facility, or service together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

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(bbb) "Residential Use" the primary purpose of a building on a lot to provide living accommodations for a person(s).

(ccc) "Recreational Vehicle" a vehicle or unit that is mounted on or drawn by another vehicle primarily designed for temporary living which may be moved on public highways without any special permit for long, wide, or heavy loads. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

(ddd) "Recreational Vehicle Park" a tract of land developed as a unit with individual sites to accommodate, on a transient basis, two or more RVs.

(eee) "Right-of-way" the legal right of passage over another person's ground, such as strips of land for roadways, railroads, transmissions lines.

(fff) "Shoreline" the line at which the surface of the body of water of any lake, stream, or river meet the land.

(ggg) "Sign" a collection of letters, numbers, or symbols which call attention to a business, product, activity, person, or service.

(hhh) "Sign Permit" a permit which authorizes the placement or alteration of a sign on a particular parcel of property or building.

(iii) "Site Development Standards" the standards required on a proposed building site such as, but not limited to, parking, yard area, landscaping, buffer devices, access of public right-of-way, etc.; these standards may vary from site to site.

(jjj) "Special Use Permit" a permit ~~issued by the Land Use Review Board and approved by the Business Council~~ that authorizes the recipient to make use of property in accordance with the requirements of this Chapter as well as any additional requirements imposed by the Colville Business Council.

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(kkk) "Structure" anything constructed or erected.

(lll) "Subdivision" any subdivision or redivision of a sub-division, tract, parcel, or lot of land into two (2) or more parts by means of mapping, platting, conveyance, change or rearrangement of boundaries. All subdivisions are also developments.

(mmm) "Subdivision Major" any subdivision that includes any of the following: ~~other than a minor subdivision.~~

(1) The creation of more than a total of three lots;

(2) The creation of any new public streets; or

(3) The extension of a public water or sewer system.

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(nnn) "Subdivision Minor" a subdivision that does not include any of the following:

(1) The creation of more than a total of three lots;

(2) The creation of any new public streets; or

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(3) The extension of a public water or sewer system.

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(ooo) "Temporary Use Permit" means a permit to ensure that certain uses, of a limited scope, duration and frequency are allowed to operate on a short-term basis. The "temporary uses" shall be conducted so they do not have long-term impacts upon permitted uses, the character of the area in which they are proposed to be located, and people living and working in the area defines these uses and identify standards and criteria that regulate the scope, duration and frequency.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

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(ppp) "Trailer" a dwelling designed for temporary human habitation which is thirty-two (32) feet or less in length and eight (8) feet or less in width and which by original design is capable of being moved on public streets and highways.

(qqq) "Tribal Members" persons who are listed in the official enrollment records of the Confederated Tribes of the Colville Reservation.

(rrr) "Use" the purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

(sss) "Variance" an exception from the application of a zoning regulation granted by proper authority to relieve against practical difficulties and unnecessary hardship.

(ttt) "Wrecking Yard" a place where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, is stored, bought, sold, accumulated, exchanged, disassembled.

(uuu) "Yard" the space between a lot line and a building line. Restrictions stipulate the minimum side or rear yard area, and the percentage of the area of the building lot that may be occupied by the building.

(vvv) "Zone" a portion or portions of the Colville Reservation designated on zoning maps as one of more of the zoning districts listed and described in this Chapter. This Chapter creates structural and use restrictions to be imposed upon the owners of real estate within the prescribed zoning district.

(www) "Zoning Permit" a permit issued by the Planning Department that authorizes the recipient to make use of property in accordance with the requirements of this Chapter.

ESTABLISHMENT OF ZONING DISTRICTS

4-3-40 Establishment of Zoning Districts

(a) The Colville Reservation is hereby divided into zoning districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.

(b) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter, and they must be approved by Resolution of the Colville Business Council.

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4-3-41 Zoning Districts

All land and water areas subject to regulation of the Colville Indian Confederated Tribes of the Colville Reservation are hereby divided into Zoning Districts which shall be designated as follows:

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<u>Name of Zone</u>	<u>Abbreviation</u>
Residential	R
Commercial	C
Rural/Agricultural	RU/AG
Forest	F
Game Management	GM
Industrial	I
Wilderness	W
Special Requirement	SRD

The requirements set by this subchapter within each district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land except as provided by the procedures set forth in this Chapter. No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

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4-3-42 **Interpretation of District Boundaries**

The following rules shall be used to determine the precise location of any zone boundary shown on the Official Zoning Map of the Colville Reservation.

- (a) Boundaries shown as following or approximately following section lines, half-section lines or quarter-section lines shall be construed as following such lines.
- (b) Boundaries shown as following or approximately following shorelines of any lake shall be construed to follow the mean high waterlines of such lake and, in the event of change in the mean high waterline, shall be construed as moving with the actual mean high waterline.
- (c) Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at mean low water and, in the event of a natural change in the location of such streams, rivers, or other water courses, the zone boundary shall be construed as moving with the channel centerline.
- (d) Boundaries shown as following or approximately following the limits of any municipal corporation shall be construed as following such limits.
- (e) Boundaries shown as following or approximately following streets shall be construed to follow the centerline of such streets.
- (f) Boundary lines which follow or approximately follow plot lot lines or other property lines as shown on the Bureau of Indian Affairs Realty Map shall be construed as following such lines.
- (g) Boundary lines which divide a parcel of land, which is less than one (1) acre, under a single ownership at the time of passage of this Chapter, the least restrictive regulations may be extended to that portion lying in the more restrictive use district for a distance not to exceed thirty-five (35) feet beyond the use district boundary.
- (h) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs (a) through (g) above shall be construed to be parallel to such features and at such distances therefrom as are shown on the map. In the event there is a question on the actual location of a boundary, the Community Development Committee shall rule on this matter.

4-3-43 **Statement of Purpose, Intent, and Permitted Uses**

The following sections specify the purpose, intent, and permitted uses of the zoning districts established by this Chapter.

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4-3-44 Residential District

~~The Residential District is intended to provide and protect residential land, properly located for families who desire to live in an environment of single family dwelling who do not want, or have no need for larger lots.~~

(a) Permitted Uses: The following uses and their accessory uses are permitted upon the issuance of a zoning permit.

- (1) Single family dwellings and mobile homes;
- (2) Two family dwellings;
- (3) Multiple family dwellings and apartment house;
- (4) Public parks and playgrounds; or accessory uses customarily incidental to the above uses are permitted only in conjunction with such uses.

(b) Conditional Uses: The following uses may be permitted subject to the requirements of section 4-3-118 to 4-3-122 and upon the issuance of a zoning permit:

- (1) Churches;
- (2) Home occupations;
- (3) Fraternal organizations, lodges, grange halls, and clubs;
- (4) Public and private schools; mobile homes and/or travel trailers used as dwellings, not in a permitted mobile home park or trailer court; farming, gardening, orchards and nurseries, provided that no retail or wholesale business office is maintained; or
- (5) Where the side of a lot abuts on a Commercial or Industrial District, the following transitional uses are permitted provided they do not extend more than one-hundred (100) feet into the more restricted (residential) district.
 - (A) Medical or dental offices and clinics;
 - (B) Other uses of a transitional nature as determined by the Review Board.

These transitional uses shall conform to all other requirements of this Chapter which shall apply.

(c) Density Provision:

- (1) Lot Size and Percentage of Coverage: The minimum lot size for any structure hereafter erected upon any lot or plot shall have an area of seven thousand five hundred (7,500) square feet. The building including its accessory building shall not cover more than fifty (50) percent of the total lot area.
- (2) Minimum Set-Back Requirements:
 - (A) Front yard - 25 feet
 - (B) Side yard - 15 feet
 - (C) Rear yard - 25 feet (5 feet for garage)
- (3) Maximum Building Height: 35 feet or 2½ stories

(d) Other Regulations: Off street parking requirements - 2 per unit.

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4-3-45 **Commercial District**

The Commercial District is intended to provide for business establishments serving the needs of trade area residents, especially retail and service businesses. Permitted uses are intended to create a business district free from conflicting uses.

(a) Permitted Uses: The following uses and their accessory uses are permitted upon the issuance of a zoning permit.

- (1) Retail and wholesale sales;
- (2) Professional offices, such as, finance, insurance, and real estate services;
- (3) Business services including any warehousing and storage services;
- (4) Eating and drinking establishments;
- (5) Churches;
- (6) Automobile filling stations and parking;
- (7) Motels and hotels; or
- (8) Indoor and outdoor recreational uses.

(b) Conditional Uses:

- (1) Charitable institutions and orphanages;
- (2) Fraternal organizations, lodges, grange halls, and clubs;
- (3) Hospitals, sanitariums, nursing homes, and institutions for philanthropic and similar uses, other than correction; or
- (4) Light manufacturing clearly incidental to a retail business lawfully conducted on the premises and not prohibited in the Industrial District.

(c) Density Provisions:

- (1) Lot Size and Percentage of Coverage: The minimum lot size for any structure hereafter erected shall upon any lot or plot shall have an area of twenty thousand (20,000) square feet. The building, including its accessory building, shall not cover more than sixty-five (65) percent of the total lot area.
- (2) Minimum Set-Back Requirements:
 - (A) Front yard - 40 feet;
 - (B) Side yard -10 feet;
 - (C) Rear yard - none required.
- (3) Maximum Building Height: No building shall exceed a height of forty-five (45) feet

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or three and one half (3½) stories, whichever is the lesser.

(d) Other Regulations:

(A) Off-street parking requirements;

(B) One off-street parking space per 200 square feet.

4-3-46 Rural/Agricultural District

The Rural District is intended to preserve those ~~portions of the reservation areas~~ which contain prime agricultural soils for agricultural purposes and to also provide low density development in outlying areas or where physical constraints such as soil, availability of water or topography require larger lot sizes. A density of one dwelling per five (5) acres is allowable. The Agricultural District includes orchards, farming, and animal range management of lands and their related activities.

(a) Permitted Uses: The following uses and their accessory uses are permitted upon the issuance of a zoning permit.

(1) Agricultural crops;

(2) Horticultural nurseries;

(3) Tree farms;

(4) Fish farms;

(5) Pasture and grazing;

(6) The raising of livestock, poultry, and small animals for private and commercial purposes;

(7) Home occupations;

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(8) Private and commercial kennels;

(9) Single family dwellings;

(10) Public parks and playgrounds;

(11) Planned residential development;

(12) Truck gardening activities and stands.

(b) Conditionally Permitted Uses: The following uses may be permitted subject to the requirements of sections 4-3-118 to 4-3-122 and upon issuance of a zoning permit.

(1) Animal hospitals;

(2) Fraternal organizations, lodges, grange halls, and clubs;

(3) Charitable institutions and orphanages;

(4) Public or private schools;

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- (5) Churches;
- (6) Airport facilities;
- (7) Private or public recreational facilities;
- (8) Hospitals, sanitariums, nursing homes, and institutions for philanthropic and similar uses, other than correction;
- (9) Boat launchings;
- (10) Golf courses; or
- (11) Professional buildings.

(c) Density Provisions:

(1) Lot Size: The minimum lot size shall not be less than five (5) acres.

(2) Minimum Set-Back Requirements:

(A) Front yard - 70 feet

(B) Side yard - 15 feet

(C) Rear yard - 25 feet

(3) Maximum Building Height: Maximum building height shall not exceed forty-five (45) feet.

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4-3-47 Forestry District

The Forestry District is designed to provide for the development and use of forest land for the production of forest products as well as to allow forestry management and related activities, including uses by tribal members for culturally related activities such as hunting, fishing, and food gathering.

(a) Permitted Uses: The following uses and their accessory uses are permitted in the Forestry zone upon the issuance of a zoning permit.

- (1) The growing and harvesting of forest products and all operations associated with such uses;
- (2) Timber production;
- (3) Grazing;
- (4) Fish and game management;
- (5) The harvesting of wild crops;
- (6) Watershed;
- (7) Greenhouses and nurseries;

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(8) Agriculture and husbandry pursuits; or

(9) Single family dwellings associated with forest production.

(b) Conditionally Permitted Uses: The following uses may be permitted subject to the requirements of sections 4-3-118 to 4-3-122 and upon issuance of a zoning permit.

