

# SKOKOMISH FLOOD DAMAGE PREVENTION ORDINANCE

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**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**  
**(SECTION 1.0)**

**6.04.101 Statutory Authorization (Model 1.1)**

The Constitution and laws of the United States have designated responsibility to tribal governments to establish laws that promote the health, safety and general welfare of its citizens. The Skokomish Indian Tribe does therefore ordain and enact this Ordinance pursuant to the Skokomish Constitution.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.102 Findings of Fact (Model 1.2)**

- (a) The flood hazard areas of the Skokomish Reservation and Skokomish's allotted, trust and fee lands are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses may be caused by the cumulative effect of obstructions in flood hazard areas which increase flood heights and velocities and, when inadequately anchored, cause damage in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage, also contribute to flood loss.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.103 Statement of Purpose (Model 1.3)**

It is the purpose of this Ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in flood hazard areas;

- (f) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- (g) Notify potential buyers that the property is in a Special Flood Hazard Area;
- (h) Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
- (i) Participate in and maintain eligibility for flood insurance and disaster relief.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.104 Methods of Reducing Flood Losses (Model 1.4)**

In order to accomplish its purposes, this Ordinance includes methods and provisions to:

- (a) Restrict or prohibit development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (b) Require that development vulnerable to floods, including facilities, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (d) Control filling, grading, dredging, and other development which may increase flood damage; and
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**DEFINITIONS (SECTION 2.0)**

**6.04.200 Definitions**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

- (a) Alluvial fan. A geomorphologic feature characterized by a cone or fan shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

- (b) Appeal. A request for a review of the Director of Natural Resources' interpretation of any provision of this Ordinance or a request for a variance.
- (c) Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- (d) Appurtenant structure. A structure that is on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure.
- (e) Area of shallow flooding. A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (f) Area of special flood hazard. The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".
- (g) Area of special flood-related erosion hazard. The land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.
- (h) Area of special mudslide (i.e., mudflow) hazard. The land within a community most likely to be subject to severe mudslides (i.e., mudflows). The area may be designated as Zone M on the FHBM. After the detailed evaluation of the special mudslide (i.e., mudflow) hazard area in preparation for publication of the FIRM, Zone M may be further refined.
- (i) Base flood. The flood having a one percent chance of being equaled or exceeded in any given year.
- (j) Base flood elevation (BFE). The elevation to which floodwater is anticipated to rise during the base flood.
- (k) Basement. Any area of the building having its floor sub-grade - i.e., below ground level – on all sides.
- (l) Building. See "Structure."

- (m) Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- (n) Coastal high hazard area. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.
- (o) Community. For the purposes of this Ordinance, “Community” means the Skokomish Indian Tribe, which has authority to adopt and enforce floodplain management regulations within its jurisdiction.
- (p) Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (q) Elevated Building. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- (r) Elevation Certificate. An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).
- (s) Erosion. The process of the gradual wearing away of landmasses. This peril is not, per se, covered under the National Flood Insurance Program.
- (t) Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (u) Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (v) Flood or Flooding.
  - (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (A) The overflow of inland or tidal waters.
  - (B) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (C) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (v)(1)(B) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (v)(1)(A) of this definition.
- (w) Flood elevation study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
  - (x) Flood Hazard Boundary Map. An official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A., M, and/or E.
  - (y) Flood Insurance Rate Map (FIRM). The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
  - (z) Flood Insurance Study (FIS). See “Flood elevation study”.
  - (aa) Floodplain or flood prone area. Any land area susceptible to being inundated by water from any source. See “Flood or flooding.”
  - (bb) Floodplain administrator. The Director of Natural Resources designated by title to administer and enforce the floodplain management regulations.
  - (cc) Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

