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OKANOGAN COUNTY AUDITOR
OKANOGAN, WA

Confederated Tribes of the Colville Reservation

Land Use and Development Code



Colville Indian Reservation
Colville Tribes Planning Department

R E S O L U T I O N

WHEREAS, the Colville Tribes adopted the Colville Interim Land Use and Development Ordinance on November 20, 1978, Resolution 1978-868; and

WHEREAS, the Planning Department, in consultation with the Reservation Attorney, was directed to update the interim ordinance and circulated a proposed draft for comment in 1984 which, after a series of modifications, was reissued in 1990; and

WHEREAS, the proposed Code was distributed to the Interdisciplinary Team (IDT) and all tribal departments and circulated by the Planning Department on January 30, 1991 "all interested/affected parties" for comment; and

WHEREAS, comments were received from Okanogan County Planning and Prosecutor's Offices; Ferry County; and, the Mayors of Coulee Dam, Okanogan and Omak which requested that the Colville Tribes defer adoption of the Land Use and Development Code until after an intergovernmental agreement addressing mutual planning and zoning issues and establishing a cooperative scheme could be developed; and

WHEREAS, the Intergovernmental Land Use Planning Agreement has been adopted by the cities, counties and tribe and the Colville Tribes is committed to successfully implementing on a government to government basis; and

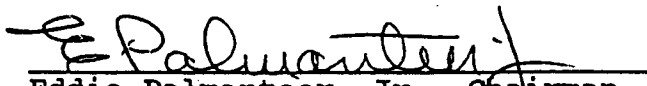
WHEREAS, over eighty percent (80%) of the land base of the Colville Reservation is held in trust by the United States for the benefit of the Tribes and its members over which the parties of the Intergovernmental Agreement claim no zoning authority which of itself necessitates the adoption of the updated Land Use and Development Code as Title 50 of the Colville Tribal Code; and

WHEREAS, it is the joint recommendation of the Management and Budget and the Tribal Government Committees to adopt the attached Land Use and Development Code of the Confederated Tribes of the Colville Reservation and incorporate it as Title 50 of the Colville Tribal Code.

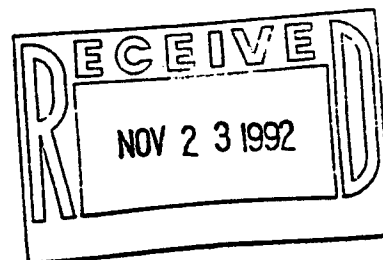
THEREFORE, BE IT RESOLVED, that we, the Colville Business Council, meeting in SPECIAL Session, this 19th day of NOVEMBER 1992, at the Colville Indian Agency, Nespelem, Washington, acting for and in behalf of the Colville Confederated Tribes, do hereby approve the recommendation of the Management and Budget Committee and Tribal Government Committee.

The foregoing was duly enacted by the Colville Business Council by a vote of 8 FOR 0 AGAINST, under the authority contained in Article V, Section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation, ratified by the Colville Indians on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938.

ATTEST:


Eddie Palmanteer, Jr., Chairman
Colville Business Council

cc:Dale Kohler, Chairman, Tribal Government
Harry Owhi, Chairman, Management and Budget
Mike Marchand, Director, Planning
Kathy Desautel, Financial Officer



TITLE 50

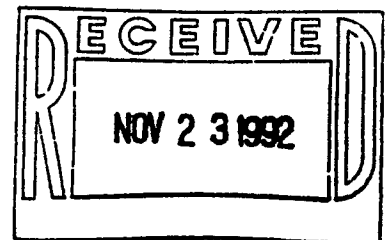
**CONFEDERATED TRIBES OF THE
COLVILLE RESERVATION**

LAND USE AND DEVELOPMENT CODE

Prepared by:

Comprehensive Planning Department

NOVEMBER, 1992



LAND USE AND DEVELOPMENT CODE

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TITLE 50

LAND USE AND DEVELOPMENT CODE

CHAPTER 50.1 GENERAL PROVISIONS

50.1.1 TITLE

This Title shall be known as and may be referred to as the "Colville Land Use and Development Code."

50.1.2 AUTHORITY

The Colville Land Use and Development Code 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.

50.1.3 LEGISLATIVE INTENT

- (a) The legislative intent of the Colville Business Council in adopting this Title 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; and, to implement the Tribes' Comprehensive Land Use Guidelines.
- (b) It is the intention of the Colville Business Council that this Title implement the planning policies adopted by the Council for the Confederated Tribes and the Colville Indian Reservation, as reflected in the land-use plan and other planning documents. While the Business Council affirms its commitment that this Title and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this Title 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 Code shall apply to all lands of the Colville Indian Reservation notwithstanding the issuance of any patent. The provisions shall apply to and shall bind all persons residing or found within the exterior boundaries of the Reservation, or having title or use or possessory interests to lands of the Reservation.

50.1.4 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH THIS TITLE ALLOWED.

- (a) Subject to Chapter 50.9 (nonconformities) no person may use, occupy, or sell any land or buildings 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 Title.
- (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.

50.1.5 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 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.

- (b) Fees established in accordance with section 50.1.5 shall be paid upon submission of a signed application or notice of appeal.

50.1.6 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, that day shall be excluded. When the period of time

is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded.

- 50.1.(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 days shall be added to the prescribed period.

50.1.7 MISCELLANEOUS

- (a) Words used or defined in one tense or form in this Title shall include other tenses and derivative forms.
- (b) Words used in the singular in this Title include the plural and words used in the plural include the singular.
- (c) As used in this Title, 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 Title and any caption, illustration, or table, the text shall control.