(1) Public and private camps or campgrounds;

(2) Sawmills.

(c) Density Provision:

(1) Lot Size: The minimum building site or lot size for residential uses shall be twenty thousand (20,000) square feet.

(2) Minimum Set-Back Requirements:

(A) Front yard - 70 feet

(B) Side yard - 15 feet

(C) Rear yard - 25 feet

(3) Maximum Building Height: Building height in no case will exceed forty-five (45) feet.

(d) Other Regulations:

(1) Off-street parking requirements;

(2) One off street parking space per two-hundred (200) square feet.

4-3-48 Game Management District

The Game Management District is designed to retain land for game management. This district is established to prevent uncontrolled development and protect natural environmental systems. Included in this section are lands the Tribes Wildlife Mitigation Program. Site-specific management plans for mitigation units contain management objectives and criteria for allowable uses. Any and all permitted uses on Mitigation program properties are subject to contractual obligations set forth in an MOA between the Colville Tribes, Bureau of Indian Affairs, and Bonneville Power Administration.

(a) Permitted Uses: The following uses and their accessory uses are permitted in the game management district zone upon the issuance of a zoning permit.

(1) Grazing or livestock: A Range or Farm Plan shall be required for review and approval by the CCT Fish and Wildlife Department and Range Department;

(2) Harvesting wild crops;

(3) Selective timber production and salvage;

(4) Hiking and bridle trails;

(5) Day camp areas and picnic grounds;

(6) Cutting of teepee poles and fence posts;

(7) Hunting, fishing, and trapping as designated under the Colville Tribes Hunting and

Fishing Regulations;

(8) Wildlife preserves;

(9) Educational and recreational camps; or

(10) Management associated with resource protection.

(b) Conditionally Permitted Uses: The following uses may be permitted subject to the requirements of sections 4-3-118 to 4-3-122 and upon issuance of a zoning permit.

(1) Single family dwellings associated with resource protection;

(2) Recreational areas.

(c) Density Provision:

(1) Lot Size: The minimum building site or lot size shall be twenty thousand (20,000) square feet.

(2) Minimum set back requirements:

(A) Front - 70 feet

(B) Side - 15 feet

(C) Rear - 25 feet

(3) Maximum Building Height: The maximum height limit for all structures within this zone shall be one and one-half (1 ½) stories or sixteen (16) feet, whichever is less.

(d) Other Regulations:

(1) Off street parking requirements;

(2) One off street parking space per two-hundred (200) square feet.

4-3-49 **Industrial District**

The Industrial District is intended to provide adequate and appropriately located land for the types of manufacturing and other industries which normally have characteristics objectionable to residential, commercial, and even to certain agricultural uses and, therefore, should be placed at locations remote from residential and certain other districts.

(a) Permitted uses: The following uses are permitted in the Industrial zone upon issuance of a zoning permit.

(1) Forest and timber production;

(2) Agricultural supplies, machinery, and equipment sales;

(3) Automobiles, mobile homes, boat, motor sales, and travel trailer sales and service agencies;

(4) Automobile service stations;

- (5) Storage, grading, freight, and truck yard or terminals;
- (6) Farming, gardening, orchards, vineyards, and grazing;
- (7) Feed, seed, and garden supplies;
- (8) Fuel distributor;
- (9) Glass sales and installations;
- (10) Nursery or greenhouses;
- (11) Professional, executive and administrative offices;
- (12) Veterinary clinic and/or kennels;
- (13) Airports;
- (14) Wholesale business, storage buildings and warehousing;
- (15) The manufacturing, processing, compounding, packaging or treatment of such products as drugs, bakery goods, food, candy, beverage products, dairy products, cosmetics, and toiletries;
- (16) The manufacture, assembly, compounding or treatment of articles or merchandise from the following materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, metal, paper, plastics, precious and semi-precious minerals, shell, textiles, tobacco, wood, yarns, and paint; or
- (17) Uses customarily incidental to any of the above listed, including dwellings or shelters for the occupancy of guards, watchmen, or caretakers, or dwelling for the occupancy of the operators and employees necessary to the operation.

(b) Conditionally Permitted Uses: Because of the consideration of odor, dust, smoke, noise, fumes, vibration or hazard, the following uses shall not be permitted in the Industrial District unless a special-use permit authorizing such use has been granted by the Land Use and Development Review Board and approved by the Business Council; subject to the requirements of sections 4-3-118 to 4-3-122 and the subchapter on Special Property Uses under this Chapter.

- (1) Acid manufacturer;
- (2) Asphalt manufacture, mixing or refining;
- (3) Blast furnaces or coke ovens;
- (4) Cement, lime, gypsum, or plaster of paris manufacture;
- (5) Drop forge industries;
- (6) Explosives, storage or manufacture;
- (7) Reduction or disposal of garbage, offal or similar refuse;
- (8) Oil refining;

- (9) Rock crushers;
- (10) Rubbish or refuse dumps;
- (11) Rubber reclaiming;
- (12) Smelting, reduction or refining of metallic ores or any other type of natural resources;
- (13) Tanneries;
- (14) Wineries;
- (15) Manufacturing of industrial or household adhesive, glues, sizes, or cements, or component parts thereof, from vegetable, animal or synthetic plastic materials.

(c) Density Provisions:

- (1) Lot size: There are no lot size or lot coverage requirements in this zone.
- (2) Set back requirements:
 - (A) Front, side and rear: None required except as may be required by a specialuse permit, conditional-use permit, or unless this property abuts a parcel of land located in a more restricted district. If an established building line exists a setback shall be the same as the established building line as determined by the Colville Business Council or de-signee.
 - (B) If any use in this district abuts or faces any residential district, a minimum setback of fifty (50) feet on the side abutting or facing the residential district shall be provided. This area shall be landscaped with lawn, trees, shrubs, hedges, and the like, or other conditions necessary to buffer and to protect the character of the residential district. Such landscape plan must have the approval of the Land Use Review Board.
- (3) Maximum Building Height: The maximum height limit for all structures within this zone shall be three and one-half (3 1/2) stories or forty-five (45) feet, whichever is less.

(d) Other Regulations:

- (1) Off-street parking and loading requirements:
 - (A) Parking: One off street parking space per employee.
 - (B) Loading: Loading space shall be provided at the following rates:

Aggregate Gross Floor Area in <u>Square Feet</u>	Minimum No. Loading <u>Space</u>
0 - 16,001	1
16,000 - 40,002	2
For Each 35,000	1 additional

Such spaces shall be inside of rear yards unless the developer provides evidence, satisfactory to the Review Board, of the need for other locations. A loading space shall not be less than forty (40) feet long, twelve (12) feet wide and

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fourteen (14'-6") feet six inches high. Loading space will be required in case of under ten thousand (10,000) square feet uses not involving routine truck delivery.

(2) Right-of-way preservation: There shall be a minimum building set-back for all buildings or other structures from the centerline of right-of-way as follows:

<u>(A) Right-of-Way, Public</u>	<u>Set-Back</u>
Major or secondary arterial	40 feet
Collector or access roads	30 feet

<u>(B) Right-of-Way, Private</u>	<u>Set-Back</u>
Any road, lane, street or other access way in private ownership	30 feet
Any waterway, lake, stream or spring	100 feet

4-3-50 Wilderness District

The purpose and function of this district is to assure that an increasing reservation population does not occupy or modify all areas within ~~the exterior boundaries of the Colville Reservation~~ regulated lands. This district is protected and managed so as to preserve its natural conditions.

(a) Permitted Uses: The following uses are permitted in the wilderness zone upon issuance of a zoning permit.

- (1) Hiking and horseback riding;
- (2) Hunting and fishing in accordance with Colville Tribal Fish and Wildlife regulations;
- (3) Camping;
- (4) Educational field trips;
- (5) Historical and cultural field trips.

(b) Conditionally Permitted Uses: The following uses may be permitted subject to the requirements of sections 4-3-118 to 4-3-122 and upon issuance of a zoning permit.

- (1) Scientific Research;
- (2) Conservation Management;
- (3) Selective timber harvesting where necessary to control attacks of insects or disease;
- (4) Similar recreational, educational and historical uses as determined by the Business Council or Land Use Review Board.

(c) Prohibited Uses: The Wilderness District shall be protected against man-made developments such as commercial enterprise, structures or installations, and roads. There shall be no temporary roads, no use of motor vehicles or motorized equipment, no other form of mechanical transport, and no structure or installation except as necessary to meet minimum requirements for the administration of the areas.

The Wilderness District shall be protected against mining, timber ~~harvest~~ harvest, and grazing. Resource surveys may be permitted if such activity is carried on in a manner compatible with the preservation of the wilderness environment. There shall be no cutting or otherwise damaging of

any timber, tree, or other forest products; removing, loading, or hauling of any timber, except as provided in section 4-3-50 (b)(3). There shall be no placing or allowing livestock to enter or be in the Wilderness District.

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4-3-51 **Special Requirement District**

The purpose and function of the Special Requirement District (SRD) is to freeze all existing uses and require a conditional-use permit for any and all uses, including any modifications, addition change or expansion of an existing use pending detailed study by the Colville Tribes to determine appropriate use designation.

The areas designated as the SRD have experienced the greatest build up and are expected to have the largest amount of future growth. The SRD also exhibits the widest range of disparate, inconsistent existing uses. Before any decision as to appropriate use designations can be made further study and planning must be done.

Until such intensive planning can be accomplished, any use shall be considered a conditional use subject to the requirements of sections 4-3-118 to 4-3-122.

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ADMINISTRATIVE MECHANISMS

4-3-80 **The Land Use Review Board Colville Tribes Planning Commission**

(a) Establishment of the Review Board Colville Tribes Planning Commission:

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~~(1) There is hereby created the Colville Tribes Planning Commission (Commission) which shall consist of five (5) voting members. These members will be selected by the applicable Program Director or Program Manager for each Program/Department listed below. The members shall be selected without respect to political or tribal affiliation except as otherwise set forth herein and shall serve without compensation except for approved expenses. Provided, there must be at least one resident of Ferry County and one resident of Okanogan County on the Commission. There is hereby created the Land Use Review Board which shall consist of seven voting member, all of whom shall be appointed, by the Colville Business Council. The members shall be selected without respect to political or tribal affiliation except as otherwise set forth herein and shall serve without compensation except for approved expenses. Provided, the Business Council shall appoint two non-Indian residents of the reservation (one each from Ferry and Okanogan County) in consultation with the commissioners of their respective county of residence.~~

~~(2) All Review Board members must be residents of the Colville Indian Reservation for more than four years. The Review Board shall consist of at least one resident from each of the reservation districts.~~

~~(2) The Commission shall consist of one (1) employee from each of the following Programs/Departments and the representative will be selected by the appropriate Program Manager/Director:~~

- ~~_____ (A) Environmental Trust~~
- ~~_____ (B) Fish & Wildlife~~
- ~~_____ (C) History & Archaeology~~
- ~~_____ (D) Planning~~
- ~~_____ (E) Public Works~~

~~(3) The individual who sits on the Commission may not provide comment on pending applications during the open comment periods. If a Commissioner provided comment, they will recuse themselves from voting on the matter~~

~~(4) Of the regular voting members, initially, two shall be appointed for a term of three years, two~~

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shall be appointed for two years, and three shall be appointed for one year. Thereafter, members shall serve a period of three years. Vacancies shall be filled by appointments for the remainder of unexpired terms only.

(54) If the term of a voting member expires, the current member shall continue to hold the position until replaced.

(6) The Review Board Commission shall exercise all powers, duties and responsibilities delegated to it by this Chapter.

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(b) Meetings:

(1) The Review Board Commission shall establish a regular meeting schedule, and shall meet frequently enough so that it can take expeditious action and accommodate the business before it. Special meetings may be called by the chairperson, or requested by a majority of the members of the board Commission.

(2) The Review Board Commission should conduct its meetings in accordance with the quasi-judicial procedures set forth in the subchapters on permits and final plat approval; appeals, variances, interpretations; and Hearing Procedures for Appeals and Applications under this Chapter.