- (dd) Floodplain management regulations. Zoning Ordinances, subdivision regulations, building codes, health regulations, special purpose Ordinances (such as floodplain Ordinance, grading Ordinance and erosion control Ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (ee) Flood proofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.
- (ff) Flood-related erosion. The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
- (gg) Flood-related erosion area or flood-related erosion prone area. A land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
- (hh) Floodway. The channel of a river or other watercourse 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 a designated height. Also referred to as "Regulatory Floodway."
- (ii) Floodway fringe. The special flood hazard area outside the "Regulatory Floodway".
- (jj) Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.
- (kk) Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

- (ll) Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (mm) Historic structure. Any structure that is:
- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (A) By an approved state program as determined by the Secretary of the Interior or
    - (B) Directly by the Secretary of the Interior in states without approved programs.
- (nn) Levee. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
- (oo) Levee system. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- (pp) Lowest floor. The lowest floor of the lowest enclosed area (including "Basement"). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
- (qq) Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

- (rr) Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (ss) Mean sea level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.
- (tt) Mudslide (i.e., mudflow). Describes a condition where there is a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.
- (uu) New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- (vv) New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.
- (ww) One hundred year flood or 100 year flood. See "Base flood."
- (xx) Person. Any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.
- (yy) Primary Frontal Dune. A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

- (zz) Program. The National Flood Insurance Program authorized by 42 U.S.C. 4001 through 4128.
- (aaa) Program deficiency. A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.
- (bbb) Reasonably safe from flooding. Base flood waters will not inundate the land or damage and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (ccc) Recreational vehicle. A vehicle which is:
  - (1) Built on a single chassis;
  - (2) 400 square feet or less when measured at the largest horizontal projection;
  - (3) Designed to be self propelled or permanently towable by a light duty truck; and
  - (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ddd) Regulatory floodway. See "Floodway".
- (eee) Remedy a violation. To bring the structure or other development into compliance with Federal, State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.
- (fff) Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (ggg) Sheet flow area. See "Area of shallow flooding".
- (hhh) Special Flood Hazard Area (SFHA). See "Area of special flood hazard".
- (iii) Start of construction. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the

installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(jjj) Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(kkk) Structure. For insurance purposes:

- (1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
- (2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
- (3) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building Ordinances or laws.

For insurance purposes, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

(lll) Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(mmm) Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have

been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”
- (nnn) Variance. A grant of relief by a community from the terms of a flood plain management regulation.
- (ooo) Violation. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.
- (ppp) Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

### **GENERAL PROVISIONS (SECTION 3.0)**

#### **6.04.301 Lands to which this Ordinance Applies (Model 3.1)**

This Ordinance shall apply to all special flood hazard areas within the boundaries of the Skokomish Reservation and Skokomish’s allotted, trust and fee lands.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.302 Basis for Establishing Special Flood Hazard Areas (Model 3.2)**

The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering Report entitled “The Flood Insurance Study (FIS) for Mason County and Incorporated Areas”, dated June 20, 2019 and associated Flood Insurance Rate Maps (FIRM) are hereby adopted by reference and declared to be a part of this Ordinance. The FIS and FIRM are on file at the Skokomish Legal Department, N. 80 Tribal Center Road, Skokomish Nation, Washington.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.303 Compliance (Model 3.3)**

All development within special flood hazard areas is subject to the terms of this Ordinance and other applicable regulations.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.304 Abrogation and Greater Restrictions (Model 3.4)**

This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.305 Interpretation (Model 3.5)**

In the interpretation and application of this Ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.306 Penalties for Non-Compliance (Model 3.6)**

Violations of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a criminal offense. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Skokomish Indian Tribe or Director of Natural Resources from taking such other lawful action as is necessary to prevent or remedy any violation.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.307 Disclaimer of Liability (Model 3.7)**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Skokomish Indian Tribe, any officer or employee thereof, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.308 Severability (Model 3.8)**

This Ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**ADMINISTRATION (SECTION 4.0)**

**6.04.401 Designation of the Floodplain Administrator (Model 4.1)**

The Director of Natural Resources is hereby appointed to administer, implement and enforce this Ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.402 Duties and Responsibilities of the Floodplain Administrator (Model 4.2)**

