

Encroachment Standards



**Coeur d'Alene Tribe
Lake Management Department
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Plummer, ID 83851**

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Coeur d'Alene Tribe

Encroachment Standards

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Article I. Authority

Tribal Code Chapter 44, section 44-8.01(C) authorized staff to develop standards for all encroachments.

Article II. Applicability

These standards apply to all structures or encroachments on or above Tribal Waters and submerged lands and to all owners of structures or encroachments on or above Tribal Waters and submerged lands.

Article III. Purpose and Intent

These standards are intended to allow use of Tribal Waters under well-defined conditions as stated in Tribal Code. Encroachment structures are allowed only when they support an historic use that requires a structure and that the Tribe wishes to continue or a new use that provides a benefit to the public or the Tribe. No structure will be permitted unless it is essential to the use it serves.

Article IV. Definitions

(A) Appurtenance

An appurtenance is any structure above the deck of an encroachment.

(B) Boat Garage

Boat Garage means any covered structure on Tribal waters solely intended for use as moorage with one or more solid sides.

(C) Boat Ramp

A Boat Ramp is a structure or area that has been improved or modified to facilitate launching of vessels.

(D) Co-operative Dock

A Co-operative Dock provides moorage intended to serve more than one and up to four primary properties that are under separate ownership.

(E) Community Ownership Dock

A Community Ownership Dock provides moorage for more than four upland owners as a benefit related to membership in a homeowners group or other similar association intended to provide moorage for members (or other dock ownership group).

(F) Commercial Marina

A Commercial Marina means a facility which is owned or operated by a single entity, extends into Tribal Waters, is open to the public and offers additional non-residential services such as, fuel, repairs, and retail items.

(G) Completely Eliminate

Completely Eliminate means no encroachment would exist. It does not include changes in the type or degree of a structure or its use.

(H) Department

Department means the Lake Management Department of the Coeur d'Alene Tribe.

(I) Dock

A platform or structure built over, or floating upon the water, used as a landing place and/or moorage place for water transport or recreational purposes.

(J) Dock Density

Dock Density is determined by the combined width of the proposed dock plus the width of any docks attached to immediately adjoining parcels divided by the shoreline length of the parcel to which the subject dock is attached plus the shoreline length of the immediately adjoining parcels and the result multiplied by 100.

(K) Existing Parcel

An Existing Parcel is a parcel created prior to July 28, 1998 as evidenced by an approved subdivision or warranty deed describing the parcel.

(L) Float Home

Float Home means any dwelling structure floating on Tribal waters that is affixed directly or indirectly to the shore or submerged lands and is not intended to be used primarily for navigation. A float home does not include other structures appurtenant to or affixed to the dwelling structure and not used for dwelling purposes.

(M) Frontage Depth

The average distance of a frontage lot, measured from ordinary high water (2,128 feet Avista datum for Coeur d'Alene Lake) perpendicular from shore to the upland property boundary line.

(N) Historic or Existing Use

A Historic or Existing Use is any use of Tribal water prior to July 28, 1998 that can be documented through independent records.

(O) Jet Ski Ramp, Port, or Lift

A mechanism for mooring jet skis or other personal watercraft similar to a boat lift. The lifts may be free standing or attached to a dock or pier.

(P) Non-Conforming Use or Structure

A Non-Conforming Use or Structure is a use or structure that was undertaken or in existence prior to July 28, 1998 and does not meet the requirements of adopted standards.

(Q) Primary Waterfront Property

Primary waterfront property is upland property that is contiguous with Tribal submerged lands.

(R) Private

Not open or restricted to the use of the general public.

(S) Public

Open to or for the use of the general public.

(T) Scenic Resource

A Scenic Resource is the view from an area used by the public in part for the observation, enjoyment and appreciation of natural or cultural visual qualities.

(U) Secondary Property

Secondary Property is upland property that is not contiguous with Tribal submerged lands.

(V) Slip

A Slip is the location or point of mooring a single watercraft to a dock or other structure, which may be straight, U-shaped or other configuration. This includes boat lifts, personal watercraft skids, buoys or any other device designed for moorage on Tribal Waters.

(W) Slip Cover

A removable appurtenance without walls with a fabric canopy designed to shelter a slip of a dock.

