



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 14-77

of the

### SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

**WHEREAS**, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

**WHEREAS**, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

**WHEREAS**, the Squaxin Island Tribal Council previously adopted the Squaxin Island Building Code, Chapter 11.16 of the Squaxin Island Tribal Code, and believes continued enforcement and implementation of the Code is essential to the health and welfare of the Squaxin Island Tribe and its members; and

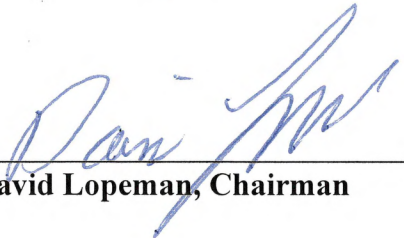
**WHEREAS**, the versions of some codes incorporated therein have since been updated or superseded; and

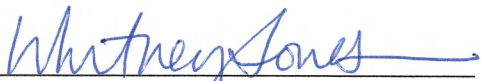

**WHEREAS**, it is the Council's desire to continue to adopt the most current versions of those Codes referenced in Section 11.16.040(B), without need for subsequent amendment to the Tribal Code;

**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council hereby adopts amendments to Chapter 11.16 as shown in the attachment, incorporated herein.

### CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 13<sup>th</sup> day of November, 2014, at which time a quorum was present and was passed by a vote of 3 for and 0 against, with 0 abstentions.

  
\_\_\_\_\_  
**David Lopeman, Chairman**

Attested by:   
 **Pete Kruger Sr., Secretary**

  
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**Arnold Cooper, Vice Chairman**

## **Chapter 11.16 BUILDING CODE**

### **Sections:**

[11.16.010 Purpose.](#)

[11.16.020 Scope of application; consent.](#)

[11.16.030 Definitions.](#)

[11.16.040 Building Codes adopted.](#)

[11.16.050 Amendments to the Tribal Building Code.](#)

[11.16.060 Code precedence.](#)

[11.16.070 Implementation and enforcement; appeals.](#)

[11.16.080 Violation and penalties.](#)

[11.16.090 Severability.](#)

[11.16.100 Effective date.](#)

### **11.16.010 Purpose.**

There exists a need to provide minimum standards to safeguard life and limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the jurisdiction of the Squaxin Island Tribe.

(Res. 06-62 (part))

### **11.16.020 Scope of application; consent.**

- A. Application. This chapter shall apply to the full extent of the sovereign jurisdiction of the Squaxin Island Tribe.
- B. Scope.
  - 1. This chapter shall apply to all structures and buildings constructed upon land within Indian country and on any trust or fee land owned by the Squaxin Island Tribe or any of its enterprises, whether constructed by the Squaxin Island Tribe, one or more of its enterprises, one or more individuals, or any other entity.
  - 2. This chapter shall also apply to any structures and buildings constructed by the Tribe or any of its enterprises on any lands, wherever situated, except where construction is permitted and inspected pursuant to local laws establishing standards at least as protective as those established by this chapter.
  - 3. This chapter shall not apply retroactively to any structures or buildings in existence on the effective date of this chapter, but modifications and maintenance of such structures and buildings must be in compliance with this chapter thereafter.
- C. Compliance. Compliance with this chapter is hereby made a condition of the use of any land or premises within the jurisdiction of the Squaxin Island Tribe.



D. Deemed to Consent. Any person who resides, conducts business, engages in a business transaction, or otherwise engages in activities subject to the provisions of this chapter shall be deemed thereby to have consented to the following:

1. To be bound by the terms of this chapter;
2. To the exercise of civil jurisdiction by the Squaxin Island Tribe and the Squaxin Island Tribal Court over said person in administrative and legal actions arising pursuant to this chapter; and
3. To detainment, service of summons and process, and search and seizure, in conjunction with administrative and legal actions arising pursuant to this chapter.

(Res. 06-62 (part))

#### **11.16.030 Definitions.**

For the purposes of this chapter, unless a different meaning is plainly required or otherwise specified:

"Includes" and "including" means includes but is not limited to.

"Indian country," consistent with the meaning given in 18 U.S.C. 1151, means:

1. All land within the limits of the Squaxin Island Indian Reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; and
2. All Indian allotments or other lands held in trust for a Squaxin Island Tribal member or the Tribe, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Person" means and includes any natural individual, company, partnership, firm, joint venture, association, corporation, estate, trust, political entity, or other identifiable entity.