50.1.8 ZONING MAPS

- (a) A Zoning Map adopted by reference in section 50.1.8(b) or any amendment thereto shall be prepared by authority of the Colville Business Council. A certified print of the adopted map or subsequent map amendment shall be maintained without change in the Planning Department of the Confederated Tribes as long as this Title remains in effect.
- (b) The boundary for each zone listed in this Title is indicated on the Colville Reservation Zoning Map of 1991 established by the Colville Business Council and is hereby adopted by reference.

50.1.9 SUPERIORITY OF CODE

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 Title, the provisions of this Title shall control and supersede all such laws. This Title shall supersede the Colville Interim Land Use and Development Ordinance adopted by the Business Council in 1978. Other tribal codes and ordinances

not specifically repealed in this Title shall be construed consistent with the terms and purposes of this Title.

50.1.10 SEVERABILITY

The provisions of this Title are severable. Should any section or provision of this Title 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 Title as a whole, or any part thereof, other than the specific part declared to be unconstitutional or invalid.

CHAPTER 50.2 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 Title:

- Abutting:** Having a common border with, or being separated from such common border by, an alley or easement.
- Access:** A means of vehicular approach or entry to or exit from property.
- 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, play houses, and swimming pools.
- 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.
- Agricultural Use:** Activities related to the growing and harvesting of food, feed, other crops, and animals.
- 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.
- Arterial/Collector Streets:** Roadways which primarily serve local neighborhood residences or businesses with through traffic to other neighborhoods or streets.
- 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.
- 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.

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 Title.

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.

Camper: A self-propelled vehicle designed for temporary human habitation or which provides accessory facilities for overnight camping; also known as a recreational vehicle.

Campgrounds: Sites where tent or trailer camping is allowed but water and power are not provided.

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.

Conditional Use Permit: A permit issued by the Land Use Review Board that authorizes the recipient to make use of property in accordance with the requirements of this Title as well as any additional requirements imposed by the Review Board.

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 Title.

Dedication: The transfer of property interest from private to public ownership for a public purpose.

Density: The per capita ratio of persons or family residential units per fixed measure of property; e.g. four single family residences per acre.

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.

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 Title.

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.

Dwelling:

Any building or portion thereof which is designated or used for residential purposes.

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.

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.

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.

Family:

An individual or two or more persons related by blood, marriage, adoption, or guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

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 floodplains not associated with a stream system but which are low points to which surrounding lands drain.

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 Title, 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.

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.

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 non-building structures.

Home Occupation:

Any occupation of a service character which is clearly secondary to the main use of the 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.

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.

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.

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.

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.

Land Use Review Board (Review Board):

The group of persons appointed under this Title when performing the functions delegated to it by this Title.

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 Title for such building, use, or development.

Lot Area/ Size:	The total horizontal area within the boundary lines of a lot excluding public and private streets and shorelands.
Lot of Record:	Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.
Major Highways:	Roadways primarily designed to carry through traffic between communities or regions.
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.
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.
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.
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.
Nonconforming Use:	Any use of land or a structure or premises which was <u>lawfully</u> established or built and which has been <u>lawfully</u> continued, but which does not conform to the regulations of the zone in which it is located as established by this Title or amendments thereto.
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 Title and land occupied by dwellings or impervious surfaces not related to the open space.
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.
Parcel:	The area within the boundary lines of a development.
Person:	The word "person" includes individuals, firms, organizations, corporations, associations and any other similar entity.
Planning Committee:	The term "Planning Committee" shall refer to the Planning Committee of the Colville Business Council when it is performing the functions delegated to it by this Title.

Planning Department:	The term "Planning Department" shall refer to the Planning Department of the Colville Confederated Tribes.
Plat:	A plan or map dividing a tract of land into lots or parcels considered to be units or property.
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.
Residential Use:	The primary purpose of a building on a lot to provide living accommodations for a person(s).
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.
Recreational Vehicle Park:	A tract of land developed as a unit with individual sites to accommodate, on a transient basis, two or more RVs.
Right-of way:	The legal right of passage over another person's ground, such as strips of land for roadways, railroads, transmissions lines.
Shoreline:	The line at which the surface of the body of water of any lake, stream, or river meets the land.
Sign:	A collection of letters, numbers, or symbols which call attention to a business, product, activity, person, or service.
Sign Permit:	A permit which authorizes the placement or alteration of a sign on a particular parcel of property or building.
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.
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 Title as well as any additional requirements imposed by the Business Council.

Structure:	Anything constructed or erected.
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.
Subdivision, Major:	Any subdivision other than a minor subdivision.
Subdivision, Minor:	A subdivision that does not include any of the following: (i) the creation of more than a total of three lots; (ii) the creation of any new public streets; or (iii) the extension of a public water or sewer system.
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.
Tribal Members:	Persons who are listed in the official enrollment records of the Confederated Tribes of the Colville Reservation.
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.
Variance:	An exception from the application of a zoning regulation granted by proper authority to relieve against practical difficulties and unnecessary hardship.
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.**
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.
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 Title. This Title creates structural and use restrictions to be imposed upon the owners of real estate within the prescribed zoning district.
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 Title.

CHAPTER 50.3 ESTABLISHMENT OF ZONING DISTRICTS

50.3.1 ESTABLISHMENT OF ZONING DISTRICTS

The Colville Indian 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 Title.

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 Title.

50.3.2 ZONING DISTRICTS

All land and water areas of the Colville Indian Reservation are hereby divided into zoning districts which shall be designated as follows:

<u>Name of Zone</u>	<u>Abbreviation</u>
Residential	R
Commercial	C
Rural/Agricultural	Ru
Forest	F
Game Preserve	GP
Wilderness	W
Special Requirement	SR
Industrial	I

The requirements set by this Chapter 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 Title. 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.