(X) Unused Piling

An Unused Piling is a piling to which no structure or log float has been secured for more than 30 days during the previous year (365 days).

(Y) Upland Property

Upland Property is, in general, all property located in close proximity to Tribal Water. Property may be primary or secondary.

(Z) Water Withdrawal

Water withdrawals, or water abstractions, are defined as freshwater taken from surface water source(s), either permanently or temporarily, and conveyed to an alternate place of use.

Article V. Encroachments in General

Section 5.01 Requirements

The requirements of Article V apply to all encroachments. Additional requirements for specific types of encroachments are listed in Article VII.

Section 5.02 Specific Limitations

- (a) No new encroachments will be allowed on the eastern shore of Coeur d'Alene Lake along the Trail of the Coeur d'Alene.
- (b) Existing encroachments along the Trail of the Coeur d'Alene will have an access clause included in the encroachment permit.
- (c) Any improvements to access an encroachment across the Trail must be approved by the Trail Manager.
- (d) Termination of the encroachment permit will also terminate access across the Trail and require removal of improvements associated with the access.
- (e) Subject to and consistent with Chapter 44 of the Coeur d'Alene Tribal Law and Order Code, only persons who are waterfront property owners shall be eligible to apply for an encroachment permit unless specifically authorized by Chapter 44. The possession of an easement alone for the shoreline does not qualify a person to be eligible for an encroachment permit for an individual dock, co-operative dock, community ownership dock, or commercial marina. The Coeur d'Alene Tribe does not recognize littoral, riparian, or any other easement interest affecting the submerged beds and banks of Coeur d'Alene Lake or its tributaries.

Section 5.03 Permit Required

- (a) No encroachment may be constructed or maintained unless the owner has been issued a permit from the Lake Management Department and;
- (b) The owner is in possession of an encroachment lease for the current calendar year.
- (c) All approved permits are valid for the current calendar year and work and specifications outlined within the permit, any subsequent changes to encroachment require application and permit from the Lake Management Department.

Section 5.04 Fees Required

- (a) An application fee as determined by the fee schedule authorized by Tribal Code section 44-7.01 must be paid at the time an application is submitted.
- (b) Application fees are required for all new applications, replacements and site evaluations. No application fee is required for minor repairs to encroachments that meet current standards and do not exceed the repair requirements defined in Article IX.

- (c) An annual lease fee is required as determined by the fee schedule authorized by Tribal Code section 44-7.01 and must be paid by September 30 of each year previous to the term of the lease.
- (d) Prior to placing an encroachment in temporary storage, lease fees must be paid through the date the encroachment will be returned to service.
- (e) Fee notices will be sent only to the legal owner of the property to which the encroachment is attached or to the designated officer of the association responsible for management of the facility.
- (f) No permit shall be issued until all past due fees are paid in full.

Section 5.05 *Application Process*

- (a) Application will be made on forms provided by the Lake Management Department.
- (b) Only the legal owner of primary waterfront property is eligible to apply for a Tribal encroachment permit.
- (c) The property owner may designate an agent on the Tribal encroachment permit application.
- (d) At the Tribe's discretion, it may require a site evaluation as a condition of considering the application for a Tribal encroachment permit. The purpose of the site evaluation is to assess impacts of the proposed encroachment on cultural resources, wetlands, fish and wildlife and any bathymetric limitations.

Section 5.06 *Application requirements*

The following information must be submitted with applications for construction of encroachments:

- (a) Plan drawings showing plan view of proposed construction.
- (b) Bathymetry with three-foot contours to a depth of six feet at ordinary high water in the immediate vicinity of the encroachment.
- (c) The bathymetry requirement may be extended to the full length of the upland frontage at the request of the Department.
- (d) Cross sections showing measured water depth in the area that will be occupied by the encroachment perpendicular to shore with reference to lake surface elevation at the time it was measured.
- (e) Materials schedule for all material to be used in construction.

Section 5.07 *General Standards*

- (a) Only non-leaching solid material in good condition may be used to construct encroachments.