(3) All meetings of the Review Board Commission shall be open to the public, and whenever feasible, the agenda for each board meeting shall be made available in advance of the meeting. Provided, the chairperson, in his sole discretion may call a meeting into executive session when he determines it is in the interest of the Colville Confederated Tribes to do so.

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(c) Quorum:

(1) Three members of the Commission, including the Chairperson, shall constitute a quorum. A quorum is necessary for the Commission to take official action. A simple majority of the members of the Review Board, including the chairman, shall constitute a quorum. A quorum is necessary for the board to take official action.

(2) If a board member Commissioner excludes himself from participating in any decision, his presence shall count for purposes of determining whether a quorum is present.

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(d) Voting:

(1) A majority shall be necessary to reverse any order, requirement, decision, or determination of the Planning Director or Administrator. The concurring vote of 2/3 of the regular board membership shall be necessary to reverse any order, requirement, decision, or determination of the Planning Director or Administrator. All other actions of the board shall be taken by majority vote, a quorum being present.

(2) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with section 4-3-80(d)(3) or has been allowed to withdraw from the meeting

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~~in accordance with section 4-3-80(d)(4).~~

~~(32) A member-Commissioner may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:~~

~~(A) If the member has a direct financial interest in the outcome of the matter or issue; or~~

~~(B) If the matter at issue involves the members own official conduct; or~~

~~(C) If participation in the matter might violate the letter or spirit of the member's code of professional responsibility, or~~

~~(DC) If a member-Commissioner has such close personal ties to the applicant (including being the applicant) that the Commissioner member cannot reasonably be expected to exercise sound judgment in the public interest, or~~

~~(E) The Commissioner participated in earlier stages of the application process (such as providing comment).~~

~~(43) A member-Commissioner may be allowed to withdraw from the entire remainder of the meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.~~

~~(5) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.~~

~~(64) A roll call vote shall be taken upon the request of any member.~~

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~

~~(e) Review Board-Commission Officers:~~

~~(1) The Board-Commission shall elect its own Chairperson who shall preside over the committee meetings pursuant to this Chapter and create and elect such other officers as it may deem necessary.~~

~~(2) The Chairperson, or any member temporarily acting as Chairperson, may administer oaths to witnesses coming before the Board-Commission.~~

~~(3) The Chairperson and any other officer elected may take part in all deliberations and vote on all issues, unless excused for the reasons listed in subsection 4-3-80(d)(2).~~

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~

~~(f) Powers and Duties of the Review Board-Commission:~~

~~(1) The Review Board-Commission shall herein decide:~~

~~(A) Appeals from any order, decision, requirement, or interpretation made by the Planning Director or Administrator, as provided in section 4-3-170. Applications for special use permits, as provided in section 4-3-118 and the subchapter on Special Property Uses under this Chapter.~~

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(B) Applications for variances, ~~as provided in section 4-3-171. Applications-~~
~~(C) Applications~~ for
conditional uses referred by the Planning Director pursuant to section 4-3-
118(b)(4).

~~———— (Amended 5/2/96, Certified 5/8/96, Resolution of 1996-155)~~

~~(D)~~ Questions involving interpretations of the zoning map, including disputed
boundary lines and lot lines, as provided in section 4-3-41.

~~(E)~~ Any other matter the
~~Board Commission~~ is required to act upon by any other tribal law.

(2) The ~~Review Board~~Commission may adopt rules and regulations governing its procedures and
operations not inconsistent with the provisions of this Chapter and tribal law. Such rules and
regulations shall be available to the public and housed with the Planning Department.

(3) The ~~Review Board~~Commission, in its sole discretion, may appoint a hearing officer to conduct
the
hearing(s) provided in section 4-3-118 on any conditional-use ~~or special-use permits~~
application then pending before the ~~Commission~~board.

The hearing officer shall conduct the hearing in accordance with the provisions of this
Chapter and submit specific findings of fact, conclusions and a proposed decision to the
~~Commission.~~
board.

(4) The Review Board in consultation with the Planning Director may recommend a fee
schedule to be adopted by Colville Business Council as provided in section 4-3-5.

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4-3-81 **Planning Director and Land Use Administrator**

(a) Primary Responsibility for Administration and Enforcement: Except as otherwise specifically
provided, primary responsibility for administering and enforcing this Chapter is with the Planning
Director. The Planning Director may delegate this responsibility to one or more individuals. The
person or persons to whom these functions are assigned shall be referred to in this subchapter as
the "Land Use Administrator" or Administrator. The term "Staff" or "Planning Staff" is
sometimes used interchangeably with the term "Administrator".

(b) Power of Planning Director: The Planning Director is the administrative head of the Planning
Department. As provided in sections 4-3-134 and 4-3-135 the Planning Director is authorized to
approve major and minor subdivision final plats. As provided in section 4-3-118(b), the Planning
Director is authorized to approve conditional-use permits or upon a finding that the proposed
development has the potential to ~~significantly adversely have a significant affect~~adverse effect on the
environment or cultural
resources, to refer the conditional-use permit application to the ~~Land Use Review Board~~Planning
Commission. As the
person primarily responsible for administering and enforcing this Chapter, he determines the
completeness of applications and the adequacy of submissions based on the requirements of this
Chapter. He makes requests for information and ensures that all applicable permits required by tribal laws
are received prior to approval of land use permits. If an incomplete application is submitted, the applicant
must be notified and given the opportunity to complete the application. If this does not occur the
application must be denied, determines the applicability of environmental
regulations and other tribal laws to a particular development.

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~
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(c) Responsibility of Land Use Administrator: The Land Use Administrator shall have the

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following duties and responsibilities:

- (1) Receive and review all application for zoning permits required herein;
- (2) Process zoning permits and conditional-use permit applications for all permitted uses;
- (3) Receive applications for special-use, variance or amendment and forward same to the ~~Land Use Review Board~~ Planning Commission;
- (4) Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans and documents shall be a public record.

~~(d) Further, if by amendment to this Chapter~~ any zone boundary or any other matter shown on the Official Zoning Map is changed by action of the Colville Business Council, such change shall be promptly indicated on said map by the Administrator, together with the date of passage of the ~~Resolution e-amendment~~ Resolution e-amendment and sufficient written description to give a precise understanding of the change. An up-to-date copy of the Official Zoning Map shall be available for public inspection in the Planning Department during its regular business hours.

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4-3-82 Colville Business Council

(a) Powers and Duties of Colville Business Council: The Colville Business Council shall decide under this Chapter:

- (1) Zoning map adoption or revision;
- (2) Adoption and amendment of this Chapter and any regulations adopted pursuant to it;
- (3) Rezone applications;
- (4) Special-use permit approval.

(b) Quasi-Judicial Actions: In considering rezone permit applications, the Business Council acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in the subchapters on Permits and Final Plat Approval; Appeals, ~~Variances~~, Interpretations; and Hearing Procedures for Appeals and Applications under this Chapter.

(c) Legislative Actions: In considering proposed changes in the text of this Chapter, or in the zoning map, the Colville Business Council acts in its legislative capacity and shall ~~proceed only after holding a public hearing after which it can deliberate on the facts and policy considerations involved in the proposed amendment~~ follow the Code amendment process outlined in Chapter 1-6 of this Code and the associated procedures.

(d) General Council Rules Applicable: Unless otherwise specifically provided in this Chapter, in acting upon rezone requests or in considering amendments to this Chapter or the zoning map, the Colville Business Council shall follow the regular, voting, and other requirements as set forth in other provisions of the Colville Tribal Code, the Colville Tribal Constitution, or general law.

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PERMITS AND FINAL PLAT APPROVAL

4-3-110 Permits Required

(a) The use made of any property may not be substantially changed; substantial clearing, grading, or excavation may not be commenced; and, buildings and other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to

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one of the following permits:

- (1) A zoning permit issued by the Administrator and approved by the Planning Director;
- (2) A conditional-use permit issued by the ~~Review Board~~Planning Commission;
- (3) A special-use permit issued by the ~~Review Board upon approval of the~~ Colville Business Council; or
- (4) A temporary-use permit issued by the Administrator.

(b) Zoning permits, conditional-use permits, special-use permits, and temporary-use permits are issued under this Chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as provided in section 4-3-127 all development shall occur strictly in accordance with such approved plans and applications.

(c) Physical improvements to lands to be subdivided may not be commenced except in accordance with a conditional-use permit issued by the ~~board~~Planning Commission for major subdivisions or after final plat approval by the Planning Director for minor subdivisions (see section 4-3-135).

(d) A zoning permit, conditional-use permit, special-use permit, or temporary-use permits shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

4-3-111 No Occupancy, Use, or Sale of Lots until Requirements Fulfilled

Issuance of a conditional use, or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit under Chapter 6-10) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in sections 4-3-117, 4-3-124, and 4-3-125, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this Chapter and all additional requirements imposed pursuant to the issuance of a conditional-use or special-use permit have been complied with.

4-3-112 Who May Submit Permit Application

(a) Applications for zoning, conditional-use, or special-use permits, or minor subdivision plat approval will be accepted only from persons who have the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general, this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this subchapter, or the agents of such persons (who may make application in the name of such owners, lessees, or contract venders).

(b) The Administrator may require an applicant to submit evidence of his authority to submit the applications in accordance with subsection (a) ~~whenever there appears to be a reasonable basis for questioning this authority.~~

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4-3-113 Applications to be Complete

(a) All applications for zoning, conditional-use, or special-use permits must be complete before the permit-issuing authority is required to consider the application.

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(b) Subject to subsection (c), an application is complete when it contains all of the information that is necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Chapter.

(c) A presumption established by this subchapter is that all of the information set forth in subsection (a) is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of a particular case. The Administrator shall determine whether more or less information than set forth in subsection (a) should be submitted.

(d) The Administrator shall develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and types of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the Administrator to determine compliance with this Chapter, such as applications for zoning permits to construct single family or two-family houses, the Administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information. These forms, instructional sheets, etc. must be approved by the Planning Director.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

Comment [CE(3)]: there is not a list of requirements in subsection a and the rest of this section reads as if there should be. What are the basic requirements for a complete application? please add them to subsection a or provide the list and I will add to subsection a

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4-3-114 **Staff Consultation before Formal Application**

(a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Chapter, pre-application consultation between the developer and the Planning staff is encouraged or required as provided in this section.

(b) Before submitting application for a conditional-use permit authorizing a development that consists of, or contains a major subdivision, the developer shall submit to the Administrator a sketched plan of such subdivision, drawn approximately to scale, (1" equals 100'). The sketch plan shall contain:

- (1) The name and address of the developer,
- (2) The proposed name and location of the subdivision,
- (3) The approximate total of acreage of the proposed subdivision,
- (4) The tentative street and lot arrangement,
- (5) Topographical lines and,
- (6) Any other information that the developer believes necessary to obtain the informal opinion of the Planning staff as to the proposed subdivision's compliance with this Chapter.

(c) The Administrator shall meet with the developer as soon as conveniently possible to review the sketched plan.

(ed) Before submitting an application for any other permit, developers are strongly encouraged to consult with the Planning staff concerning the application of this Chapter to the proposed development.

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4-3-115 **Staff Consultation after Application Submitted**

(a) Upon receipt of a formal application for a zoning permit, a conditional-use permit, a special-use permit, a temporary use permit, or minor plat approval, the Administrator shall review the application and confer with the applicant to insure that he understands the Planning staff's

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interpretation of the applicable requirements of this subchapter, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(b) If the application is for a ~~special-use or~~ conditional-use permit, the Administrator shall place the application on the agenda of the ~~Land Use Review Board~~Planning Commission when the applicant indicates that the application is as complete as he intends to make it. However, as provided in sections 4-3-119(a) and 4-3-120(b), if the Administrator believes that the application is incomplete, he shall recommend ~~to the board~~ that the application be denied on that basis.

(c) If the application is for a special-use permit, the Administrator shall work with the Office of the Reservation Attorney and place the application on the Community Development Committee agenda when the applicant indicates that the application is as complete as he intends to make it. However, as provided in sections 4-3-119(a) and 4-3-120(b), if the Administrator believes that the application is incomplete, he shall recommend that the application be denied on that basis.