50.3.3 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 Indian 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 lakes 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 platted 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 Title, 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 Planning Committee shall rule on this matter.

50.3.4 STATEMENT OF PURPOSE, INTENT AND PERMITTED USES

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

50.3.5 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 dwellings 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
5. 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 50.5.9 to 50.5.13 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
5. Mobile Homes and/or travel trailers used as dwellings, not in a permitted mobile home park or trailer court.
6. Farming, gardening orchards and nurseries, provided that no retail or wholesale business office is maintained.
7. 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 Title which shall apply.
- (c) Density Provisions
- 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:
Front yard - 25 feet
Side yard - 15 feet
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.

50.3.6 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, e.g., 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
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
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
Front yard - 40 feet
Side yard - 10 feet
Rear yard - None required
3. Maximum Building Height
No building shall exceed a height of forty-five (45) feet or three and one half (3½) stories, whichever is the lesser.

(d) Other Regulations

Off-Street Parking Requirements

One (1) off-street parking space per 200 square feet.

50.3.7

RURAL DISTRICT

The Rural District is intended to preserve those portions of the Reservation 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
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 50.5.9 to 50.5.13 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
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

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

Front Yard - 70 feet

Side Yard - 15 feet

Rear Yard - 25 feet

3. Maximum Building Height

Maximum building height shall not exceed forty-five (45) feet.

50.3.8

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; timber production.

2. Grazing

3. Fish and game management

4. The harvesting of wild crops

5. Watershed

6. Greenhouses and nurseries

7. Agriculture and husbandry pursuits

8. Single family dwellings associated with forest production

(b) Conditionally Permitted Uses

The following uses may be permitted subject to the requirements of sections 50.5.9 to 50.5.13 and upon issuance of a zoning permit.

1. Public and private camps or campgrounds
2. Sawmills

(c) Density Provisions

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
Front yard - 70 feet
Side yard - 15 feet
Rear yard - 25 feet
3. Maximum Building Height
Building height in no case will exceed forty-five (45) feet.

(d) Other Regulations

Off street parking requirements
One (1) off street parking space per two-hundred (200) square feet.

50.3.9 GAME RESERVE DISTRICT

The Game Reserve District is designed to retain land for game management. This district is established to prevent uncontrolled development and protect natural environmental systems.

(a) Permitted Uses

The following uses and their accessory uses are permitted in the game reserve zone upon the issuance of a zoning permit.

1. Grazing or livestock
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 tepee poles and fence posts

7. Hunting, fishing and trapping by Tribal members only
8. Wildlife preserves
9. Educational and recreational camps

(b) Conditionally Permitted Uses

The following uses may be permitted subject to the requirements of sections 50.5.9 to 50.5.13 and upon issuance of a zoning permit.

1. Single family dwellings associated with resource protection.
2. Recreational areas

(c) Density Provisions

1. Lot Size

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

2. Minimum set back requirements

front 70 feet
side 15 feet
rear 25 feet

3. Maximum building height

The maximum height limit for all structures within this zone shall be one and one-half ($1\frac{1}{2}$) stories or fifteen (15) feet, whichever is less.

(d) Other Regulations

Off street parking requirements

One (1) off street parking space per two-hundred (200) square feet.

50.3.10 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
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 50.5.9 to 50.5.13 and Chapter 50.10.

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 Special Use 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 set-back shall be the same as the established building line as determined by the Colville Business Council or designee.

- (B) If any use in this district abuts or faces any residential district, a minimum set-back 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, etc., 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 (1) 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 fourteen 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 set-back for all buildings or other structures from the centerline of right-of-way as follows:

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

Right-of-Way, Private

Set-Back

Any road, lane, street or
other access way in private
ownership

30 feet

Any waterway, lake, stream
or spring

100 feet

50.3.11 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 Indian Reservation. 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 50.5.9 to 50.5.13 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 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 50.3.13(b)(3). There shall be no placing or allowing livestock to enter or be in the Wilderness District.

50.3.12

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 50.5.9 to 50.5.13.

CHAPTER 50.4 ADMINISTRATIVE MECHANISMS

50.4.1 THE LAND USE REVIEW BOARD

(a) Establishment of the Review Board

1. There is hereby created the Land Use Review Board which shall consist of seven (7) voting members, 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 (4) years. The Review Board shall consist of at least one resident from each of the Reservation districts.
3. Of the regular voting members, initially, two shall be appointed for a term of three years, two 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.
4. The Review Board shall exercise all powers, duties and responsibilities delegated to it by this Title.

(b) Meetings

1. The Review Board 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.
2. The Review Board should conduct its meetings in accordance with the quasi-judicial procedures set forth in Chapters 50.5, 50.6 and 50.7.
3. All meetings of the Review Board 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.

(c) Quorum

1. 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 excludes himself from participating in any decision, his presence shall count for purposes of determining whether a quorum is present.

(d) Voting

1. 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 subsection 3, or has been allowed to withdraw from the meeting in accordance with subsection 4.
3. A member 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
 - (D) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
4. A member 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.

6. A roll call vote shall be taken upon the request of any member.

(e) Review Board Officers

1. The Board shall elect its own Chairperson who shall preside over the committee meetings pursuant to this Title 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.
3. The Chairperson and any other officer elected may take part in all deliberations and vote on all issues.