- (b) Floatation will be maintained through the use of commercially available materials intended for dock floatation or by cedar logs.
- (c) Uncontained closed cell Styrofoam is not permitted in new construction or to augment floatation.
- (d) Barrels constructed of metal, plastic, or other material not specifically intended for dock construction are not permitted in new construction and will be limited in use to augment floatation.
- (e) The type of material utilized in a slip cover shall be of fabric specifically intended for use in encroachment construction, shall meet aesthetic guidelines set forth in Section 5.09 and shall not degrade water quality.
- (f) New or repaired encroachments may not interfere with existing uses.
- (g) Construction of the encroachment shall not harm culturally significant sites of the Coeur d'Alene Tribe.
- (h) Encroachments shall not be placed in wetlands identified by the Coeur d'Alene Tribe or designated by the standards of the U.S. Army Corps of Engineers.
- (i) Encroachment standards may be similar to those used by the U.S. Army Corps of Engineers to the extent consistent with Coeur d'Alene Tribe Law and Order Code, Ch. 44.
- (j) Encroachments and any related use there of shall not degrade fish and wildlife habitat.
- (k) Encroachments shall be maintained in good condition.
- (l) Encroachments shall be secured in position by anchors, pilings or other approved devices.
- (m) Tribal identification placards will be displayed and shall not be tampered with.
- (n) Replacement of encroachments requires inspection by Tribal staff.
- (o) Tribal staff will remove old identification and affix new identification.
- (p) No encroachment may be moved, upgraded or modified without notification to the Lake Management Department and procurement of appropriate permits with the exception of movement for winter storage.
- (q) Un-permitted, abandoned encroachments will be removed.
- (r) Upland property owners in the vicinity will be notified of intended removal date per notice on encroachment.
- (s) Only community or commercial encroachments may extend from shore more than 100 ft.

Section 5.08 *Line of Navigability*

- (a) In Coeur d'Alene Lake, the Line of Navigability lies 20 feet water ward of the six-foot depth at ordinary high water.

- (b) In the St. Joe River, 15% of the channel width from each shoreline, but not more than 40 feet.
- (c) In Black Lake, the Line of Navigability lies 20 feet water ward of the four-foot depth.

Section 5.09 *Aesthetics*

- (a) Encroachments shall not impair the scenic resource offered by Tribal Waters [as defined by (c)(i),(ii),(iii)].
- (b) Impairment of scenic resource will be evaluated based on views of the water and from the water.
- (c) Encroachments will be considered to impair the scenic resource if they are incompatible with the surrounding landscape, of a differing scale, dominate the view or are in a state of disrepair.
 - (i) Landscape compatibility is determined by whether the encroachment differs significantly from surroundings in terms of Color, Form, Line or Texture.
 - (ii) Scale contrast is the degree to which the size of the encroachment differs from other objects in the area.
 - (iii) Dominance is the degree to which the encroachment dominates the view.

Article VI. Commercial Use

Section 6.01 Commercial Requirement

Commercial use of Tribal Waters must be consistent with the interests and values of the Coeur d'Alene Tribe.

Section 6.02 Business Registration

Commercial entities operating on Tribal waters must maintain a current Tribal Business license pursuant to Chapter 40 of the Coeur d'Alene Tribal Law and Order Code. Firms must also register with the Lake Management Department. Registration will include:

- (a) Company Name
- (b) Contact information
- (c) List of officers
- (d) Types of services provided

Section 6.03 Specific Commercial Operations

- (a) Irrigation water withdrawal
In addition to the registration requirements, all irrigation withdrawal users must report the intended amount of water to be used each year (i.e. irrigation for lawn at commercial site).
 - (i) All water use must be consistent with Water Quality Standards outlined within Chapter 42 of the Coeur d'Alene Tribe Law and Order Code.
- (b) Industrial water withdrawal
In addition to the registration requirements, all industrial water withdrawal users must report the intended amount of water to be used each year.
 - (i) All water use must be consistent with Water Quality Standards outlined within Chapter 42 of the Coeur d'Alene Tribe Law and Order Code.
- (c) Utility lines
In addition to the registration requirements, all responsible parties of utility lines, overhead or submerged, must report specific location across Tribal waters.
- (d) Log storage
In addition to the registration requirements, all log storage users must report the intended surface area used for log storage each year.
- (e) Tour boat operations
In addition to the registration requirements, all tour boat operations must report:
 - (i) Operation schedule
 - (ii) Vessel identification