Duties of the Floodplain Administrator shall include, but not be limited to:

(a) Permit Review (Model 4.2.1)

Review all development permits to determine that:

- (1) The permit requirements of this Ordinance have been satisfied;
- (2) All other required state and federal permits have been obtained;
- (3) The site is reasonably safe from flooding;
- (4) In areas where a floodway has not been designated, require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(b) Use of Other Base Flood Data (Model 4.2.2)

When Base Flood Elevation data has not been provided in accordance with Section 6.04.302, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data available from a federal, state or other source, in order to administer PROVISIONS FOR FLOOD

HAZARD REDUCTION (SECTION 5.0). Any such information shall be consistent with the requirements of the Federal Insurance Administrator.

(c) Obtain and Maintain for Public Inspection (Model 4.2.3)

Obtain and maintain the following for public inspection and make available as needed:

- (1) Certification required by Section 6.04.501(c)(1) and Section 6.04.505 (lowest floor elevations, bottom of the lowest horizontal structural member, and service facilities/mechanical equipment);
- (2) Certification required by Section 6.04.501(c)(2) (lowest floor elevations or floodproofing of non-residential structures and service facilities/mechanical equipment);
- (3) Certification required by Section 6.04.501(c)(3);
- (4) Certification required by Section 6.04.507(a) (floodway encroachments);
- (5) Records of all variance actions, including justification for their issuance;
- (6) Improvement and damage calculations.

(d) Notification to Other Entities (Model 4.2.4)

- (1) Whenever a watercourse is to be altered or relocated, notify adjacent communities and the State Coordinating Office prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means, and assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
- (2) Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- (3) Notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

(e) Remedial Actions (Model 4.2.5)

Take actions on violations of this Ordinance as required in Section 6.04.306 herein.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

#### **6.04.403 Establishment of Development Permit (Model 4.3)**

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any Special Flood Hazard Area established in Section 6.04.302. Application for a Development Permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

##### **For A Zones (A, A1-30, AE, AH, AO):**

- (a) Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures. In Zone AO, elevation of existing highest adjacent grade and proposed elevation of lowest floor of all structures;
- (b) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- (c) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 6.04.501(c)(2);
- (d) Base Flood Elevation data for subdivision proposals or other development, including manufactured home parks or subdivisions, greater than 50 lots or 5 acres, whichever is the lesser; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

##### **For V Zones (VE, V1-30 and V):**

- (f) Proposed elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all structures, and whether such structures contain a basement;
- (g) Base Flood Elevation data for subdivision proposals or other development, including manufactured home parks or subdivisions, greater than 50 lots or 5 acres, whichever is the lesser; and
- (h) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**PROVISIONS FOR FLOOD HAZARD REDUCTION (SECTION 5.0)**

**6.04.501 Standards of Construction (Model 5.1)**

In all special flood hazard areas, the following standards are required:

(a) Anchoring (Model 5.1.1)

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
- (2) All manufactured homes shall meet the anchoring standards of Section 6.04.505.

(b) Construction Materials and Methods (Model 5.1.2)

- (1) All new construction and substantial improvements shall be constructed with materials resistant to flood damage;
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and
- (3) All new construction and substantial improvement shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) Within Zones AH or AO, adequate drainage paths shall be constructed around structures on slopes to guide floodwaters around and away from proposed structures.

(c) Elevation and Floodproofing (Model 5.1.3)

(1) Residential Construction (Model 5.1.3.1)

**For A Zones (A, AE, A1-30, AH, AO):**

Residential construction, new or substantial improvement, shall have the lowest floor, including basement, elevated to or above the Base Flood Elevation.

- A. In a Zone AO, the Base Flood Elevation is determined from the FIRM panel as the depth number specified. If no depth is specified, the required elevation is at minimum two (2) feet above highest adjacent grade.