(f) Powers and Duties of the Review Board

1. The Review Board shall herein decide:
 - (A) Appeals from any order, decision, requirement, or interpretation made by the Planning Director or administrator, as provided in section 50.6.1.
 - (B) Applications for special use permits, as provided in section 50.5.9 and Chapter 50.10.
 - (C) Applications for variances, as provided in section 50.6.2.
 - (D) Applications for conditional uses, as provided for in section 50.5.9.
 - (E) Questions involving interpretations of the zoning map, including disputed boundary lines and lot lines, as provided in section 50.3.2.
 - (F) Any other matter the Board is required to act upon by any other tribal ordinance.
2. The Review Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Title and tribal law.
3. The Review Board, in its sole discretion, may appoint a hearing officer to conduct the hearing(s) provided in section 50.5.9 on any conditional-use or special-use permit application then pending before the Board.

The hearing officer shall conduct the hearing in accordance with the provisions of this Title and submit specific findings of fact, conclusions and a proposed decision to the 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 50.1.5.

50.4.2

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 Title 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 Chapter 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 50.5.25 and 50.5.26, the Planning Director is authorized to approve major and minor subdivision final plats. As the person primarily responsible for administering and enforcing this Title, he determines the completeness of applications and the adequacy of submissions based on the requirements of this Title. He makes requests for information and determines the applicability of environmental regulations and other tribal laws to a particular development.

(c) Responsibility of Land Use Administrator

The Land Use Administrator shall have the 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.

4. Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans and documents shall be a public record.

Further, if by amendment to this Title any zone boundary or any other matter shown on the Official Zoning Map is changed by action of the Colville Business, such change shall be promptly indicated on said map by the Administrator, together with the date of passage of the 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.

50.4.3 COLVILLE BUSINESS COUNCIL

(a) Powers And Duties Of Colville Business Council

The Colville Business Council shall decide under this Title:

1. Zoning Map adoption or revision
2. Adoption and amendment of this Title 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 Chapters 50.5, 50.6 and 50.7.

(c) Legislative Actions

In considering proposed changes in the text of this Title, 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.

(d) General Council Rules Applicable

Unless otherwise specifically provided in this Title, in acting upon rezone requests or in considering amendments to this Title 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.

CHAPTER 50.5 PERMITS AND FINAL PLAT APPROVAL
ZONING, SPECIAL USE, AND CONDITIONAL USE PERMITS

50.5.1 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 one of the following permits:
 - 1. A zoning permit issued by the Administrator.
 - 2. A conditional-use permit issued by the Review Board.
 - 3. A special-use permit issued by the Review Board upon approval of the Colville Business Council.
- (b) Zoning permits, conditional-use permits and special-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 Title if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as provided in section 50.5.18 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 for major sub-divisions or after final plat approval by the Planning Director for minor sub-divisions. (See section 50.5.26).
- (d) A zoning permit, conditional use permit, or special use permit 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.

50.5.2

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 Title 37) 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 50.5.8, 50.5.15, and 50.5.16, the intended use may not be commenced, no building may be occupied, and in the case of sub-divisions, no lots may be sold until all of the requirements of this Title and all additional requirements imposed pursuant to the issuance of a conditional-use or special-use permit have been complied with.

50.5.3

WHO MAY SUBMIT PERMIT APPLICATIONS

- (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 Chapter, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).
- (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.

50.5.4

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.
- (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 Title.

- (c) A presumption established by this Chapter is that all of the information set forth in Appendix 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 Appendix 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 Title, 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.

50.5.5

STAFF CONSULTATION BEFORE FORMAL APPLICATION

- (a) To minimize development planning costs, avoid misunderstanding or misinterpretation and ensure compliance with the requirements of this Title, 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 Title. The Administrator shall meet with the developer as soon as conveniently possible to review the sketched plan.

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

50.5.6 STAFF CONSULTATION AFTER APPLICATION SUBMITTED

- (a) Upon receipt of a formal application for a zoning, special-use, or a conditional-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 interpretation of the applicable requirements of this Chapter, 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 when the applicant indicates that the application is as complete as he intends to make it. However, as provided in sections 50.5.10(a) and 50.5.11(b), if the Administrator believes that the application is incomplete, he shall recommend to the Board that the application be denied on that basis.

50.5.7 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 50.5.5, 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 Title.
- (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 days before taking final action on the permit request, 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 for such notification to the Administrator.

50.5.8 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 permit recipient to comply with all of the requirements of this Title 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 Title 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 Title will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Administrator.

50.5.9

SPECIAL-USE PERMITS AND CONDITIONAL-USE PERMIT

- (a) An application for a special-use permit under Chapter 50.10 shall be submitted to the Review Board by filing a copy of the application with the Administrator at the Planning Department.
- (b) An application for a conditional-use permit shall be submitted to the Review Board by filing a copy of the application with the Administrator in the Planning Department.
- (c) Subject to subsection (d), the Review Board shall issue the requested permit unless it concludes, based upon the information submitted at the hearing that:
 - 1. The requested permit is not within its jurisdiction [according to the table of permissible use], 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 Title, or
- (d) Even if the Review Board finds that the application complies with all other provisions of this Title, it 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
 - 4. Will not be in general conformity with the land-use plan, transportation 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.

50.5.10 BURDEN OF PRESENTING EVIDENCE; BURDEN OF PERSUASION

- (a) The burden of presenting a complete application (as described in section 50.5.4) to the Administrator shall be upon the applicant. However, unless the Review Board 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 sufficient to lead it to conclude that the application should be denied for any reason stated in the sub-sections 50.5.9 ((c)(1), (c)(3) or (d)), 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 comply with the requirements of this Title 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 50.5.9(d) rests on the party or parties urging that the requested permit should be denied.