- (iii) Vessel length, beam, displacement, capacity and hull shape
- (iv) Moorage location
- (f) Encroachment construction
 - Firms shall not initiate construction of an encroachment, or modification thereof, without a copy of the encroachment permit in hand.
- (g) Dock placement
 - Firms shall not place an encroachment for use without a copy of the encroachment permit in hand.
- (h) Winter dock storage
 - (i) Firms engaged in winter storage of encroachments on Tribal Waters will store only docks that are currently permitted by the Tribe and have paid for a lease that extends through the end of scheduled storage.
 - (ii) Encroachment owners that have their docks removed for winter storage shall pay the lease fees accruing for the following year in advance of the dock removal for winter storage, and no later than September 30 of each calendar year.
 - (iii) Firms storing docks shall supply a list of encroachment numbers and locations of storage for all docks being stored to the Lake Management Department no later than January 31 of each calendar year.
 - (iv) No encroachment placed in winter storage shall be replaced on Tribal Waters unless a valid Tribal Encroachment Permit exists in good standing.
 - (v) Firms are encouraged to include these requirements in their storage contracts.

Article VII. Specific types of Encroachments

Section 7.01 Specific Limitations

The general standards for encroachments in Article V apply to all the specific types of encroachments listed in Article VII. Requirements of Article VII are in addition to the requirements of Article V.

- (a) All types of Encroachments not specifically authorized by this section are prohibited.
- (b) Docks will accommodate only one slip per designated lot under separate ownership.
- (c) Individual docks shall be allowed two (2) jet ski lifts in addition to the existing boat slip, without including the square footage of the jet ski lift in the overall square footage calculation. If permitted as an encroachment, as such, shall be subject to the approved lease fees, maintain the required minimum distance from neighboring encroachments and shall not impede navigation. Jet-ski lift or ramp shall be located immediately adjacent to, and within the overall permitted length of the proposed, or existing dock.

Section 7.02 Individual Docks

- (a) The purpose for individual docks is solely for moorage. No variances will be considered on the basis of other types of use.
- (b) Individual docks will not be permitted to serve parcels of land created after July 28, 1998.
- (c) New individual docks will not be permitted in areas that exceed dock density of 30%.
- (d) Commercial entities are not eligible to apply for new individual docks.
- (e) Shall extend in a direction generally perceived to be perpendicular to the shore or generally perceived to be perpendicular to the Line of Navigability (Section 5.08).
- (f) On Coeur d'Alene Lake, shall extend no more than 20 feet beyond the point perceived to be directly perpendicular to shore where the water depth is six feet when the water level is equal to the ordinary high water. (2128 feet Avista datum for Coeur d'Alene Lake).
- (g) On Black Lake shall extend no more than 20 feet beyond the point directly perpendicular to shore where the water depth is four feet when the water level is equal to the ordinary high water.
- (h) On the St. Joe River Shall extend no more than 15 % of the channel width or more than 40 feet beyond shore whichever is shorter when the water level is equal to the ordinary high water.
- (i) The dock attachment to shore will be located to reach the deepest possible water with the shortest possible dock.
- (j) Separation from neighboring encroachments will be a minimum of 25 feet.
- (k) Use of an encroachment may not interfere with the use of neighboring encroachments or with third party access to near shore areas.

- (l) May not exceed 80 feet in length regardless of depth.
- (m) Maximum width of any portion of the dock is 10 feet.
- (n) Maximum size is 700 square feet or seven square feet per linear foot of waterfront property frontage, whichever is smaller.
- (o) The width of an individual dock shall not exceed the smaller of 35 feet or 30% of the shoreline length of the waterfront property to which it is attached.
- (p) May extend 40 feet regardless of water depth.
- (q) Superstructures, other than the minimum necessary to support a fabric slip cover, are prohibited.
- (r) The near shore finger of a single slip U dock design, oriented parallel to shore, will be allowed in conjunction with the construction of a fabric slip cover conforming to aesthetic standards described in Section 5.09.
- (s) One additional appurtenance other than a fabric slip cover may be allowed on the dock but may not exceed four feet in height or occupy an area greater than 12 square feet.
- (t) Utilities are permitted on individual docks only if they meet current building and electrical codes identified by the Tribe. Changes in code will require immediate upgrade or removal of the utility.