(de) If the application is for a temporary-use permit, the Administrator shall review the application to assure that all relevant requirements and other pertinent materials are included and that the application is complete. The Administrator shall require the applicant to obtain all required documents before approving any temporary-use permits pursuant to section 4-3-323.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
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4-3-116 Zoning Permits

(a) A completed application form for a zoning permit shall be submitted to the Administrator by filing a copy of the application with the Administrator at the Planning Department.

(b) The Administrator shall issue the zoning permit unless he finds after reviewing the application and consulting with the applicant as provided in section 4-3-114 that;

(1) The requested permit is not within his authority to issue according to the table of permissible uses; ~~or~~

(2) The application is incomplete; or

(3) If completed as proposed in the application, the development will not comply with one or more requirements of this Chapter.

(c) If the Administrator determines that development for which a zoning permit is requested will have, or may have, substantial impact on surrounding properties, he shall, at least ten (10) days before taking final action on the permit ~~request~~application, send a written notice to those persons whose property is adjacent to the lot that is the subject of the application, informing them that:

(1) An application has been filed for a permit authorizing the identified property to be used in a specified way;

(2) All persons wishing to comment on the application should contact the Administrator by a certain date; and

(3) Persons wishing to be informed of the outcome of the application should send a written request to the Administrator for such notification.

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4-3-117 Authorizing Use or Occupancy before Completion of Development under Zoning Permit

In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning

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permit recipient to comply with all of the requirements of this Chapter prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or occupying any building (insofar as the requirements of this Chapter are concerned), if the permit recipient provides a performance bond or other security satisfactory to the Administrator to ensure that all of the requirements of this Chapter will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Administrator.

4-3-118 Special-Use Permits and Conditional-Use Permit

(a) An application for a special-use permit under the subchapter on Special Property Uses under this Chapter shall be submitted to the ~~Review Board~~Colville Business Council by filing a copy of the application with the Administrator at the Planning Department. If the Administrator determines that the application is complete he will coordinate with the Office of the Reservation Attorney to add the application to the Community Development Committee. If the Administrator determines the application is not complete, he will work with the applicant to gather the required information.

(b) An application for a conditional-use permit under the subchapter on Special Property Uses under this Chapter shall be submitted to the Planning Director by filing a copy with the Administrator at the Planning Department. The Planning Director shall issue the requested permit unless it concludes that:

- (1) The requested permit is not within his or her authority to issue according to the criteria of permissible uses; or
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Chapter; or
- (4) The Planning Director makes a finding, based on information contained in the completed application, that the proposed development has the potential to:

- (A) ~~have significantly~~adversely affect effects on the environment; or
- (B) ~~have significantly~~adversely affect effects on cultural resources.

(5) If the After making such a finding, the PPlanning Director finds that he lacks authority to approve the application, he shall refer the application to the Land Use Review BoardPlanning Commission for processing.

(c) After receiving an application for a conditional-use permit ~~or special-use permit~~ pursuant to section 4-3-118(b)(4), the ~~Review Board~~Planning Commission shall conduct a hearing to determine whether the application complies with all other provisions of this Chapter. If, after hearing, the ~~Review Board~~Planning Commission determines that the application is complete and the application complies with all other provisions of this Chapter, the ~~Review Board~~Planning Commission may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety; or
- (2) Will substantially injure the value of an adjoining or abutting property; or
- (3) Will not be in harmony with the area in which it is to be located; or

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(4) Will not be in general conformity with the land use plan, or other plan officially adopted by the Colville Business Council; or

(5) Will significantly adversely affect the environment; or

(6) Will significantly adversely affect cultural resources.

(d) After receiving an application for a special-use permit pursuant to section 4-3-118(a), the Community Development Committee will consider the application, and comments received regarding the application to determine whether the application complies with all provisions of this Chapter, and any other applicable Tribal law. If, after Committee Discussion, the Committee determines that the application complies with all provisions of this Chapter and applicable Tribal law, they will recommend to the full Business Council that the application be approved. If the Committee determines, based upon the information submitted with the application and comments and at the Committee discussion, that the proposed development more probably than not will cause the following, then the Committee may recommend to the Colville Business Council that the application be denied:

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(1) materially endanger the public health or safety;

(2) substantially injure the value of an adjoining or abutting property;

(3) not be in harmony with the area in which it is to be located;

(4) not be in general conformity with the land use plan, or other plan officially adopted by the Colville Business Council;

(5) have significant adverse effects on the environment;

(6) have significant adverse effects on cultural resources; and/or

(7) find that the development is not in the best interest of the Tribes or its members.

(d) The decision of the Colville Business Council regarding special-use permit applications is final and not appealable.

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4-3-119 Review Board Planning Commission Hearings; Burden of Presenting Evidence; Burden of Persuasion

The following procedures shall apply to hearings on conditional-use permits, ~~and special use permits~~ which have been referred to the Review Board Planning Commission; ~~by the Planning Director~~:

(a) The burden of presenting a complete application (as described in section 4-3-113) to the Administrator shall be upon the applicant. However, unless the Review Board Planning Commission informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.

(b) Once a completed application has been submitted, the burden of presenting evidence to the Review Board Commission sufficient to lead it to conclude that the application should be denied for any reason stated in the subsection 4-3-118(c), shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.

(c) Burden of persuasion on the issue of whether the development, if completed as proposed, will

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comply with the requirements of this Chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in subsection 4-3-118(c) rests on the party or parties urging that the requested permit should be denied.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
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4-3-120 Recommendations by the Administrator on ~~Special Use and Conditional-Use Permit Applications~~

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(a) When presented to the ~~Review Board~~Planning Commission at the hearing, the application for conditional-use ~~or special-use~~ permit shall be accompanied by a report setting forth the Planning staffs' proposed findings concerning the application's compliance with section 4-3-113 (application to be complete) and the other requirements of this Chapter, as well as any staff recommendations for additional requirements to be imposed by the ~~Review Board~~Commission.

(b) If the Administrator proposes the finding or conclusion that the application fails to comply with section 4-3-113 or any other requirement of this Chapter, he or she shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusion.

(c) The ~~Review Board~~Commission shall consider the application and the attached staff report in a timely fashion, and may, in its sole discretion, hear from the applicant or members of the public.

(d) In response to the Administrator's recommendations, the applicant may modify his application prior to the submission to the ~~Review Board~~Commission, but must advise the Administrator of this request in writing. The Administrator may likewise revise his recommendations based on applicant modifications.

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4-3-121 Approval of Conditional-Use and Special-Use Permits

In considering whether to approve an application for a conditional-use permit, ~~or a special-use permit~~ which has been referred to the ~~Review Board~~Commission by the Planning Director pursuant to section 4-3-118(b)(4), the ~~Review Board~~Commission shall proceed according to the following format:

(a) The Administrator shall consider whether the application is complete. If the Administrator concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. The Administrator shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. The Administrator's decision is final unless the applicant requests ~~board review~~Planning Commission review under section 4-3-170.

(b) The ~~Review Board~~Commission shall consider whether the application complies with all of the applicable requirements of this Chapter. If the ~~board~~Commission finds that the application is not in compliance with one or more of the requirements of this Chapter, it shall specify the particular requirements the application fails to meet. As provided in subsection 4-3-118(c), if the ~~board~~Commission concludes that the application fails to meet one or more of the requirements of this Chapter, the application shall be denied.

(c) If the ~~Review Board~~Commission concludes that all such requirements are met, it shall issue the permit unless it determines the application should be denied for one or more of the reasons set forth in subsection 4-3-118(c). The ~~board~~Commission shall prepare specific findings, based upon the evidence submitted, justifying such a conclusion.

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(Amended 5/2/96, Certified 5/8/03, Resolution 1996-155)

4-3-122 Additional Requirements on ~~Special-Use and Conditional-Use Permits~~

(a) Subject to subsection (b), in granting a permit, the Planning Director or the ~~Review Board~~Planning Commission in the case of ~~special-use permits or~~ conditional use permits referred to the ~~Review Board~~Commission pursuant to ~~section 4-3-118(b)(4)~~, may attach to the permit such reasonable requirements in addition to those ~~specified~~ in this Chapter as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety;
- (2) Will not injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is located;
- (4) Will be in conformity with the land-use plan, comprehensive plan, or other plan officially adopted by the Business Council;
- (5) Will not cause significantly ~~adversely affect-effects~~ the environment; and/or
- (6) Will not cause significantly ~~adversely affect-effects~~ cultural resources.

(b) The ~~Review Board~~ Commission or the Planning Director may not attach additional conditions that modify or alter the specific requirements set forth in this Chapter unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the Planning Director or the ~~Review Board~~ Commission may attach to a permit a condition limiting the permit to a specified duration.

(d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this Chapter.

(f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in subsections 4-3-118(c).

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~
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COUNCIL REVIEW AND APPROVAL OF SPECIAL USE PERMIT

4-3-123 ~~Business Council Action after Review Board Determination on Special-Use Permit Applications~~

(a) After ~~its final~~his determination to either grant or disapprove a special-use permit in accordance with sections 4-3-118 to 4-3-122 ~~the Chairman of the Review Board shall place the case on the hat the application is complete, public comments have been solicited and received, and the time for comments has passed, the Planning Director or Administrator shall coordinate with the Office of the Reservation Attorney to request time on the~~ agenda of the ~~next available council session and serve the chairman of the~~ Community Development ~~Committee with the record of the board's decision for discussion. The Community Development Committee will treat application considerations in the same manner that it conducts other Tribal business and decision making, and will submit its final recommendations to the full Business Council for consideration and final decision.~~

(b) The Business Council shall review the ~~record and the Review Board's application, comments, and recommendations if the Community Development Committee and determine whether to approve, deny, or approve with conditions the application.~~ ~~determination and~~

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~~uphold, reverse, or modify the board's decision or~~ The Business Council may also postpone a decision and request additional information of the applicant or other interested parties prior to making its final determination. ~~remand the case to it for further action.~~

(c) The Business Council may in its discretion allow the parties to submit written and oral arguments supporting or opposing the ~~Review Board's determination~~ application to assist it in making a final decision.

(d) The decision of the Colville Business Council regarding special-use permit applications is final and not appealable.

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4-3-124 Authorizing Use, Occupancy or Sale before Completion of Development Under Special-Use or Conditional-Use Permits

(a) In cases when, because of weather conditions or other factors beyond the control of the special-use, or conditional-use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Chapter before commencing the intended use of the property or occupying the buildings or selling lots in a subdivision, the Planning Director may authorize the commencement of the intended use of the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this Chapter are concerned) if the permit recipient provides a performance bond or other security satisfactory to the body to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve (12) months).

(b) When the ~~Review Board~~ Commission or Business Council imposes additional requirements on the permit recipient in accordance with section 4-3-122 or when the developer proposes in the plan submitted to install amenities beyond those required by this Chapter, the Planning Director may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if he or she specifies a date by which, or a schedule according to which such requirements must be met or each amenity installed and if he or she concludes that compliance will be ensured as a result of any one or more of the following:

(1) A performance bond or other security satisfactory to the board is furnished;

(2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when the application for renewal is made; and/or

(3) The nature of the requirements or amenities are such that sufficient assurance of compliance is given by section 4-3-253 and section 4-3-254.

(c) With respect to subdivisions in which the developer is selling only undeveloped lots, the Business Council may authorize final plat approval and the sale of lots before the requirements of this Chapter are fulfilled if the subdivider provides a performance bond or other securities satisfactory to the Business Council to ensure that all these requirements will be fulfilled within a reasonable time (not more than twelve months after final plat approval).

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4-3-125 Completing Developments in Phases

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of section 4-3-111 and section 4-3-124 shall apply to each phase as if it were the entire development.

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(b) As a prerequisite to taking advantage of the provisions of subsection (a), the developer shall submit plans that clearly show the phases or stages of the proposed development and the requirements of this Chapter that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or a tennis court in a residential development) then, as part of the application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that;

(1) If the improvement is one required by this Chapter then the developer may utilize the provisions of subsections 4-3-124(a) or (c).

(2) If the improvement is an amenity not required by this Chapter or is provided in response to a condition imposed by the Review Board or Business Council, then the developer may utilize the provisions of subsection 4-3-124(b).

