Tribal Council Act 10.2

An Act Relating To

National Flood Insurance Program

Be it enacted by the Snoqualmie Tribal Council

Section 1.0-Title and Codification

This chapter shall be known as the National Flood Insurance Program Act and codified as Title 10, Chapter 2 of the Snoqualmie Tribal Code.

Section 2.0-Statutory Authorization

The aboriginal and inherent sovereign power of the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and to provide for the enactment and enforcement of the laws of the Tribe. This authority includes the Council’s ability to manage, develop, protect, and regulate water, minerals, timber, fish, and wildlife, and other natural resources within the Tribe’s jurisdiction.

Section 3.0-Findings of Fact; Purpose

The flood hazard areas of the Snoqualmie Indian Tribe are subject to frequent and severe inundation which results in loss of life and property, health, and safety hazards, disruptions of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the Snoqualmie Tribal members.

The purpose of this Chapter is to promote the public health, safety, and general welfare of Snoqualmie Tribal members; to reduce the annual cost of flood insurance; and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(a) To protect human life and health;

(b) To minimize expenditure of public money;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(d) To minimize prolonged business interruptions;

In order to accomplish its purposes, this Chapter includes methods and provisions for

(a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosions or in flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling, and preventing if possible, the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(d) Controlling, and preventing if possible, filling, grading, dredging, and other development which may increase flood damage; and

(e) Preventing the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

SECTION 4.0 - DEFINITIONS

AREA OF SHALLOW FLOODING designated as AO, or AH Zone on the Flood Insurance Rate Map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

AREA OF SPECIAL FLOOD HAZARD is the land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designated on maps always includes the letters A or V.

BASE FLOOD means the flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”). Designated on Flood Insurance Rate Maps by the letters A or V.

BASEMENT means any area of the building having its floor sub-grade (below ground level) on all sides.
BREAKAWAY WALL means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

COASTAL HIGH HAZARD AREA means an area of specific flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms and seismic sources. The area is designated on the FIRM as Zone V1-30, VE or V.

CRITICAL FACILITY means a facility for which even a slight chance of flooding might be too great. Critical facilities (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling or any other ground-disturbing operations or storage of equipment or materials located within the area of special flood hazard.

ELEVATED BUILDING means for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.)

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
FLOOD INSURANCE STUDY (FIS) means the official report provided by the Federal insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevation of the base flood.

FLOODWAY means the channel of a river or other waters of the Tribe and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter found at Section 7.2-1(b) (i.e. provided there are adequate flood ventilation openings).

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means structures for which the “start of construction” commenced on or after the effective date of this Chapter.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and wither final site grading or the pouring of concrete pads) is completed on or after the effective date of Tribal floodplain management regulations.

RECREATIONAL VEHICLE means a vehicle,

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

(a) Any project for improvement of a structure to correct pre-cited existing violations of Tribal, state or local health, sanitary, or safety code specifications which have been previously identified by the Tribal code enforcement official and which are the minimum necessary to assure safe living conditions, or

(b) Any alteration of a structure or natural feature listed on the national Register of Historic Places or a state Inventory of Historic Places or as a Traditional Cultural Property.

VARIANCE means a grant of relief from the requirements of this Chapter that permits construction in a manner that would otherwise be prohibited by this Chapter.
WATERS OF THE TRIBE includes, but is not limited to, any stream, river, brook, swamp, sound, bay, ocean, creek, run, branch, canal, waterway, estuary, wetland, groundwater, and any reservoir, lake or pond, natural or impounded, located on reservation, tribal lands, or in areas traditionally or currently used by the Tribe, or affecting or essential to resources traditionally or currently used by the Tribe. This term has the same meaning as set forth in the Tribe’s Water Resources Management Chapter of the Environmental Code of laws.

WATER DEPENDENT means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

SECTION 5.0 GENERAL PROVISIONS

5.1 LANDS TO WHICH THIS CHAPTER APPLIES

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the Snoqualmie Tribe.

5.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the Snoqualmie Tribe” (in progress), with an accompanying Flood Insurance Rate Map (FIRM), are hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study and the FIRM are on file at 8130 Railroad Ave. SE, Snoqualmie, WA. 98065. The best available information for flood hazard area identification as outlined is Section 6.3(b) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 6.3(b).

5.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter or other applicable regulations.

5.4 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not constitute a waiver of sovereign immunity and shall not give rise to liability on the part of the Snoqualmie Indian Tribe, any official or employee thereof for any flood damages that result from reliance on this Chapter or any decision lawfully made hereunder.
SECTION 6.0-ADMINISTRATION

6.1 ESTABLISHMENT OF FLOOD HAZARD DEVELOPMENT PERMIT

6.1.1 FLOOD HAZARD DEVELOPMENT PERMIT REQUIRED

A flood hazard development permit shall be obtained before construction or development begins with any area of special flood hazard established in Section 5.2. The permit shall be for all structures including manufactured homes, and for all development including fill and other activities.

6.1.2 APPLICATION FOR FLOOD HAZARD DEVELOPMENT PERMIT

Application for development permit shall be made on forms furnished by the Snoqualmie Tribe Environmental and Natural Resources Department and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required.

(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any structure has been flood-proofed;

(c) Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet flood-proofing criteria in Section 7.2(b);

(d) Description of the extent to which a waters of the Tribe will be altered or relocated as a result of proposed development.

6.2 DESIGNATION OF THE PERMIT AUTHORITY

The Snoqualmie Tribe’s Environmental and Natural Resources Director, in consultation with the Snoqualmie Tribe’s Emergency Management Director, is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with this Chapter.