Section 7.03 Co-operative Docks

- (a) New co-operative docks may be permitted if they provide moorage spaces for existing individual dock users and those existing individual docks will be eliminated; or for existing primary parcels not served by any dock.
- (b) New co-operative docks may be permitted to serve new waterfront properties with individual lot frontage of 75 feet per lot and a combined frontage of 300 feet or more with one slip for each identified lot.
- (c) The width of a co-operative dock may not exceed the smaller of 50 feet or 40% of the contiguous frontage of the waterfront properties that share the dock
- (d) Square footage may be increased to 1100 square feet for the first additional slip and an additional 120 square feet for each subsequent slip.
- (e) The dock may be extended an additional 20 feet for every additional two slips after the first two to a maximum of 100 feet.
- (f) New Co-operative docks will not be permitted in areas where the dock density would exceed 50% after construction is complete and existing individual docks removed.

Section 7.04 Community Ownership Docks

- (a) New community docks may be permitted to serve primary and secondary parcels provided:
 - (i) The dock is attached to waterfront property owned in common by an association.

- (ii) The common property must have a minimum of 300 feet of shoreline frontage to serve a maximum of up to eight identified lots with one slip designated per lot.
- (iii) A maximum of eight slips may be allowed for each additional 110 feet of frontage.
- (iv) The depth of the frontage lot shall be a minimum of 150 feet.
- (v) Total length from shore will not exceed 140 feet.
- (b) Service of additional secondary parcels may be allowed on a case by case basis if the new dock will provide a like number of moorage spaces for existing individual dock users and those existing individual docks will be eliminated.
- (c) Expansion of existing community docks will be permitted only if they meet the requirements listed for new community docks.

Section 7.05 Commercial Marinas

- (a) New commercial marinas may be considered on a case-by-case basis only.
- (b) New commercial marinas and expansion of existing commercial marinas may be allowed only if the property to which they are attached has 260 feet of frontage for the first 40 slips, an additional 110 feet of frontage for each additional 40 slips and satisfy Chapter 44 of the Tribal Law and Order Code and subsequent Coeur d'Alene Tribe Encroachment Standards.
- (c) The depth of the frontage lot shall be a minimum of 200 feet measured perpendicular from shore at the Ordinary High Water Mark.
- (d) Total length from shore shall not exceed 275 feet.
- (e) The Tribe may consider issuing permits for dikes, fills, jetties, log booms, and boat garages in conjunction with commercial marinas.
- (f) Fuel lines will be secondarily contained.
- (g) Fuel systems that extend into the water will have leak detection in the interstitial space between the line and the secondary containment.
- (h) Leak detection systems will include automatic shut off of the fueling system in the event of a leak.
- (i) Systems will be tested in the presence of Tribal staff annually.
- (j) Petroleum product containment booms and absorbent materials suitable for clean-up of fuel spills will be available in the fueling area at all times.
- (k) Spill response procedures will be written and on-site. A short description of the process will be posted at the fueling area and in employee announcement areas.
- (l) Pump-out facilities meeting Panhandle Health District (PHD) standards must be available and tested annually in the presence of Tribal staff. The disposal facility must be approved.
- (m) Commercial garbage service is required.

- (n) Parking is required for 20% of slips. More parking may be required if other facilities (e.g. restaurant, store, etc.) are on the site.
- (o) Moorage contracts must specify the boater's responsibility to not discharge any petroleum products, garbage or wastewater into the surface water.
- (p) A copy of the standard moorage agreement must be submitted to the Tribe.
- (q) Boaters found intentionally violating discharge standards more than once must have mooring privileges revoked.
- (r) Staffed Marine Wastewater Pumpout Stations must be in operable condition during marina regular business hours.

Section 7.06 Pilings

- (a) Unused pilings will be removed.
- (b) Upland property owners in the vicinity will be notified of intended removal date per notice on the piling.
- (c) New and replacement pilings will be allowed only in conjunction with other approved encroachments and are not allowed to serve as a place of advertisement.
- (d) Broken pilings must be replaced within one year.
- (e) Pilings that no longer function to secure an encroachment as intended must be removed or replaced within one year.

Section 7.07 Fills

Fills are generally discouraged in Tribal waters.

Section 7.08 Dikes

Dikes are generally discouraged in Tribal waters.

Section 7.09 Jetties

Jetties are generally discouraged in Tribal waters.