4-3-126 Expiration of Permits

(a) Zoning, conditional-use, and special-use permits shall expire automatically if, within one (1) year after the issuance of such:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or

(2) Less than 10% of the total cost of construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permit has been completed on the site. With respect to phased development (section 4-3-125), this requirement shall apply only to the first phase.

(b) If, after some physical alterations to land or structures begins to take place, such work is discontinued for a period of one (1) year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of section 4-3-127.

(c) The ~~Administrator~~ Planning Director or designee may extend for a period up to six (6) months, the date when a permit would otherwise expire pursuant to subsections (a) or (b), if he concludes that:

(1) The permit has not yet expired;

(2) The permit recipient has proceeded with due diligence and in good faith; and

(3) Conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods of up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, the conditional use permit is issued when the ~~Review Board~~ Commission votes to approve the application and issue the permit and the special use permit is issued when the Business Council votes to approve the ~~board action~~ application. A permit within the jurisdiction of the Administrator is issued when the earlier of the following takes place:

(1) A copy of the fully executed permit is delivered to the permit recipient and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

(2) The Administrator notifies the permit applicant that the application has been approved and all that remains before a fully executed permit can be delivered is for the applicant to take specified actions, such as having the permit executed by the property owner so it can be recorded.

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4-3-127 Effect of Permit on Successors and Assigns

(a) Zoning, conditional-use, and special-use permits authorize the permittee to make use of land and structures in a particular way. Permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

(1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

(2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice [as provided in subsection (b)] of the existence of the permit at the time they acquired their interest.

(b) Whenever a zoning, conditional-use, or special-use permit is issued to authorize development (other than single or two-family residences) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgement that the permit has been issued so that the permit may be recorded in the county in which the land is located if it is fee land or in the Office of Land and Titles, Portland Area Office if the land is in trust or restricted fee status and indexed under the record owners name as grantor.

4-3-128 Amendments to and Modifications of Permits

(a) Insignificant deviations from the permit (including approved plans) issued by the ~~Review Board~~ ~~Commission, Planning Director,~~ or the Administrator are permissible and the Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on-site, on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the Administrator. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on-site, on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the ~~Review Board~~ ~~Commission or Business Council,~~ new conditions may be imposed, ~~in accordance with section 4-3-122~~ but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

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(d) The Administrator shall determine whether amendments and modifications of permits fall within the categories set forth above in subsections (a), (b), and (c).

(e) A developer requesting approval of changes shall submit a written request for such approval to the Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

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4-3-129 Reconsideration of Board-Commission Action

(a) Whenever the ~~Review Board~~Planning Commission disapproves a conditional-use permit application ~~an application for a special-use permit (unless remanded by the Business Council under section 4-3-123)~~ or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the ~~board~~Commission at a later time unless the applicant clearly demonstrates that:

(1) Circumstances affecting the property that is the subject of the application have substantially changed or;

(2) New information is available that could not with reasonable diligence have been presented at the previous hearing. A request to be heard on this basis must be filed with the Administrator within twenty (20) days. However, such a request does not extend the period within which an appeal must be taken.

(b) Notwithstanding subsection (a), the Administrator or the ~~Review Board~~Commission may at any time consider a new application affecting the same property on an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

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4-3-130 Applications to be Processed Expeditiously

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the Colville Tribes shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to requirements of this Chapter.

4-3-131 Maintenance of Common Areas, Improvements, and Facilities

The recipient of any zoning, conditional-use, or special-use permit, or his successor shall be responsible for maintaining all common areas, improvements or facilities required by this Chapter or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

MAJOR AND MINOR SUBDIVISIONS

4-3-132 Regulation of Subdivisions

Major subdivisions are subject to a two (2) step approval process. Physical improvements to the land to be subdivided are authorized by a conditional-use permit as provided in section 4-3-118, and sale of lots is permitted after final approval as provided in section 4-3-135. Minor subdivisions only require one (1) step approval process; final plat approval in accordance with section 4-3-134.

4-3-133 No Subdivision Without Plan Approval

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(a) No person may subdivide his or her land except in accordance with all of the provisions of this ~~(April 2007 version of Chapter 4-3) 32~~ subchapter. In particular, no person may subdivide his or her land unless and until a final plat of the subdivision has been approved in accordance with the provisions of sections 4-3-134 or 4-3-135 and recorded in the county in which the land is located if it is fee land, and ~~(if the land is in trust or restricted fee status.)~~ with the Bureau of Indian Affairs, Portland Area Title Office ~~as well.~~

(b) The applicable recording office may not record a plat of any subdivision within the Colville Tribes' Planning jurisdiction unless the plat has been approved in accordance with the provisions of this Chapter.

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4-3-134 **Minor Subdivision Approval**

(a) The Planning Director shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(b) An applicant for minor subdivision plat approval, before complying with subsection 4-3-134 (c), shall submit a sketch plan to the Planning Director for a determination of whether the approval process authorized by this section can be and should be utilized. The Planning Director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five (5) years.

(c) Applicants for minor subdivision approval shall submit to the Planning Director a copy of the plat conforming to the requirements in subsections 4-3-135(b) and (c) (as well as two prints of each plat), except that a minor subdivision plat shall contain the following certificates in lieu of those required in section 4-3-136.

(1) Certificate of Ownership:

I, hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the Confederated Tribes of the Colville Reservation, and I freely adopt this plan of subdivision.

Date

Owner

(2) Certificate of Approval:

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in any existing public streets, that the subdivision shown is in all respects in compliance with Chapter 4-3 of the Colville Tribal Code, and that therefore this plat has been approved by the Planning Director, subject to its being recorded as provided in subsection 4-3-133(a) within sixty (60) days of the date below.

Date

Owner

(3) A certificate of survey and accuracy, in the form stated in subsection 4-3-136(c).

(d) The Planning Director shall take expeditious action on an application for minor subdivision plat approval as provided in section 4-3-130. However, either the Planning Director or the applicant may at any time refer the application to the major subdivision approval process.

(e) Not more than a total of three lots may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time.

(f) Subject to subsection (d), the Planning Director shall approve the subdivision unless the

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subdivision is not a minor subdivision as defined in the subchapter on definitions under this Chapter or the application or the proposed subdivision fails to comply with subsection (e) or any other applicable requirement of this subchapter.

(g) If the subdivision is disapproved, the Planning Director shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(h) Approval of any plat is contingent upon the plat being recorded within sixty (60) days after the date the certificate of approval is signed by the Planning Director or his designee.

4-3-135 Major Subdivision Approval Process

(a) The Planning Director shall approve or disapprove major subdivision final plats in accordance with the provisions of this section.

(b) The applicant for major subdivision plat approval shall submit to the Administrator a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the auditor's office of the county in which the property is located ~~and~~ the Portland Area Bureau of Indian Affairs Title Office for recording purposes, and having the dimensions as follows:

(1) Either 21"x 30", 12"x 18", or 18"x 24": When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at 1" equals not more than 100'. The applicant shall also submit two prints of the plats.

(c) In addition to the appropriate endorsements, as provided in section 4-3-136, the final plat shall contain the following information:

(1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the applicable recordation office;

(2) The name of the subdivision owner or owners;

(3) The township, county, and state where the subdivision is located, and its status as trust or fee land;

(4) The name of the surveyor and his or her registration number and the date of the survey;

(5) The scale according to which the plat is drawn in feet per inch or scale ratio in words and figures in bar graph; and

(6) All of the additional information required by regulations adopted by the Planning Department and approved by the Business Council.

(d) The Planning Director shall approve the proposed plat unless he or she finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this Chapter or that the final plat differs substantially from the plans or specifications approved in conjunction with the conditional-use permit that authorized the development of the subdivision.

(e) If the final plat is disapproved by the Planning Director the applicant shall be furnished with the written statement of the reasons for the disapproval.

(f) Approval of final plat is contingent upon the plat being recorded within sixty (60) days after the approval certificate is signed by the director or his designee.

4-3-136 Endorsements on Major Subdivision Plats

All major subdivision plats shall contain endorsements listed in subsections (a), (b), (c), and (d) herein.

(a) Certificate of Approval:

I hereby certify that all streets shown on this plat are within the Confederated Tribes of the Colville Reservation Planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or their installation or completion (within 12 months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Chapter 4-3 of the Colville Tribal Code, and therefore this plat has been approved by the Planning Director, subject to its being recorded in the County Auditor's office within sixty (60) days of the date below.

Date Planning Director

(b) Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Confederated Tribes of the Colville Reservation, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Colville Business Council in the public interest.

Date Owner
Notarized

(c) Certificate of Survey and Accuracy:

I hereby certify that this map (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (a deed description recorded in Book , Page , Records of (other); that the error of closure as calculated by latitudes and departures is 1 : ; that the boundaries not surveyed are shown as broken lines plotted from information found in Book , Page , and that this map was prepared in accordance with [statutory citation]. Witness my original signature, registration number and seal this day of , 20 .

Seal or Stamp Registration Number
(Notarized)

(d) Road Department Engineer Certificate:

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards of the BIA Roads Department for acceptance of subdivision streets on the BIA road/state highway system for maintenance.

Supervisory Highway Engineer

4-3-137 Plat Approval not Acceptance of Dedication Offers

Approval of a plat does not constitute acceptance by the Colville Tribes of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the Tribes may accept any such offer of dedication by resolution of the Business Council or by actually exercising control over and maintaining such facilities.

4-3-138 Protection Against Defects

(a) Whenever occupancy, use, or sale is allowed under section 4-3-124 before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is required to be posted shall guarantee that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.

(b) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he or she will correct all defects in such facilities or improvements that occur within one (1) year after the offer of dedication of such facilities or improvements is accepted.

(c) An architect or engineer retained by the developer shall certify to the Tribes that all facilities and improvements to be dedicated have been constructed in accordance with the requirements of this Chapter. This certification shall be a condition precedent to acceptance by the Colville Tribes of the offer of dedication of such facilities or improvements.

(d) For purposes of this section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the Colville Tribes to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this Chapter.

4-3-139 Maintenance of Dedicated Areas Until Acceptance

As provided in section 4-3-131, all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer is accepted by the appropriate public authority.

4-3-140 Septic Tank, Water or other Permits not to be issued for Land Divided in Violation of this Chapter

No building permit under Chapter ~~6-10-6-3~~, septic tank permit under Chapter 4-5, water permit under Chapter 4-10, or any-other permit shall be issued for any lot, tract or parcel of land divided in violation of this Chapter. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers or transferees of property shall comply with the provisions of this Chapter and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling or transferring land in violation of this Chapter, including any amount reasonably spent to conform to the requirements of this Chapter as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming his or her property to these requirements rescind the sale or transfer and recover costs of investigation, suit and reasonable attorney's fees occasioned thereby.

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APPEALS, VARIANCES, INTERPRETATIONS

4-3-170 Appeals

(a) An appeal from any final order or decision of the Administrator or the Planning Director may be taken to the ~~Review Board~~Planning Commission by any person aggrieved. An appeal is taken by filing with the Administrator and the ~~Review Board~~Planning Commission a written notice of appeal specifying the grounds for appeal. therefor. A

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notice of appeal shall be considered filed with the Administrator and the ~~Review Board~~Planning Commission when delivered to the Planning Department, and the date and time of filing shall be entered on the notice by the Planning staff.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
(Amended 5/2/96, Certified 5/8/03, Resolution of 1996-155)

(b) An appeal must be taken within thirty (30) days after the date of the decision or order appealed from.

(c) Whenever an appeal is filed, the Administrator shall ~~forthwith~~ transmit to the ~~review board~~Planning Commission all the papers constituting the record relating to the action appealed from within 5 days (excluding Saturday, Sunday, and holidays) of receipt of the appeal.

(d) An appeal stays all actions by the Administrator seeking enforcement of or compliance with the order or decision appealed from, unless the Administrator certifies to the ~~Review Board~~Planning Commission that (because of the facts stated in the certificate) a stay would, in his or her opinion, cause imminent peril to life or property. In that case, the proceeding shall not be stayed except by order of the ~~Review Board~~Planning Commission or the Tribal Court, issued on application of the party seeking the stay, on due cause shown, after notice to the Administrator.