50.5.11 RECOMMENDATIONS BY THE ADMINISTRATOR ON SPECIAL USE AND CONDITIONAL USE PERMIT APPLICATIONS

- (a) When presented to the Review Board 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 50.5.4 (application to be complete) and the other requirements of this Title, as well as any staff recommendations for additional requirements to be imposed by the Review Board.
- (b) If the Administrator proposes the finding or conclusion that the application fails to comply with section 50.5.4 or any other

requirement of this Title, he shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusion.

- (c) The Review Board shall consider the application and the attached staff report in a timely fashion, and may, in its 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. The Administrator may likewise revise his recommendations.

50.5.12 APPROVAL OF SPECIAL USE AND CONDITIONAL-USE PERMITS

In considering whether to approve an application for a Conditional-Use or Special Use permit, the Review Board 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 under section 50.6.1.
- (b) The Review Board shall consider whether the application complies with all of the applicable requirements of this Title. If the Board finds that the application is not in compliance with one or more of the requirements of this Title, it shall specify the particular requirements the application fails to meet. As provided in sub-section 50.5.9(c), if the Board concludes that the application fails to meet one or more of the requirements of this Title, the application shall be denied.
- (c) If the Review Board 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 50.5.9(d). The Board shall prepare specific findings, based upon the evidence submitted, justifying such a conclusion.

ADDITIONAL REQUIREMENTS ON SPECIAL USE AND CONDITIONAL USE PERMITS

- (a) Subject to subsection (b), in granting a special, or conditional-use permit, the Review Board may attach to the permit such reasonable requirements in addition to those specified in this Title 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 significantly adversely affect the environment.
 6. Will not significantly adversely affect cultural resources.
- (b) The Review Board may not attach additional conditions that modify or alter the specific requirements set forth in this Title unless the development in question presents extra-ordinary circumstances that justify the variation from the specified requirements.
- (c) Without limiting the foregoing, the Board 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 Title.
- (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 50.5.9(c) or (d).

COUNCIL REVIEW AND APPROVAL OF SPECIAL USE PERMIT

50.5.14 BUSINESS COUNCIL ACTION AFTER REVIEW BOARD DETERMINATION ON SPECIAL USE PERMIT APPLICATION

- (a) After its final determination to either grant or disapprove a special use permit in accordance with sections 50.5.9 to 50.5.13, the Chairman of the Review Board shall place the case on the agenda of the next available council session and serve the Chairman of the Planning Committee with the record of the Board's decision.
- (b) The Business Council shall review the record and the Review Board's determination and uphold, reverse, or modify the Board's decision or 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 to assist it in making a final decision.

50.5.15 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, 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 Title 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 Title are concerned) if the permit recipient provides a performance bond or other security satisfactory to the body to insure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months).
- (b) When the Review Board imposes additional requirements on the permit recipient in accordance with section 50.5.13, or when the developer proposes in the plan submitted to install amenities beyond those required by this Title, 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 specifies a date by which, or a schedule according to which such requirements must be met or each amenity installed and if he 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,
3. The nature of the requirements or amenities are such that sufficient assurance of compliance is given by section 50.8.4 and section 50.8.5.

- (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 Title 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 not more than twelve months after final plat approval.

50.5.16 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 50.5.2 and section 50.5.15 shall apply to each phase as if it were the entire development.
- (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 Title 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 Title then the developer may utilize the provisions of sub-sections 50.5.15(a) or (c).
2. If the improvement is an amenity not required by this Title or is provided in response to a condition imposed by the Review Board or Business Council, then the developer may utilize the provisions of sub-section 50.5.15 (b).

50.5.17 EXPIRATION OF PERMITS

- (a) Zoning, conditional-use, and special-use permits shall expire automatically if, within one 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 50.5.16), 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 year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of section 50.5.18.
- (c) The Administrator may extend for a period up to six months, the date when a permit would otherwise expire pursuant to subsections

(a) or (b), if he concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) 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 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. 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.

50.5.18 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 transferrable. 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, special-use, or conditional-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.

50.5.19 AMENDMENTS TO AND MODIFICATIONS OF PERMITS

- (a) Insignificant deviations from the permit (including approved plans) issued by the Review Board 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, new conditions may be imposed in accordance with section 50.5.13, 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.

- (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.

50.5.20 RECONSIDERATION OF BOARD ACTION

- (a) Whenever the Review Board disapproves a conditional-use permit application, an application for a special-use permit (unless remanded by the Business Council under section 50.5.14) 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 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 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.

50.5.21 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 Title.

50.5.22 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 Title 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

50.5.23 REGULATION OF SUBDIVISIONS

Major subdivisions are subject to a 2-step approval process. Physical improvements to the land to be sub-divided are authorized by a conditional-use permit as provided in section 50.5.9, and sale of lots is permitted after final approval as provided in section 50.5.26. Minor sub-divisions only require 1-step approval process; final plat approval in accordance with section 50.5.25.

50.5.24 NO SUBDIVISION WITHOUT PLAN APPROVAL

- (a) No person may subdivide his land except in accordance with all of the provisions of this Chapter. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of 50.5.25 or 50.5.26 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 Title.

50.5.25 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 (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 sub-divided from that tract of land within the previous five years.
- (c) Applicants for minor subdivision approval shall submit to the Planning Director a copy of the plat conforming to the requirements in subsections 50.5.26(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 50.5.27.

1. Certificate of Ownership

I, hereby certify that I am the owner of the property described hereon, which property is within the sub-division 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 Title 50 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 5.5.24(a) within 60 days of the date below.