6.3 DUTIES & RESPONSIBILITIES OF THE PERMIT AUTHORITY

6.3.1 PERMIT REVIEW

(a) Review all development permits to determine that the permit requirements of this Chapter have been satisfied
(b) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 7.4 (a) are met.

6.3.2 USE OF OTHER BASE FLOOD DATA (IN A AND V ZONES)

When base flood elevation data has been provided (in A or V zones) in accordance with section 5.2 Basis for Establishing the Areas of Special Flood Hazard, the Environmental and Natural Resources Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 7.2, Specific Standards, and 7.4 Floodways

6.3.3 INFORMATION TO BE OBTAINED AND MAINTAINED

(a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required s in Section 6.3(b), obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(b) For all new or substantially improved flood-proofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 6.3(b):

(1) Obtain and record the elevation (in relation to mean sea level) to which the structure was flood-proofed.

(2) Maintain the flood-proofing certifications required in Section 6.1 (b) 3)

(c) The Environmental & Natural Resources Department shall maintain for public inspection all records pertaining to the provisions of this Chapter.

6.3.4 ALTERATION OF WATERS OF THE TRIBE

(a) It is the policy of the Snoqualmie Indian Tribe to maintain and protect natural waters of the Tribes greatest extent practicable. If the Environmental & Natural Resources Director, in consultation with the Emergency Management Director, finds that the alteration of a natural waters of the Tribe is absolutely necessary to safeguard and promote the peace, safety, moral, and general welfare of the members of the Snoqualmie Indian Tribe, he may authorize the alteration of a natural waters of the Tribe.

(b) If the Environmental & Natural Resources Director makes the findings pursuant to subsection (a) of this section, the Director must notify adjacent communities prior to any
alteration or relocation of any waters of the Tribe, and submit evidence of such notification to the Federal Insurance Administration.

(c) The Director shall also ensure that maintenance is provided within the altered or relocated portion of said waters of the Tribe so that the flood carrying capacity is not diminished

6.3.5 INTERPRETATION OF FIRM BOUNDARIES

The Environmental and Natural Resources Director is authorized to make interpretations where there appears to be a conflict between a mapped boundary and actual field conditions, best available maps, shall be used as the current FIRM, may not be accurate).

6.4 CONDITIONS FOR VARIANCES

(a) It is the policy of the Snoqualmie Indian tribe not to grant variances under this Chapter. However, the Environmental & Natural does have the discretion to grant variances under the limited circumstances set forth in this section.

(b) Variances shall not be issued within a designated flood-way if any increase in flood levels during the base flood discharge would result.

(c) Variances shall be issued only upon a determination that the variance is absolutely necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued upon;

(1) A showing of necessity;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(3) A determination that the granting of variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing Tribal laws or regulations.

(e) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 6.4(a), and otherwise complies with Sections 7.1(a), 7.1 (c), and 7.1 (d) of the general standards
(f) Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of the flood insurance will be commensurate with the increased risk.

SECTION 7.0-FLOOD HAZARD REDUCTION

7.1 GENERAL STANDARDS

In areas of special flood hazards, the following standards are required:

7.1.1 ANCHORING

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes shall be anchored to prevent floatation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. For more detailed information on this requirement, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

7.1.2 CONSTRUCTION MATERIALS AND METHODS

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) All new construction and substantial improvements shall be conducted in the most environmentally sustainable manner possible. The permit applicant is required to consult with the Environmental and natural Resources Director to determine acceptable methods of meeting this requirement.

7.1.3 UTILITIES

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(c) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) All new and replacement water supply systems, sanitary sewage systems, any onsite waste disposal systems shall be as environmentally sustainable as possible. The permit applicant is required to consult with the Environmental and Natural Resources Director to determine acceptable method of meeting this requirement.

7.1.4 REVIEW OF BUILDING PERMITS

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 6.3 (b)), the Environmental and Natural Resources Department shall review applications for building permits to assure that proposed construction will be reasonably safe from flooding. Whether the proposed construction will be reasonably safe from flooding is within the discretion of the Environmental & Natural Resources Director, upon consultation with the Emergency Management Director, and includes use of historical data, high water marks, photographs of past flooding, etc., where available. The failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

7.2 SPECIFIC STANDARDS

Specific standards apply in all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 5.2, Basis for establishing the areas of special flood hazard, or section 6.3 (b), use of other base flood data.

7.2.1 Residential Construction

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).

(b) Fully enclosed areas below the lowers floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architecture or must meet or exceed the following minimum criteria:
(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, or other coverings or devices.

7.2.2 Nonresidential Construction

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7.2.3 Manufactured Homes

(a) All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

7.2.4 Recreational Vehicles

(a) Recreational Vehicles placed on sites are required to either:

(1) Be on the site for fewer than 180 consecutive days;
(2) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(3) Meet the requirements of 7.3(c) above and the elevation and anchoring requirements for manufactured homes.

7.3 AE AND A1-30 ZONES WITH BASE FLOOD ELEVATIONS BUT NO FLOODWAYS

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or the development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

7.4 FLOODWAYS

Areas of special flood hazard established in Section 5.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

(a) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer is provided demonstrating through hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

(1) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

(2) Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either,

(A) Before the repair, or reconstruction is started, or

(B) If the structure has been damaged, and is being restored, before the damage occurred.
Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

7.5 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area ("SFHA") (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feel above BFE or to the height of the 100-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Enacted by the Snoqualmie Tribal Council on the 22nd Day of March, 2007 in session duly met, with 8 for, 0 against, and 0 abstaining. Tribal Council Act 1-07; Resolution No. 22-07.

Codified by the Snoqualmie Tribal Secretary on the 21 Day of October 2008.

[Signature]
Tribal Secretary 10-21-08