(e) The ~~Review Board~~Planning Commission may reverse or affirm (wholly or partly) or may modify the order, requirements or decision or determination appealed from and shall make any order, requirement, or decision or determination that in its opinion ought to be made in the case before it. To this end, the ~~Review Board~~Planning Commission shall have all the powers of the officer from whom the appeal is taken.

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4-3-171 Variance

(a) An application for a variance shall be submitted to the ~~Review Board~~Planning Commission by filing a copy of the application with the ~~Administrator in the~~ Planning Department. Application shall be handled in the same manner as applications for ~~special-use~~conditional-use permits, in conformity with the provisions of sections 4-3-112, 4-3-113, and 4-3-120.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
(Amended 5/2/96, Certified 5/8/03, Resolution 1996-155)

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(b) A variance may be granted by the ~~Review Board~~Planning Commission if it concludes that strict enforcement of this Chapter would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this Chapter will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

- (1) If the applicant complies strictly with the provisions of this Chapter, he or she can make no use of his or her property;
- (2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors, or the general public;
- (3) The hardship relates to the applicant's land, rather than personal circumstances;
- (4) The hardship is unique, or nearly so, rather than one shared by many surrounding

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properties;

(5) The hardship is not the result of the applicant's own actions;

(6) The variance does ~~not~~ not have significantly adversely ~~by affect-effects on~~ the environment;

(7) The variance does not have significantly adversely ~~by affect-effects on~~ cultural resources;

(8) The variance does not conflict with shorelines management regulations; and/or

(9) The variance will neither result in the extension of a non-conformity in violation of the subchapter on non-conformities under this Chapter nor authorize the initiation of a nonconforming use of land.

(c) In granting variances, the ~~Review Board~~ Planning Commission may impose such reasonable conditions that will ensure that the use of the property to which the variance applies will be as compatible as practical with the surrounding properties.

(d) A variance may be issued for an indefinite duration or for a specified duration only.

(e) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Chapter.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
(Amended 5/2/96, Certified 5/8/03, Resolution 1996-155)

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4-3-172 Interpretations

(a) The ~~Review Board~~ Planning Commission is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Administrator, they shall be handled as provided in section 4-3-170.

(b) An application for a map interpretation shall be initiated by filing a copy of the application with the Administrator in the Planning Department. The application shall contain sufficient information to enable the Administrator to make the necessary interpretation.

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4-3-173 Request to be Heard Expeditiously

As provided in section 4-3-130, the ~~Review Board~~ Planning Commission shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with the subchapter on Hearing Procedures for Appeals and Applications under this Chapter and obtain the necessary information to make sound decisions.

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4-3-174 Burden of Proof in Appeals and Variances

(a) When an appeal is taken to the ~~Review Board~~ Planning Commission in accordance with section 4-3-170, the Administrator shall have the initial burden of presenting to the ~~Review Board~~ Planning Commission sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence

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and arguments to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(b) The burden of presenting evidence sufficient to allow the ~~Review Board~~Planning Commission to reach the conclusions set forth in subsection 4-3-171(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

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4-3-175 ~~Review Board~~Planning Commission Action on Appeals and Variances

(a) With respect to appeals, the ~~board's~~Commission's determination to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the ~~board's~~ decision. If a motion to reverse or modify is not made, then a motion to uphold the decision appealed shall be in order.

(b) Before granting a variance, the ~~board~~Commission must take a separate vote and vote affirmatively on each of the nine required findings stated in subsection 4-3-171(b). Insofar as practicable, when the ~~board~~Commission makes an affirmative finding on each of the enumerated requirements it shall include a statement of the specific reasons or findings of facts supporting each such finding.

(c) The ~~board~~Commission may deny a variance on the basis that any one or more of the nine criteria set forth in subsection 4-3-171(b) are not satisfied or that the application is incomplete. Insofar as practicable, such a denial shall include a statement of the specific reasons or findings of fact that support it. The Planning Commission, at its discretion, may approve a variance if it determines that not significant harm will be done, even if it finds one or more of the criteria set for in subsection 4-3-171(b) are not satisfied.

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HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

4-3-210 Hearing Required on Appeals and Application

(a) Before making a decision on an appeal or application for a variance, ~~special use permit, or conditional-use permit, or a petition from the Planning staff to revoke a special use permit or conditional-use permit,~~ the ~~Review Board~~Planning Commission shall hold a hearing on the appeal or application. At least one member of the ~~Review Board~~Planning Commission shall preside over the hearing, except that the ~~Review~~Commission ~~Board~~ may designate a hearing officer to conduct the hearing in lieu of a ~~board member~~Commissioner.

(b) Subject to subsection (c), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.

(c) The ~~Review Board~~Commission may place ~~reasonable and equitable~~ limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delays.

(d) The ~~Review Board~~Commission may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point the final decision is made. No further notice of the continued hearing need be published unless a period of six (6) weeks or more elapses between hearing dates.

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4-3-211 Notice of Hearing

The Administrator shall give notice of any hearing required by section 4-3-210 as follows:

(a) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such person a written notice not later than ten days before the hearing.

(b) Notice shall be given to adjacent property owners by mailing a written notice no later than ten (10) days before the hearing to those persons whose property is adjacent (as that term is defined in the subchapter on definitions under this Chapter) to the lot that is the subject of the application or appeal. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted not less than seven days prior to the hearing.

(c) In the case of conditional-use ~~or special-use~~ permits, notice shall be given to other potential interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than seven (7) nor more than thirty (30) days prior to the hearing.

(d) The notice required by this section shall state the dates, time, and place of the hearing, reasonably identifying the property that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

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4-3-212 Evidence

(a) The provisions of this section apply to all hearings for which a notice is required by section 4-3-210.

(b) All persons who intend to present evidence to the ~~Review Board~~ Planning Commission, rather than arguments only, shall be sworn.

(c) All findings and conclusions necessary to the issuance or denial of the requested permits or appeal shall be based on reliable evidence. Evidence admissible in a court of law shall be preferred whenever reasonably available. However, evidence that may not be admissible in a court of law, may still be admissible at this hearing at the discretion of the Planning Commission.

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4-3-213 Modification of Application at Hearing

(a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the ~~Review Board~~ Planning Commission, the applicant may agree to modify his or her application including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the ~~board~~ Commission cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the ~~board~~ Commission may approve the application with the stipulation that the permit will not be issued until plans reflecting the modification are submitted to the Planning staff.

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4-3-214 Records

(a) A tape recording shall be made of all hearings required by section 4-3-210, and such recording shall be kept for at least two (2) years. ~~Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.~~

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(b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Colville Tribes for at least two (2) years.

(c) These records will be maintained by the Planning Department.

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4-3-215 Written Decision

(a) Any decision made by the ~~Review Board~~Planning Commission regarding an appeal, ~~or~~ variance, or issuance or revocation of a conditional-use permit ~~or a special-use permit~~ shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy. A copy of this decision will be made part of the Record maintained by the Planning Department.

(b) In addition to a statement of the ~~Review Board's~~Commission's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the ~~board's~~Commission's findings and conclusions, as well as supporting reasons or facts, whenever this Chapter requires the same as a prerequisite to taking action.

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ENFORCEMENT AND REVIEW

4-3-250 Complaints Regarding Violations

Whenever the Administrator receives a written, signed complaint alleging a violation of this Chapter, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

4-3-251 Persons Responsible

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Chapter may be held responsible for the violation and be subject to the penalties and the remedies herein provided.

4-3-252 Procedures Upon Discovery of Violations

(a) If the Administrator finds that any provision of this Chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the Administrator's decision or order may be appealed to the ~~Review Board~~Planning Commission in accordance with section 4-3-170.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Chapter or pose a danger to the public health, safety, or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in section 4-3-253.

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4-3-253 Penalties and Remedies for Violations

(a) Any act constituting a violation of the provisions of this Chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in

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connection with the grants of variances, conditional-use permit, special-use permit, or temporary use permits shall subject the offender to a civil penalty of \$100.00 per day. If the offender fails to pay this penalty within thirty (30) days after being cited for a violation, the penalty may be recovered by the Confederated Tribes of the Colville Reservation in a civil action in the nature of debt. The Reservation Attorney, upon request of the Planning Department, ~~shall may~~ bring a civil action in the Colville Tribal Court to recover such debt ~~or- may send this request to an approved debt collecting agency for them to process and file an action.~~ A civil penalty may not be appealed to ~~the Review Board~~ Commission if the offender was sent a final notice of violation in accordance with section 4-3-252 and did not take an appeal to the ~~Review Board~~ Commission as provided in section 4-3-170.

(b) This Chapter may also be enforced by any appropriate equitable action.

(c) Each day that any violation continues after notification by the Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(d) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Chapter.

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4-3-254 **Permit Revocation**

(a) A zoning permit, conditional-use permit, or special-use permit may be revoked by the permit issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Chapter, or any additional requirements lawfully imposed by the permit.

(b) Before a conditional-use ~~or special-use~~ permit may be revoked, all of the notice, hearing and other requirements of the subchapter on Hearing Procedures for Appeals and Applications under this Chapter shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection 4-3-254(a) shall be upon the party advocating that position. The burden of persuasion shall also be on that party.

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning permit may be revoked, the Administrator shall give the permit recipient ten (10) days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his or her right to an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide the permittee a written statement of the decision and the reasons therefore.

(d) No person may continue to make use of land or buildings in the manner authorized by any zoning, conditional-use, or special-use permit after such permit has been revoked in accordance with this section.

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4-3-255 **Exhaustion of Administrative Remedies**

Any decision or order of the Planning Department that is reviewable by the ~~Review Board~~ Planning Commission under section 4-3-170 shall not be considered a final order or decision subject to judicial review. Exhaustion of all available administrative remedies including any administrative appellate review

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is a jurisdictional requirement to judicial review.

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4-3-256 **Judicial Review**

~~Every decision of the Colville Business Council granting or denying a rezone application or special use permit and e~~Every final order, decision, or action of the ~~Review Board~~Commission shall be subject to review by the Colville Tribal Court upon the filing of a timely petition of review pursuant to the procedures set forth in section 2-4-20 of the Colville Administrative Procedure Act. ~~If any conflicts exist between the requirements of this Chapter and Chapter 2-4 regarding the procedures followed during the administrative review processes and the requirements for the written orders, then such conflicts will be resolved in favor of this Chapter.~~

The petition for review shall briefly set forth that portion of the decision appealed from with specificity; the statutory reference(s) relied upon to support the relief requested; and, which standard of review set forth in section 2-4-20(g) provides the basis for the petition. ~~A petition for review that simply states that the entire decision is being appealed is not sufficient to constitute an appeal of the final decision.~~

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NON-CONFORMITIES

4-3-290 **Purpose**

It is the purpose of this subchapter to provide for the regulation of legally nonconforming structures, lots of record, uses, and to specify those circumstances and conditions under which such non-conformities shall be permitted to continue. It is necessary and consistent with the requirements prescribed by this Chapter that those non-conformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction. Such non-conformities are declared to be incompatible with permitted uses in the zones in which they are located.

With limited exceptions, the regulations of this section permit such non-conformities to continue without specific limitation of time but are intended to restrict further investments which would make them more permanent.

The burden of establishing that any non-conformity is a legal non-conformity is upon the owner of such non-conformity and not upon the Colville Tribes.

4-3-291 **Definitions**

(a) Legal non-conformity is any land use, structure, lot of record, or sign legally established prior to the effective date of this Chapter or subsequent amendment to it which would not be permitted by or is not in full compliance with the requirements of this Chapter.

(b) A non-conforming lot of record is any validly recorded lot which at the time it was recorded fully complied with all applicable laws and titles but which does not fully comply with the lot requirements of this Chapter concerning minimum area or minimum lot width.

4-3-292 **Non-Conforming Lots of Record**

(a) Any parcel of land or portion thereof which is to be dedicated to a public or semi-public entity for a road, canal, railroad, utility or other public use shall be exempt from the minimum lot size requirements set forth by this Chapter.

(b) Any lot which is smaller than the minimum area required in any zone may be occupied by an allowed use in that zone provided that:

(1) The lot was a lot in a duly platted and recorded subdivision on or before the date of this Chapter, or was a parcel created by an approved land partitioning prior to such date;

(2) The use conforms to all other requirements of that zone;

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(3) If there is an area deficiency, residential use shall be limited to a single dwelling unit;

(4) Approval of the Planning Department is obtained as applicable.