- B. In a Zone A where the Base Flood Elevation has not been determined, the Base Flood Elevation is determined locally by the criteria set out in Section 6.04.402(b). A minimum of 2 feet above highest adjacent grade may result in a lower insurance premium.
- C. In Zones AE, A1-30, and AH, the Base Flood Elevation is determined from the FIS and/or FIRM.
- D. A garage attached to a residential structure, constructed with the garage floor slab below the Base Flood Elevation, must be designed to allow for the automatic entry and exit of flood waters. See Section 6.04.501(c)(4).

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

**For V Zones (VE, V1-30 and V):**

Residential construction, new or substantial improvement, shall:

- (E) Be located landward of the reach of mean high tide;
- (F) Have the bottom of the lowest structural member of the lowest floor (excluding pilings and columns), elevated to or above the Base Flood Elevation;
- (G) Have the pile or column foundation and structure attached thereto be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards;
- (H) Have the space below the lowest floor, usable solely for parking of vehicles, building access, or storage, either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot;
- (I) Prohibit the use of fill for structural support of buildings; and
- (J) Prohibit man-made alteration of sand dunes and mangrove stands.

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section.

Upon completion of construction, certification by a registered professional engineer or architect that these design standards have been satisfied, and certification by a registered professional engineer or surveyor that the elevation requirements of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

(2) Non-residential Construction (Model 5.1.3.2)

**For A Zones (A, AE, A1-30, AH, AO):**

Non-residential construction, new or substantial improvement, shall have the lowest floor either elevated to conform with Section 6.04.501(c)(1)(A), (B), or (C),

Or, together with attendant utility and sanitary facilities,

- A. Be floodproofed below the elevation recommended under Section 6.04.501(c)(1)(A), (B), or (C) so that the structure is watertight with walls substantially impermeable to the passage of water; and
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice meeting the provisions listed above.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Floodplain Administrator for verification; or certification by a registered professional engineer or architect that the floodproofing design of this section is satisfied, including the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be provided to the Floodplain Administrator for verification.

**For V Zones (VE, V1-30, V):**

Floodproofing of non-residential structures is prohibited. All structures must be elevated and constructed according to the requirements set forth in Section 6.04.501(c)(1).

(3) Appurtenant Structures (Detached Garages & Storage Structures)  
(Model 5.1.3.3)

**For A Zones (A, AE, A1-30, AH, AO):**

Appurtenant structures used solely for parking of vehicles or storage may be constructed such that the floor is below the Base Flood Elevation, provided the structure is designed and constructed in accordance with the following requirements:

- A. Use of the appurtenant structure must be limited to parking of vehicles or storage;
- B. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- C. The appurtenant structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- D. Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the Base Flood Elevation;
- E. The appurtenant structure must comply with floodway encroachment provisions in Section 6.04.507; and
- F. The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 6.04.501(c)(4).

Detached garages, storage structures and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 6.04.501(c)(1)(A), (B), or (C) as appropriate.

Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

**For V Zones (VE, V1-30 and V):**

Floodproofing of non-residential structures is prohibited. All structures must be elevated and constructed according to the requirements set forth in Section 6.04.501(c)(1).

(4) Flood Openings (Model 5.1.3.4)

All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for meeting this requirement must meet or exceed the following criteria:

For non-engineered openings:

- A. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- B. The bottom of all openings shall be no higher than one foot above grade;
- C. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

Alternatively, a registered engineer or architect may design and certify engineered openings.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.502 Standards for Storage of Materials and Equipment (Model 5.2)**

- (a) The storage or processing of materials that could be injurious to human, animal or plant life if released due to damage from flooding is prohibited in special flood hazard areas.
- (b) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.503 Standards for Water Supply and Waste Disposal Systems (Model 5.3)**

- (a) All new or replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- (b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.504 Development > 50 Lots Or 5 Acres (Model 5.4)**

All new development (including proposals for manufactured home parks and subdivisions), greater than 50 lots or 5 acres, whichever is the lesser, shall:

- (a) Include base flood elevation data;
- (b) Be consistent with the need to minimize flood damage;
- (c) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
- (d) Provide adequate drainage to reduce exposure to flood hazards.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.505 Standards for Manufactured Homes (Model 5.5)**

**For A Zones (A, AE, A1-30, AH, AO):**

All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

- (a) Manufactured homes that are placed or substantially improved within Zone AO shall meet the residential construction standards in A Zones in Section 6.04.501(c)(1).
- (b) Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
  - (1) Outside of a manufactured home park or subdivision,
  - (2) In a new manufactured home park or subdivision,
  - (3) In an expansion to an existing manufactured home park or subdivision, or
  - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood,

Be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.

(c) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that have not incurred substantial damage as the result of a flood are to be elevated so that either:

- (1) The lowest floor of the manufactured home is at or above the base flood elevation, or
- (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

**For V Zones (VE, V1-30 and V):**

(d) Manufactured homes placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites:

- (1) Outside of a manufactured home park or subdivision,
- (2) In a new manufactured home park or subdivision,
- (3) In an expansion to an existing manufactured home park or subdivision, or
- (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,

Meet the standards of residential construction in V Zones in Section 6.04.501(c)(1).

(e) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the community's FIRM that have not incurred substantial damage as the result of a flood are to:

- (1) Meet the standards of residential construction in V Zones in Section 6.04.501(c)(1); and
- (2) Be elevated so that either:

- (A) The lowest floor of the manufactured home is at or above the base flood elevation, or
- (B) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.506 Standards for Recreational Vehicles (Model 5.6)**

All recreational vehicles placed on site shall:

- (a) Be on site for fewer than 180 consecutive days,
- (b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c) Meet the permit requirements of ADMINISTRATION (SECTION 4.0) of this Ordinance and the applicable elevation and anchoring requirements for manufactured homes in Section 6.04.505.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.507 Floodways (Model 5.7)**

Located within the special flood hazard areas established in Section 6.04.302 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;
- (b) If Section 6.04.507(a) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction

provisions of PROVISIONS FOR FLOOD HAZARD REDUCTION. (SECTION 5.0)

- (c) Encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations may be permitted, provided that {community name} first applies for and fulfills the requirements for a Conditional Letter of Map Revision (CLOMR), and receives approval from the Federal Insurance Administrator to revise the FIRM and FIS in accordance with Section 6.04.402(d)(2).

### **VARIANCE PROCEDURE (SECTION 6.0)**

#### **6.04.601 Nature of Variances (Model 6.1)**

The variance criteria set forth in this section of the Ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

It is the duty of the Skokomish Indian Tribe to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Base Flood Elevation are so serious that variances from the flood elevation or from other requirements in the flood Ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

**Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)**

#### **6.04.602 Conditions for Variances (Model 6.2)**

- (a) Variances shall only be issued:
  - (1) Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or Ordinances;
  - (2) For the repair, rehabilitation or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

- (3) Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  - (4) Upon a showing of good and sufficient cause;
  - (5) Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (6) Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 6.04.200 of this Ordinance in the definition of "Functionally Dependent Use."
- (b) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
  - (c) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation, provided the procedures of ADMINISTRATION (SECTION 4.0) and PROVISIONS FOR FLOOD HAZARD REDUCTION (SECTION 5.0) of this Ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)

**6.04.603 Variance Criteria (Model 6.3)**

- (a) In considering variance applications, the Skokomish Indian Tribe shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger of life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

- (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system and streets and bridges.
- (b) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
- (1) The issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
  - (2) Such construction below the base flood elevation increases risks to life and property; and
- (c) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

**Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Courts Project)**

#### LEGISLATIVE HISTORY

Prior Title 6.04 STC Amended and Renumbered by Resolution No. 19-053 (April 24, 2019)

Enacted by Resolution No. 19-053 (April 24, 2019) (Recodification – Tribal Court Project)