Date

Planning Director

3. A certificate of survey and accuracy, in the form stated in subsection 50.5.27(c).
- (d) The Planning Director shall take expeditious action on an application for minor sub-division plat approval as provided in section 50.5.21. 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 subdivision is not a minor subdivision as defined in Chapter 50.2, or the application or the proposed subdivision fails to comply with subsection (e) or any other applicable requirement of this Chapter.
- (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 60 days after the date the certificate of approval is signed by the Planning Director or his designee.

50.5.26 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 or the Portland Area BIA Title Office for recording purposes, and having the dimensions as follows:

Either 21" by 30", 12" by 18", or 18" by 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 plant.

(c) In addition to the appropriate endorsements, as provided in section 50.5.27, 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 sub-division is located, and its status as trust or fee land
4. The name of the surveyor and his/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 finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this Title 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 60 days after the approval certificate is signed by the Director or his designee.

50.5.27 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 Title 50 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 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 __, 19__.

Registered Land Surveyor

seal or stamp

(Notarized)

Registration Number

(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

50.5.28 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.

50.5.29 PROTECTION AGAINST DEFECTS

- (a) Whenever occupancy, use or sale is allowed under section 50.5.15 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 will correct all defects in such facilities or improvements that occur within one 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 Title. 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 Title.

50.5.30 MAINTENANCE OF DEDICATED AREAS UNTIL ACCEPTANCE

As provided in section 50.5.22, 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.

50.5.31 BUILDING, SEPTIC TANK, WATER, OR OTHER PERMITS NOT TO BE ISSUED FOR LAND DIVIDED IN VIOLATION OF THIS TITLE

No building permit under Title 37, septic tank permit under Title 30, water or other permit shall be issued for any lot, tract or parcel of land divided in violation of this Title. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers or transferee of property shall comply with the provisions of this Title and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling or transferring land in violation of this Title, including any amount reasonably spent to conform to the requirements of this Title 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 property to these requirements rescind the sale or transfer and recover costs of investigation, suit and reasonable attorney's fees occasioned thereby.

CHAPTER 50.6 APPEALS, VARIANCES, INTERPRETATIONS

50.6.1 APPEALS

- (a) An appeal from any final order or decision of the Administrator may be taken to the Review Board by any person aggrieved. An appeal is taken by filing with the Administrator and the Review Board a written notice of appeal specifying the ground therefor. A notice of appeal shall be considered filed with the Administrator and the Review Board when delivered to the Planning Department, and the date and time of filing shall be entered on the notice by the planning staff.
- (b) An appeal must be taken within 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 all the papers constituting the record relating to the action appealed from.
- (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 that (because of the facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, the proceeding shall not be stayed except by order of the Review Board 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 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 shall have all the powers of the officer from whom the appeal is taken.

50.6.2 VARIANCES

- (a) An application for a variance shall be submitted to the Review Board 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 conditional-use permits in

conformity with the provisions of sections 50.5.3, 50.5.4 and, 50.5.11.

(b) A variance may be granted by the Review Board if it concludes that strict enforcement of this Title would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of this Title 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 the ordinance, he/she can make no use of his 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 properties,
5. The hardship is not the result of the applicant's own actions,
6. The variance does not significantly adversely affect the environment,
7. The variance does not significantly adversely affect cultural resources,
8. The variance does not conflict with shorelines management regulations, and
9. The variance will neither result in the extension of a non-conformity in violation of Chapter 50.9, nor authorize the initiation of a non-conforming use of land.

(c) In granting variances, the Review Board 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 Title.

50.6.3 INTERPRETATIONS

- (a) The Review Board 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 50.6.1.
- (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.

50.6.4 REQUESTS TO BE HEARD EXPEDITIOUSLY

As provided in section 50.5.21, the Review Board 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 Chapter 50.7 and obtain the necessary information to make sound decisions.

50.6.5 BURDEN OF PROOF IN APPEALS AND VARIANCES

- (a) When an appeal is taken to the Review Board in accordance with section 50.6.1, the Administrator shall have the initial burden of presenting to the Review Board sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence 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 to reach the conclusions set forth in subsection 50.6.2(b),

as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

50.6.6 REVIEW BOARD ACTIONS ON APPEALS AND VARIANCES

- (a) With respect to appeals, the Board'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 must take a separate vote and vote affirmatively on each of the nine required findings stated in subsection 50.6.2(b). Insofar as practicable, when the Board 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 may deny a variance on the basis that any one or more of the nine criteria set forth in subsection 50.6.2(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.

CHAPTER 50.7 HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

50.7.1 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 shall hold a hearing on the appeal or application. At least one member of the Review Board shall preside over the hearing, except that the Review Board may designate a hearing officer to conduct the hearing in lieu of a Board member.
- (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 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 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 weeks or more elapses between hearing dates.

50.7.2 NOTICE OF HEARING

The Administrator shall give notice of any hearing required by section 50.7.1 as follows:

1. 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.
2. Notice shall be given to adjacent property owners by mailing a written notice no later than ten days before the hearing to those persons whose property is adjacent (as that term is defined in Chapter 50.2) 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.

3. In the case of Conditional or Special Use permit, 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 nor more than thirty days prior to the hearing.
4. 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.

50.7.3 EVIDENCE

- (a) The provisions of this section apply to all hearings for which a notice is required by section 50.7.1.
- (b) All persons who intend to present evidence to the Review Board, 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.

50.7.4 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, the applicant may agree to modify his application including the plans and specifications submitted.
- (b) Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board 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.

50.7.5 RECORDS

- (a) A tape recording shall be made of all hearings required by section 50.7.1, and such recording shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.