4-3-293 Non-Conforming Uses of Land

Where at the effective date of the adoption of this Chapter or amendment thereto, a lawful use of land exists that is made no longer permissible under the terms of this Chapter or amendments thereto, such use may continue so long as it remains lawful and subject to the following provisions:

(a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land.

(b) No such non-conformity shall be moved in whole or in part to any position of the lot or parcel occupied by such use at the time of adoption of this Chapter or amendment thereto.

(c) If any such non-conforming use of land ceases for any reason for a period of more than six (6) months any subsequent use of such land shall conform to the standards specified by the zone in which it is located.

4-3-294 Non-Conforming Structure

Where a lawful structure or structures exist at the effective date of the adoption of this Chapter or amendment thereto, such structure or structures may be continued so long as it remains lawful and subject to the following provisions:

(a) No structure or structures may be enlarged or altered in any way which increases its nonconformity.

(b) Should any structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of its destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.

(c) Should said structure be moved for any reasons for any distance whatever, it shall thereafter conform to the regulations of the zone in which it is located.

4-3-295 Non-Conforming Uses of Structure and Land

If a lawful structure and land in combination that exists at the effective date of adoption or amendment of this Chapter could not be built under the terms of this Chapter, it may remain so long as it is otherwise lawful and subject to the following provisions:

(a) A non-conforming use of land structures shall not be altered, enlarged, extended, constructed, reconstructed, moved or substantially altered in any way except to change use of the structure to a use permitted in zone in which it is located.

(b) If no structural alterations are made, any non-conforming use of a structures may be changed to another non-conforming use provided that the Planning Department or the Review Board may by ruling or by finding in the specific case, that the proposed change is equally or more appropriate. In permitting such change the board or department may require appropriate conditions or safeguards in accordance with the provisions of this Chapter.

(c) Any non-conforming use may be extended throughout any parts of a building which were arranged and designed for that use at the time of adoption of this Chapter however, the use shall not be allowed to extend to other neighboring properties.

(d) All non-conforming use shall be registered as such with the Administrator. Any nonconforming use claimed must demonstrate that the use predates the application of this Chapter through written, photographic, or other evidence.

SPECIAL PROPERTY USES

4-3-320 Necessity for Special Use Permit

All of the following and all matters directly related thereto are declared to be uses possessing characteristics of such unique and special form as to make impractical their being included automatically in any class of use as set forth in the various use districts of this Chapter, and the authority for the location and operation thereof shall be subject to review and the issuance of a special-use permit by the ~~Review Board~~ Colville Business Council in accordance with the requirements of sections 4-3-118

~~and 4-3-122~~ 123.

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx) Provided, that special use permits may not be granted for a use in a district from which it is specifically excluded. Provided further, that a special use permit shall not be issued without the review and approval of the Business Council in accordance with section 4-3-123.~~

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4-3-321 Special Uses Designated

(a) Automobile dismantling, wrecking or junk yards: Provided that such uses shall be specifically excluded from all but the AG and I Districts and conform with conditions established to eliminate any potential of adversely affecting the environment.

(b) Cemeteries: Provided that such uses shall be specifically excluded from the W, GM, C and I Districts, and further provided that the following requirements are met:

(1) External boundaries of a cemetery shall be devoted to the planting of sight-obscuring trees and shrubs;

(2) No plot within a cemetery shall lie closer than ten (10) feet to any lot line;

(c) Crematories, Columbia and Mausoleums: Provided such use shall be specifically excluded from the GM and W Districts; and the RU and F Districts as well unless inside of a permitted cemetery in that District.

(d) Fertilizer Manufacturing Plants: Provided that these uses shall be specifically excluded from all districts except the AG and I Districts.

(e) Livestock Feeding or Sales Yards: Provided that such uses shall be excluded from all but the AG and I Districts.

(f) Mining, Including Quarrying, Mineral Extraction, Exploration, etc.: Provided that these uses shall be specifically excluded from all districts except the AG, RU and F Districts.

(g) Mobile Home Parks: Provided that the following minimum requirements are met:

(1) Lot size of ten (10) acres with a maximum density of ten spaces per gross acre;

(2) No spaces may be occupied until a minimum of fifty (50) spaces have been completed for occupancy, together with the requisite facilities therefor;

(3) A greenbelt planting strip, not less than twenty (20) feet in width, shall be located along all lot lines of the park not bordering a street. Such greenbelt shall be composed of one row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart and not less than three rows of shrubs, spaced not more than eight (8) feet apart and which grow to a height of five (5) feet or more after one full growing seasons and which shrubs will eventually grow to a height of not less than twelve (12) feet. If such requirements cannot be met due to other requirements, including but not limited to on-site septic systems, water

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infrastructure, wastewater infrastructure, etc., then a variance must be included and approved prior to any land use activities related to a Mobile Home Park.

(h) Public Buildings. Including police stations, fire stations, art galleries, museums and libraries.

(i) Public utilities or utilities operated by mutual agencies consisting of water wells, electrical substations, gas metering stations, power booster or conversion plants and the necessary buildings, apparatus or appurtenances thereto, but not including distribution mains.

(j) Radio and Television Broadcasting Stations and Transmitters. Provided that such be specifically excluded from the W and RU Districts.

(k) Rendering of Animal Fat, Bones, Meat scraps, Slaughter houses or Meat packing plants. Provided that these uses shall be specifically excluded from all districts except the AG and I Districts.

(l) Sanitary Land Fill. Provided such use shall be specifically excluded from all districts except the AG and RU Districts.

(m) Septage Lagoons. Provided that they must be run and maintained by the Confederated Tribes of the Colville Reservation.

(n) Sewage Disposal or Treatment Plants. Provided that these uses shall be specifically excluded from all districts except the AG and I Districts.

(o) RV Park, Court, or Camp. Provided that these uses shall be specifically excluded from the GP GM, W, RU, I and F Districts, and further provided that the following requirements are met:

- (1) Access to such use shall only be from a major or secondary arterial;
- (2) All tribal and Indian Health Service requirements shall be fulfilled;
- (3) All external boundaries abutting any RU District shall be effectively sight screened by a view-obscuring fence or by a combination of fencing and landscaping.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

Comment [CE(4)]: adding this here, as it will help deal with the old conflicting resolutions. please add any other restrictions that should be added

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4-3-322 Review Board Colville Business Council Action

In granting a permit for any of the above-listed special uses the Review Board Business Council shall ascertain whether the present and future needs of the community will be adequately served by the proposed development and if the community as a whole will benefit rather than be injured by the proposed development. As provided in section 4-3-122, the Review Board Business Council may attach additional conditions

to the issuance of a special-use permit to insure that structures and areas proposed are surfaced, arranged and screened in such a manner that they are in harmony with and not detrimental to existing or reasonable expected future development of the neighborhood. In the case of those special uses for which no requirements have been listed, in addition to the conditions it may impose under section 4-3-122, the Business Council Review Board may impose any reasonable height, yard, or lot size requirements provided that it is satisfied that the requirements and other conditions imposed are sufficient to prevent detrimental effects on adjoining land or structures.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

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4-3-323 Temporary Uses

A temporary use requires a permit from the Administrator under provisions of this subsection regulating the conduct of uses which are limited in scope, duration, and frequency. Temporary use permits shall be required for:

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(a) Those uses specifically identified and described within section 4-3-235 below.

(b) Uses not listed but which are determined by the administrator to be limited in scope, duration, and frequency and similar to those otherwise permitted in a zone and which are typical and reasonable in the zone.

(Amended 4/5/07, Resolution 2007-201)

4-3-324 **Temporary Use Application Requirements**

Applications for temporary use permits shall be filed with the Administrator at the Planning office ~~Department~~.

An application must include a complete description of the temporary use, either an aerial photo or legal description of the subject property and adjacent properties, a county assessor's database printout of the subject property for the county in which the property is located, site plan, ownership of subject property, any other information deemed necessary in accordance with sections 4-3-110 and 4-3-113 and this section, and any required fees.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
(Amended 4/5/07, Resolution 2007-201)

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4-3-325 **Temporary Uses—Description—Conditions**

(a) Agricultural products: A stand not accessory to the existing use on the parcel on which the stand is to be located; may be owned and operated by person or persons not owning the property on which the stand is to be located.

- (1) Limited to a maximum of four consecutive weeks per year;
- (2) Display and storage area no larger than 200 square feet; and
- (3) Signage limited to 30 square feet.

(b) Asphalt batching: Preparation of asphalt as part of construction or operation maintenance or maintenance of project; maximum of 21 consecutive days from the commencement of operation.

- (1) Limited to time necessary for construction;
- (2) Requires a Department of Ecology air quality permit;
- (3) Requires a water quality permit.

(c) Christmas tree lots: An area of a lot generally cordoned off with a variety of Christmas trees in an orderly arrangement for the purpose of viewing and purchasing by private parties.

- (1) Limited to Thanksgiving through Christmas.

(d) Concrete batching: Preparation of concrete as part of construction or operation maintenance or maintenance of project; maximum of 21 consecutive days from the commencement of operation.

- (1) Limited to time necessary for construction;
- (2) Requires a Department of Ecology air quality permit; and
- (3) Requires a water quality permit.

(e) Construction Offices: Mobile homes, modular homes, or portable units for office or project caretaker's quarters. An example is an on-site trailer used as an office by the foreman of the construction job. Such use is limited to

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~~(1) Limited to~~ the duration of the immediate construction project.

~~(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)~~

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(f) Contractor Equipment: A fenced area or portable storage facility located and supplies storage on a site on which construction is occurring, for the sole purpose of storing tools, supplies and equipment necessary for construction occurring on a different site is prohibited.

(1) The equipment, supplies and tools shall only be for the construction occurring on that site;

(2) The equipment, supplies and tools shall either be screened in from public view or totally contained in an enclosed storage facility on the site.

(g) Disaster and emergency operations: A flood, fire, earthquake, disease outbreak, or other similar catastrophic event, which reaches a level of severity that requires the intervention and or mobilization of other tribes, federal or state agencies enlisted to response.

(1) Permit shall expire after demobilization that occurs when a disaster or emergency has ceased;

- (A) Medical facilities;
- (B) Helicopters and helipads;
- (C) Communication Facilities;
- (D) Base and "spike" camps.

(h) Farmworker housing: Structures placed for the use by an employer for employees hired and working as seasonal or migrant workers on a farm or orchard.

(1) Temporary farmworker housing is limited to late spring through fall occupancy, as minimal or no heating or installation is used on the construction of the temporary housing unit.

(i) Fireworks stands: Generally, a booth with a countertop, not more than 80 square feet, capable of being closed up to secure the contents when not vending. This permit requires a solid waste permit and public works building permit. For full requirements of a fireworks stand, refer to Chapter 3-6 Fireworks.

~~(1) Requires a solid waste permit;~~

~~(2) Requires a public works building permit;~~

~~(3) Requires a sales permit from Tribal Police;~~

~~(4) Seasonal regulations on applicable dates of sales for both the Fourth of July and New Years are established pursuant to Chapter 3-6, Fireworks.~~

(j) Mobile car crushing facility: A commercial, portable crushing facility capable of being moved from location to location, to crush inoperative vehicles, whose remains are then transported to a commercial car recycling facility.

(1) Limited to 21 days on any one site;

(2) Conformance with conditions established to eliminate any potential of adversely affecting the environment;

(3) Requires tribal police review and approval; and

(4) Requires containment of all glass and hazardous materials.

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(k) Mobile medical testing facility: A medical or dental lab, set up in a mobile home-type structure that is moved from site to site, offering specific testing using specialized equipment not generally available in the area, and generally at the request of a local medical or dental facility.

(1) Limited to 10 days;

(2) Must be adjunct to an existing authorized medical or dental facility located on the reservation.

(l) Sawmill, portable (noncommercial): May be operated for only the amount of time necessary to accomplish the immediate project.

(1) Lumber produced must be used by owner or immediate family.

(2) May be operated for only the amount of time necessary to accomplish the immediate project.