Section 7.10 Dredging

- (a) Dredging is generally discouraged in Tribal waters.
- (b) Dredging by entities other than the Tribe, or the Tribe's agent, is not permitted.

Section 7.11 Piers

- (a) Piers associated with other encroachments may be permitted.
- (b) Pier length and size will be considered part of the encroachment that they serve.

Section 7.12 *Private Booms*

- (a) Booms associated with cooperative, commercial and community docks may be considered on a case by case basis.
- (b) Booms for individual docks are not permitted.

Section 7.13 *Private Buoys*

- (a) Private markers made from jugs etc. are not permitted and will be removed.
- (b) Commercially available buoys are generally discouraged but may be considered if deemed necessary by the Lake Management Department.
- (c) Applications for placement of buoys must demonstrate a need for an aid to navigation that does not generally exist in other portions of Tribal Waters.

Section 7.14 *Float Homes*

- (a) New float homes are not permitted.
- (b) Float home owners must have approved plan for upgrade to meet adopted encroachment standards within 90 days and completed necessary upgrades within one year of the adoption of new encroachments standards.
- (c) Float home leases will be non-transferable.
- (d) Upon date of decease of Lessee, Lessee's estate must complete a comprehensive plan for removal within 90 days and present that plan to Lessor. Removal must be complete within one year. Float home owner's estate must ensure that all float homes, appurtenances (e.g. gangplanks, connecting ramps, etc.), and any pilings to which float homes or appurtenances are affixed are removed from Tribal waters and properly disposed of at owners expense. If the float home is not removed in accordance with these requirements, Lessor shall remove the float home and bill Lessee's estate.
- (e) Upon removal to the satisfaction of the Lake Management Department, existing float home owners that meet application requirements may apply for a Tribal Encroachment Permit for alterative moorage such as a dock meeting current standards.
- (f) Floation and anchor system must provide adequate stability to ensure that normal usage, currents and waves will not damage the structure or any systems that support its use.
- (g) May not discharge waste of any kind into Tribal waters.
- (h) All waste water systems must function automatically.
- (i) All pumps must have high level alarms.
- (j) All pump chambers must contain 200% of maximum daily flow above the pump alarm level based on individual and subsurface sewage disposal regulations, wastewater generation rates.
- (k) All piping and chambers must be double encased and be designed to enable interstitial monitoring.

- (l) If secondary containment is not feasible, annual pressure testing will be required.
- (m) Check valves are required between the float home and shore system at the shoreline.
- (n) Double wall flex hose may be used to allow for variable lake levels.
- (o) All waste water systems will be dye tested annually.
- (p) Must contract with a waste hauler for regular garbage disposal service if commercially available.
- (q) No additions of any kind may be made to any float homes.
- (r) All waste water systems must connect to shore based disposal facilities approved by the PHD that are the best possible alternative within site limitations.
- (s) Gray water sumps pursuant to subsurface sewage technical guidance manual may be used only if approved by PHD and the float home has no plumbing.
- (t) Float homes not served by water may not have plumbing fixtures of any kind.
- (u) Float homes not served by water must have approved on-shore sanitation devices or non-discharging systems.
- (v) No access to surface water is allowed from the interior of the float home.
- (w) All float homes must have a written waste management plan that describes the systems and procedures for disposal of waste normally generated as a result of use. At a minimum the plan will describe:
 - (i) Garbage collection and disposal:
 - (1) Location of waste receptacles
 - (2) Service entity
 - (ii) Waste water system:
 - (1) Schematic of all piping
 - (2) Plans for pump chambers and pumps
 - (3) Pump curves
 - (4) Location of all fixtures
 - (5) Procedures for monitoring interstitial spaces
 - (6) Schedule for monitoring interstitial spaces
 - (7) Plans and permits for shore disposal system
 - (8) Pumping records for shore system
- (x) Adequate parking must be available if shore access is intended.
- (y) Additional docks, boat garages, and other encroachments will require an additional fee.

Section 7.15 *Buildings and homes on pilings*

- (a) New buildings and homes on pilings are not permitted.
- (b) Existing buildings will be removed when the support structure reaches the end of its useful life.
- (c) Leases will be established with 10 year renewal and an annual fee as described in the lease.
- (f) All waste disposal systems over Tribal Waters will conform to the standards described for float homes in section 7.14.