- (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 years.

50.7.6 WRITTEN DECISION

- (a) Any decision made by the Review Board 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.
- (b) In addition to a statement of the Review Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusion, as well as supporting reasons or facts, whenever this Title requires the same as a prerequisite to taking action.

CHAPTER 50.8 ENFORCEMENT AND REVIEW

50.8.1 COMPLAINTS REGARDING VIOLATIONS

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

50.8.2 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 Title may be held responsible for the violation and be subject to the penalties and the remedies herein provided.

50.8.3 PROCEDURES UPON DISCOVERY OF VIOLATIONS

- (a) If the Administrator finds that any provision of this Title 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 in accordance with section 50.6.1.
- (c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Title 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 50.8.4.

50.8.4 PENALTIES AND REMEDIES FOR VIOLATIONS

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

connection with the grants of variances, conditional or special-use permits, shall subject the offender to a civil penalty of \$100.00 per day. If the offender fails to pay this penalty within 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 bring a civil action in the Colville Tribal Court to recover such debt. A civil penalty may not be appealed to the Review Board if the offender was sent a final notice of violation in accordance with section 50.8.3 and did not take an appeal to the Review Board as provided in section 50.6.1.

- (b) This Title 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 Title.

50.8.5 PERMIT REVOCATION

- (a) A zoning, conditional-use 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 Title, 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 Chapter 50.7 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 (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 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 therefor.
- (d) No person may continue to make use of land or buildings in the manner authorized by any zoning, special use or conditional use permit after such permit has been revoked in accordance with this section.

50.8.6 EXHAUSTION OF ADMINISTRATIVE REMEDIES

Any decision or order of the Planning Department that is reviewable by the Review Board under section 50.6.1 shall not be considered a final order or decision subject to judicial review. Exhaustion of all available administrative remedies including any administrative appellate review is a jurisdictional requirement to judicial review.

50.8.7 JUDICIAL REVIEW

Every decision of the Colville Business Council granting or denying a rezone application or special use permit and every final order decision or action of the Review Board 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 35.01.190 of the Colville Administrative Procedure Act.

The petition for review shall briefly set forth that portion of the decision appealed from; the statutory reference(s) relied upon to support the relief requested; and, which standard of review set forth in section 35.01.190(7) provides the basis for the petition.

CHAPTER 50.9 NON-CONFORMITIES

50.9.1 PURPOSE

It is the purpose of this Chapter to provide for the regulation of legally nonconforming structures, lots of record, uses, and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is necessary and consistent with the requirements prescribed by this Title that those nonconformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction. Such nonconformities 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 nonconformities 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.

50.9.2 DEFINITIONS

- (a) A Legal Nonconformity is any land use, structure, lot of record, or sign legally established prior to the effective date of this Title or subsequent amendment to it which would not be permitted by or is not in full compliance with the requirements of this Title.
- (b) A Nonconforming Use is an activity using land, buildings, signs, and/or structure for purposes which were legally established prior to the effective date of this Title or subsequent amendment to it and which would not be permitted to be established as a new use in a zone in which it is located by the regulations of this Title.
- (c) A Nonconforming Structure is any building or structure, other than a sign, legally established prior to the effective date of this Title or subsequent amendment to it.

- (d) A Nonconforming 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 Title concerning minimum area or minimum lot width.

50.9.3 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 Title.
- (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 Title, 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.
 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.

50.9.4 NON-CONFORMING USES OF LAND

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

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land.
2. 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 Title or amendment thereto.
3. If any such non-conforming use of land ceases for any reason for a period of more than 6 months any subsequent use of such land shall conform to the standards specified by the zone in which it is located.

NON-CONFORMING STRUCTURES

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

1. No structure or structures may be enlarged or altered in any way which increases its non-conformity.
2. 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 Title.
3. 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.

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 Title could not be built under the terms of this Title, it may remain so long as it is otherwise lawful and subject to the following provisions:

1. 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.
2. If no structural alterations are made, any non-conforming use of a structure 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 Title.
3. 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 Title however, the use shall not be allowed to extend to other neighboring properties.
4. All non-conforming uses shall be registered as such with the Administrator within six months of the effective date of this Title. Any non-conforming uses claimed after this

period must show proof and obtain acknowledgement as such
from the Review Board.

CHAPTER 50.10 SPECIAL PROPERTY USES

50.10.1 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 Title, 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 in accordance with the requirements of sections 50.5.9 to 5.13. 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 50.5.14.

50.10.2 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.
- (b) Cemeteries: Provided that such uses shall be specifically excluded from the W, GP, 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, Columbaria and Mausoleums: Provided such use shall be specifically excluded from the GP and W Districts; and the R 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 A and I Districts.

- (f) Mining, Including Quarrying, Mineral Extraction, Exploration, etc.: Provided that these uses shall be specifically excluded from all districts except the A, 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 (10) 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 (1) row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart and not less than three (3) 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 (1) full growing seasons and which shrubs will eventually grow to a height of not less than twelve (12) feet.
- (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 R 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) Sewage Disposal or Treatment Plants: Provided that these uses shall be specifically excluded from all districts except the Ag and I Districts.
- (n) RV Park, Court, or Camp: Provided that these uses shall be specifically excluded from the GP, W, R, 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 R District shall be effectively sight screened by a view-obscuring fence or by a combination of fencing and landscaping.

50.10.3 REVIEW BOARD ACTION

In granting a permit for any of the above-listed special uses the Review Board 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 50.5.13 the Review Board 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 50.5.13, the 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.