(m) Single-family dwellings associated with the construction of a primary residence: An existing residence that will be moved or demolished upon completion of the new residence; sometimes travel trailers or mobile homes are brought to the site to be used as a temporary residence.

~~(+)~~Limited to the life of the building permit or upon final approval for occupancy of the new residence.

(n) Special events: Camping limited to a week before, during, and after a special event, such as the Annual Gospel Church Camp located in Nespelem. Vendors limited to a week during the annual 181-D disbursement in an approved location.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
(Amended 4/5/07, Resolution 2007-201)

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4-3-326 **Potential Conditions of Approval**

The types of conditions which the Administrator may impose on a temporary use permit shall include, but are not limited to:

(a) The duration of time within which the action shall begin and be completed.

(b) The exact location of activities or structures as a means of minimizing hazards to life, limb, property damage, environmental impacts (erosion, landslide, etc.), traffic impact, and protection of neighboring property owners' private property rights.

(c) Mitigating nuisance-generating features such as noise, colors, air pollution, wastes, vibration, traffic, physical hazards, off-site light glare, etc.

(d) The hours of operation.

(e) The appropriate signage pursuant to Chapter 4-21.

(f) That all other applicable tribal laws and other department regulations and requirements (such as, Solid Waste, Public Works Building Code Unit, TOSHA, Fire Marshal, Mt. Tolman Fire Management, etc.) are complied with.

(Amended 4/5/07, Resolution 2007-201)

4-3-327 **Standards and Criteria**

The Administrator shall consider the following standards and criteria in evaluating temporary use permits:

(a) That proposed projects are evaluated to ensure they are temporary in nature and do not have long-term impacts to adjacent properties;

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- (b) That proposed projects are evaluated to ensure the public's general health, safety, and welfare;
- (c) That the proposal is limited in scope, duration and frequency;
- (d) That the proposed temporary use is compatible with surrounding, pre-existing uses.

(Amended 4/5/07, Resolution 2007-201)

4-3-328 Extension

Continuance of a temporary use beyond the specified time permitted shall require application for a Conditional-use permit. One extension may be applied for and granted if the Administrator deems that reasonable circumstances beyond the control of the applicant are just cause. If granted, the extension may not be greater than 50 percent of the original approved time.

(Amended 4/5/07, Resolution 2007-201)

4-3-329 Approval

The Administrator shall complete written findings, pursuant to the intent of this Chapter, documenting the considerations given in denying or approving with conditions of approval.

(Amended 4/5/07, Resolution 2007-201)

4-3-330 Revocation

In the event complaints are received in accordance with sections 4-3-250, 4-3-251, 4-3-241 and deemed valid by the Administrator that an operating temporary-use is not in conformance with the provisions of this section, the permit may be revoked, or the Administrator may place conditions thereon and penalties or both pursuant to section 4-3-253.

(Amended 4/5/07, Resolution 2007-201)

4-3-331 Additional Conditions of Approval

If deemed necessary by the Administrator, additional conditions of approval may be added to an existing permitted temporary use to keep the temporary use in compliance with the purpose and intent of this Chapter.

(Amended 4/5/07, Resolution 2007-201)

4-3-332 Revocation

A decision of the Administrator granting or denying a temporary use permit shall be final. Appeals of administrative decisions shall be made to the Review Board , in writing, for discussion and final resolution at the next available Review Board meeting.

(Amended 4/5/07, Resolution 2007-201)

AMENDMENTS

4-3-440 Initiation of Amendment

This Chapter may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment. ~~Such a change may be proposed by the Planning Department, the Review Board on its own motion, or by motion of the Colville Business Council. Any proposed quasi-judicial amendment or change shall first be submitted to the Review Board and the board shall, within thirty (30) days after the hearing required in section 4-3-441 recommend to the Business Council approval, disapproval, or modification of the proposed amendment. This Code is to be amended in accordance with Chapter 1-6 Revision of the Tribal Code and applicable regulations.~~

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

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4-3-441 Application by Property Owner Reserved

~~An application for amendment by a property owner or his authorized agent shall be filed with the Planning Director. The application shall be made on the form provided by the department. In acting upon the application the department shall follow the procedures set forth in section 2-4-9 of the Colville Administrative Procedure Act (Chapter 2-4).~~

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4-3-442 Public Hearing on an Amendment

~~Before taking final action on a proposed amendment, the Review Board shall hold a public hearing thereon. The Planning Department and board shall follow the procedures for rulemaking set forth in the Colville Administrative Procedure Act, Chapter 2-4 of the Colville Tribal Code. For amendments to the text, notice of the time and place of the hearing on the proposed amendment shall be given for publication in the Tribal Tribune and a newspaper of general circulation, not less than five (5) days, nor more than thirty (30) days, prior to the date of the hearing Reserved.~~

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4-3-443 Standards for Zone Change

The burden of proof is upon the one seeking change. The degree of that burden increases proportionately with the degree of impact of the change which is sought. The applicant shall in all cases establish:

- (a) Conformance with the Comprehensive Plan;
- (b) Conformance with all applicable statutes;
- (c) That there is a public need for a change of the kind in question;
- (d) That the need will be best served by changing the classification of the particular piece of property in question as compared with other available property;
- (e) That there is proof of a change of circumstance or a mistake in the original zoning.

4-3-444 Action by the Colville Business Council

The Colville Business Council may, after ~~public hearing by the appropriate lower body~~ public meeting of the Community Development Committee, enact a resolution granting the zone change or amendment to this Chapter, or may by motion deny the granting of the zone change or amendment.

4-3-445 Record of Amendments

The signed copy of each amendment to the ~~text of this Chapter, including the~~ legal description of all lands rezoned legislatively or quasi-judicially shall be maintained on file in the office of the Planning Department. A record of such amendments shall be maintained by the Planning Director in a form convenient for use by the public and shall include a map showing the area and date of all amendments thereto. ~~The director shall keep the map of this Chapter as originally enacted. Every five (5) years after the enactment hereof, a map showing the cumulative amendments hereto for that period shall be filed with the Department.~~

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

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4-3-446 Resolution of Intent to Rezone

If, from the facts presented, findings, and the report and recommendations of the ~~Review Board~~ Planning Commission, as required by this subchapter, the board determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone; the Business Council may indicate its general approval in principle of the proposed rezoning by the adoption of a "Resolution of Intent to Rezone". This resolution shall include any conditions, stipulations or limitations which the Business Council may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution of Intent on the part of the applicant, shall make such resolution final without further action by the Colville Business Council.

The failure of the applicant to meet any or all conditions, stipulations or limitations contained in a resolution of intent, including the time limit placed in the resolution, shall render said resolution null and void, automatically and without notice, unless an extension is granted, by the Business

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Council upon recommendation of the ~~Review Board~~ Planning Commission.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)
(Amended 8/14/80, Resolution 1980-549)
(Chapter 4-3 Adopted 8/14/78, Resolution 1978-868)

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DIG ONCE POLICY-TELECOMMUNICATIONS

4-3-460 Legislative Findings

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(a) Demand for access to high-speed telecommunications services is growing. In order to fill these demands, telecommunications service providers will install telecommunication lines in Colville Tribes rights-of-way and/or easements.

(b) In other jurisdictions, the demand for access by the increased number of telecommunications service providers has, at times, resulted in multiple, serial/service excavations within the public/tribal rights-of-way and easements. Each such excavation can, and does, result in traffic disruptions, a weakening of pavement integrity, and a shorting of useful life of paved surfaces.

(c) The Confederated Tribes of the Colville Reservation has not experienced a high demand for use of the public rights-of-way by telecommunications service providers, but in order to responsibly manage its public rights-of-way, the Tribes anticipates such demand in the future and plans accordingly:

(d) Requiring that buried conduit service lines be installed in newly constructed public streets and rights-of-way in order to accommodate the anticipated future demand for access to telecommunications services would assist the Tribes in responsibly managing its rights-of-way and easements by:

(1) Reducing or eliminating the need for new excavation within public streets, rights-of-way, and easements when telecommunications service providers seek to locate underground telecommunications facilities within streets in the future;

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(2) Reduce or eliminate the traffic disruption that occurs whenever excavation occurs within streets, public rights-of-way, and easements;

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(3) Reduce or eliminate the loss of pavement integrity and diminishment of the useful life of pavement that occurs when paved streets are cut and excavated within; and

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(4) Meet the needs and desires of the public for access to high-speed telecommunications services and the needs and desires of telecommunications service providers to locate within the public streets, rights-of-way, and easements.

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(e) In residential areas, the anticipated demand for increased future use can likely be met by the capacity provided by the designated telecommunications carrier.

(f) In non-residential areas, anticipated demand is higher, but can likely be met for reasonable future use by the capacity provided by the designated telecommunications carrier. Requiring the installation of conduit and other facilities necessary to support those lines will allow anticipated needs to be met while allowing the Tribes to responsibly manage its public streets, rights-of-way, and easements.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

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4-3-461 Intent

The intent of this section is to provide for the construction of infrastructure to allow telecommunications service providers desiring to deploy communication lines in the future to allow pulling the same through the conduit and appurtenances installed pursuant to this section and without excavating within the right-of-

way. This section is not intended to require telecommunications service providers to install additional ducts or conduit pursuant to the provisions of RCW 35.99.070, but is intended to require those constructing public streets, including the city and private developers, to provide and install such conduit and appurtenances as may be necessary to accommodate future telecommunications needs within public streets and rights-of-way without further excavation or disturbance.

(Amended x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

4-3-462 Requirements

(a) Adoption of Standards. Whenever any new public street, re-conditioning of roadways, reconstructing and rehabilitating of BIA and Colville Tribes' roads constructed, whether by the Tribes as a public works project, federally - or state funded project, such as new housing developments, building construction, in conjunction with development, etc. the following shall be required:

(1) In all new local access public streets serving or abutting residential development, a conduit of a sufficient diameter and containing interducts of sufficient number and diameter to accommodate a minimum of thirty six (36) lines should be installed by the contractor constructing the street improvements. This requirement may be amended with approval of the Chief Information Officer of the Tribes Information Technology Department.

(2) In all new collector or arterial public streets serving or abutting residential development, and in all new public streets serving or abutting nonresidential development, a conduit of a sufficient diameter and containing interducts of sufficient number and diameter to accommodate a minimum of thirty six (36) lines should be installed by the contractor constructing the street improvements. This requirement may be amended with approval of the Chief Information Officer of the Tribes Information Technology Department.

(3) In addition to installing conduit, the contractor constructing the improvements will be required to install such vaults and other appurtenances as may be necessary to accommodate installation and connection of telecommunication lines within the conduit.

(4) All construction and installation shall be accomplished according to construction standards adopted by the Colville Tribes. The construction standards shall be adopted with due consideration given to existing and anticipated technologies and industry standards. The construction standards shall specify the minimum diameter of the conduit and interducts and the minimum number of interducts to meet the requirements of this section. Special attention should be given to requiring the contractor to burying cable to the required bury depth as specified in the construction details. At the end of the all construction a full detailed as-built should be provided to the owner as proof of construction.

(5) All conduit and appurtenances installed by private parties pursuant to this section shall be conveyed and dedicated to the Tribes with the dedication and conveyances of the public street and/or right-of-way.

(b) Use by Telecommunication Service Providers. Whenever conduit to be installed under this section is available or will become available within a newly constructed public streets or right-of-way upon dedication, all telecommunications service providers thereafter locating telecommunication lines within such street or right-of-way shall be required to locate their communication lines within such conduit unless it can be demonstrated to the reasonable satisfaction of the Tribes that such location is not technologically feasible or reasonably practicable. The Tribes may adopt additional rules for conduit allocation in order to ensure that all telecommunications service providers have reasonable access to rights-of-way and that no barriers to entry or competition result from the allocation of conduit space.

(c) Fees. The Tribes reserves the right to charge reasonable fees for the use of conduit installed pursuant to this section, to the extent consistent with and as limited by applicable laws and regulations. Any such fees

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shall be proposed to the Colville Business Council by the Information Technology Department and must be approved by Resolution.

(Section Added x/xx/xx, Certified x/xx/xx, Resolution 2021-xxx)

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Zoning Map
Approved 4/5/07, Resolution 2007-201

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