Section 7.16 *Boat Garages*

- (a) New boat garages are not permitted.
- (b) Existing boat garages will be converted to open or covered slips.
- (c) As of December 31, 2010 conversion of boat garages to open or covered slips must be complete.

Section 7.17 *Boat lifts*

- (a) Boat lifts over Tribal water will be considered as one slip each regardless of the type of vessel they serve.

Section 7.18 *Private Boat ramps*

- (a) New private boat ramps are not permitted.
- (b) Existing private boat ramps may not be utilized unless specifically permitted by the Tribe.
- (c) The Lake Management Department may require removal of existing private ramps if removal can be accomplished without significant environmental impact.

Section 7.19 *Public Boat ramps*

- (a) Public boat ramps are generally discouraged but may be considered on a case-by-case basis.
- (b) Minimum criteria to be considered in permitting public boat ramps will include, but not be limited to the following:
 - (i) Proximity to existing public boat ramps.
 - (ii) Boating demand documented through the use of reliable survey of local user groups.
 - (iii) Maximum carrying capacity of water body as documented by available scientific studies.
- (c) Application must be made to modify or upgrade any public boat ramps.
- (d) New and modification or upgrade of existing public boat ramps must adhere to the following conditions:

- (i) Launch site must provide adequate access to public parking.
- (ii) User safety and ease of access must be a strong consideration.
- (iii) Public parking areas should not be separated from the ramp by local roadways.
- (iv) Location of development of public parking areas must take into consideration public safety and aesthetic guidelines outlined in Section 5.09.
- (v) The effects of wave, wake, current, and wind action should be considered as well as the occurrence of, or potential for sedimentation.
- (vi) Design must be optimized to launch a vessel and park the vehicle and trailer within 5 minutes.
- (vii) Public boat ramps and associated appurtenances must comply with applicable land use laws and ADA requirements.
- (viii) The Tribe may consider issuing permits for dikes, fills, jetties, and log booms in conjunction with public boat ramps.

Section 7.20 *Bank Stabilization*

- (a) Bank stabilization may be approved only for the purpose of controlling contamination of surface water, remediation of previously armored (or engineered) sites, or protection of public safety or recovery from natural disaster hindering historic use of previously permitted encroachment.
- (b) Application requirements for bank stabilization:
 - (i) Site plan with plan view and cross sections identifying:
 - (1) Length and width of area affected.
 - (2) Existing and project complete topography with one foot contours.
 - (3) Existing and project complete Bathymetry with one foot contours.
 - (4) Description of construction methods designed to reduce sedimentation during construction phase.
 - (5) Description of equipment that will be used.
 - (6) Materials schedule including individual material specifications.
 - (ii) Documentation of existing erosion problems:
 - (1) Must show loss of material and the location of the loss over a period of time (years).
 - (2) This demonstration must be coordinated with and observed by Lake Management Department staff members.
 - (iii) Description of existing shoreline conditions.
 - (iv) Description of normal, low and high flow conditions including.

- (1) Direction and velocity of current if any.
 - (2) Direction and velocity in near shore environment.
 - (v) Evaluation of the predicted post construction impact on the shoreline upstream and downstream of the project area.
 - (vi) Certification by a Professional Engineer.
 - (c) Vegetative erosion control may be approved provided:
 - (i) In addition to the above requirements applications for vegetative structures will also include:
 - (1) Approval by a qualified professional educated and experienced in selection and maintenance of vegetative erosion control.
 - (2) List of species to be used.
 - (3) A written Maintenance Plan approved by the Lake Management Department:
 - (a) Maintenance Plan will include:
 - (i) Description of procedures necessary to support vegetation after initial placement.
 - (ii) Expected growth rate for each of the first three years including a description of the method for measuring growth rate.
 - (iii) Procedure for response if growth target is not achieved.
 - (iv) Methods for protection of shore while vegetation is established.
 - (4) Monitoring by professional and the Lake Management Department.
 - (a) Joint site inspections will be conducted semi-annually by the approving professional and the Lake Management staff.
 - (b) If growth targets are not met the professional will prepare written description of the potential cause and identify the appropriate response procedure from the original application.
 - (c) Other responses may be considered.
- (d) Riprap
 - (i) No new hard surface erosion control will be approved unless:
 - (1) Vegetative erosion control as approved by the Lake Management Department has been implemented and failed.
 - (2) Evidence that the maintenance plan for vegetative control has been followed and subsequent proposed response plans have not been effective.
 - (3) Rate of erosion has been documented.