CHAPTERS 50.11 TO 50.13

RESERVED

CHAPTER 50.14 AMENDMENTS

50.14.1 INITIATION OF AMENDMENT

This Title 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 50.14.2, recommend to the Business Council approval, disapproval, or modification of the proposed amendment.

50.14.2 APPLICATION BY PROPERTY OWNER

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 35.01.090 of the Colville Administrative Procedure Act.

50.14.3 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, Title 35 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 a newspaper of general circulation, not less than five (5) days, nor more than thirty (30) days, prior to the date of the hearing.

50.14.4 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:

1. Conformance with the Comprehensive Plan.

2. Conformance with all applicable statutes.
3. That there is a public need for a change of the kind in question.
4. That need will be best served by changing the classification of the particular piece of property in question as compared with other available property.
5. That there is proof of a change of circumstance or a mistake in the original zoning.

50.14.5 ACTION BY THE COLVILLE BUSINESS COUNCIL

The Colville Business Council may, after public hearing by the appropriate lower body, enact a Resolution granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment.

50.14.6 RECORD OF AMENDMENTS








The signed copy of each amendment to the text of this Title, 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 Title 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.

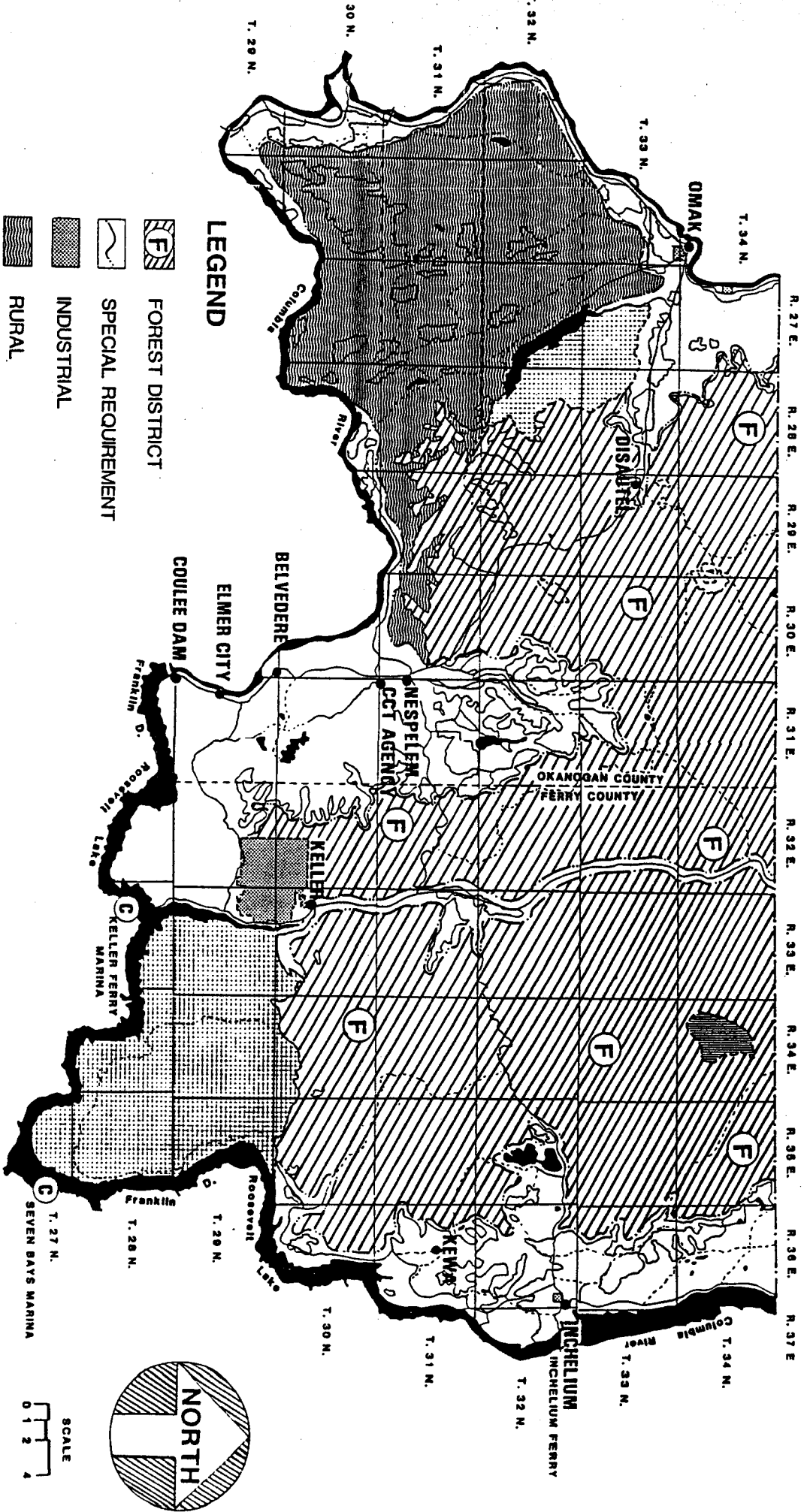
50.14.7 RESOLUTION OF INTENT TO REZONE

If, from the facts presented, findings, and the report and recommendations of the Review Board, as required by this Chapter, 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 Council upon recommendation of the Review Board.

- LEGEND**
-  FOREST DISTRICT
 -  SPECIAL REQUIREMENT
 -  INDUSTRIAL
 -  RURAL
 -  GAME RESERVE
 -  WILDERNESS AREA
 -  COMMERCIAL



ZONING

COLVILLE INDIAN RESERVATION

COLVILLE TRIBES PLANNING DEPARTMENT