- (4) Hard surface control is necessary to prevent significant degradation of water quality or correction of other situations identified in section 7.18.
 - (5) The Lake Management Department has determined hard surface erosion control is the necessary course of action.
- (ii) If the above conditions are met an application for rip rap may be submitted as described in the Bank Stabilization section 7.18.

Section 7.21 *Specific Residential Operations*

(a) Water withdrawal

In addition to the application requirements described in Section 5.05, all water withdrawal users must report the purpose of and intended amount of water to be used each year (i.e. Est. # of gallons, irrigation for lawn at residential site).

- (i) All water use must be consistent with Water Quality Standards outlined within Chapter 42 of the Coeur d'Alene Tribe Law and Order Code.

(b) Utility lines

In addition to the application requirements described in Section 5.05, all responsible parties of utility lines, overhead or submerged, must report specific location across Tribal waters.

Article VIII. Existing non-conforming uses

Section 8.01 Requirements

Existing non-conforming uses may be revised to meet current standards.

Section 8.02 Elimination

Existing non-conforming uses may be eliminated through provision of alternative moorage as provided through implementation of sections 7.03, 7.04 and 7.05.

(a) Priority for removal

- (i) Current owners of individual docks that volunteer for alternative moorage. If there are more volunteers than available slips, slips will be assigned based on the priorities shown in section 8.02(a)(ii-iv).
- (ii) Any use that poses a risk to the safety of the public.
- (iii) Structures that are no longer allowed such as boat garages and float homes.
- (iv) Structures that violate standards:
 - (1) Excessive length
 - (2) Excessive square footage
 - (3) Excessive width.
 - (4) Inadequate floatation or construction material.
 - (5) Excess number of slips allowed
 - (6) Any use that interferes with the navigability of waterway.

Article IX. Repair requirements

Section 9.01 Deck Repair

Individual deck boards may be replaced without a permit.

Section 9.02 Deck Replacement

Replacement of more than 50% of decking requires a permit and compliance with current standards.

Section 9.03 Floatation Replacement

Replacement or addition of floatation requires a permit and compliance with current standards.

- (a) Unenclosed Styrofoam floatation must be replaced within two years.
- (b) Metal drum floatation must be replaced within two years.
- (c) Any other floatation that leaches or sluffs material into Tribal Water must be replaced within two years.

Section 9.04 Piling Replacement

Replacement of pilings requires a permit and compliance with current standards.

- (a) Broken pilings must be replaced or have the remnants removed within one year.
- (b) Pilings that no longer function to secure an encroachment as intended must be removed or replaced within one year.

Section 9.05 Repair Requirements

Encroachments must be repaired and meet current standards whenever:

- (a) Anchors or pilings fail to control movement of the encroachment.
- (b) Floatation or decking becomes loose or damaged to the extent that it does not function as intended.
- (c) Floatation fails to keep the decking six inches above water during normal use
- (d) Any part of the encroachment is leaking, leaching, sloughing, or otherwise becoming separated from the encroachment.
- (e) Renovation cost exceeds 50% of the assessed value of the encroachment.
- (f) Encroachment is deemed a hazard or risk to the environment or recreating public.

Article X. Compliance Agreements

Section 10.01 Compliance Agreements

The Lake Management Department may enter into compliance agreements with the owners of non-conforming uses.

Section 10.02 Documentation Requirement

Compliance agreements will at a minimum identify the following:

- (a) The nature and extent of non-conformance.
- (b) Action required to obtain compliance.
- (c) Reasons that compliance cannot be accomplished immediately.
- (d) Deadline for compliance with the standards.

Article XI. Variances

Section 11.01 Variances

Variations will not be considered under any section unless conformance to the rule would completely eliminate an historic use.

Section 11.02 Prohibited Variations

Variations will not be considered for uses that are prohibited by Chapter 44 of Tribal Code such as but not exclusive to boat garages and float homes.

Section 11.03 Tribal Variations

Variations to any section of this rule may be allowed if it is associated with a project that the Tribal Council feels provides improved access to Tribal Waters for Tribal Members and/or is associated with projects beneficial to the exercise of Tribal sovereignty.