(Res. 06-62 (part))

#### **11.16.040 Building Codes adopted.**

Subject to the limitations on application and amendments contained in this chapter, the following codes are adopted by reference and made a part hereof as if fully set out in this chapter, and shall collectively be known as the Tribal Building Code:

- A. The following codes as adopted and amended from time to time by the state of Washington with any revisions or exceptions thereto adopted from time to time by the state of Washington:
  1. International Building Code, published by the International Code Council, Inc.;
  2. International Residential Code, published by the International Code Council, Inc.;
  3. International Mechanical Code, published by the International Code Council, Inc., except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);
  4. International Fire Code, published by the International Code Council, Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code, provided that notwithstanding any wording in this code, participants in religious ceremonies shall not be prohibited from carrying hand-held candles;
  5. The Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials;



~~6. The 2003 Washington State Ventilation and Indoor Air Quality Code at Chapter 51-13 of the Washington Administrative Code;~~

~~76.~~ The National Electrical Code;

~~87.~~ The International Fuel Gas Code, published by the International Code Council, Inc.;

~~98.~~ The rules and regulations adopted by the Washington State Building Council establishing standards for making buildings and facilities accessible to and usable by the physically handicapped or elderly persons;

~~409.~~ The Washington State Energy Code; and

~~4410.~~ The Stormwater Management Manual for Western Washington as published by the Washington State Department of Ecology.

B. The 2003-most current version of the following codes:

1. International Existing Building Code, published by the International Code Council, Inc.;

2. International Property Maintenance Code, published by the International Code Council, Inc.

The codes and standards referenced in each of these codes shall be considered part of the requirements of this Building Code to the prescribed extent of each such reference.

(Res. 06-62 (part))

#### **11.16.050 Amendments to the Tribal Building Code.**

The following amendments and exceptions to the Tribal Building Code are adopted:

A. Wherever a code adopted by reference names the jurisdiction adopting the code or includes a blank for the name of the jurisdiction adopting the code, the jurisdiction shall be the Squaxin Island Tribe.

B. Neither the adoption of nor any provision included in the Tribal Building Code shall be construed to waive the sovereign immunity of the Squaxin Island Tribe, any of its incorporated or unincorporated divisions and enterprises, or their employees, agents, or representatives.

C. Except as specifically stated herein, no federal, state or local law, including but not limited to case law, is hereby adopted notwithstanding the inclusion of any reference to such law in any code adopted by reference and made a part of the Tribal Building Code.

D. The implementation and enforcement of the Tribal Building Code, including all fees and permit requirements, shall be as established in Section 11.16.070 of this chapter. Except as explicitly stated in that section, no departments or agencies shall be created and no duties shall be delegated pursuant to the terms of any code adopted by reference.

E. Appeals and review shall be as established in Section 11.16.070 of this chapter. Neither the adoption of nor any provision included in the Tribal Building Code shall be construed to create a cause of action or remedy except as explicitly stated in Section 11.16.070 of this chapter.

F. The minimum lot size for single-family detached housing shall be one-quarter of an acre.

G. For single-family detached homes, the minimum square footage of living area, excluding stairways, outside walls and external storage areas shall be as follows:

Bedroom Size	Square Footage
Two bedroom	850

Three bedroom	1050
Four bedroom	1190
Five bedroom	1350
Six bedroom	1500

(Res. 06-62 (part))

#### **11.16.060 Code precedence.**

- A. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. Where, in any specific case, different sections of the Tribal Building Code specify different materials, methods of construction or other requirements, the most restrictive shall govern.
- C. Where there is a conflict between this chapter and any code adopted and incorporated herein by reference as part of the Tribal Building Code, the provisions of this chapter shall govern.
- D. In the case of conflict between the duct insulation requirements of the International Mechanical Code and the duct insulation requirements of the Energy Code, the Energy Code shall govern.

(Res. 06-62 (part))

#### **11.16.070 Implementation and enforcement; appeals.**

- A. Authority and Duties.
  - 1. Wherever any provision of the Tribal Building Code establishes authority or duties, those authorities and duties shall be held and exercised by the Squaxin Island Tribe's construction manager(s)/building inspector(s) or his/her designee, except that the Squaxin Island Tribe's Emergency and Safety Manager or his/her designee shall also have authority and duties to implement the Uniform Fire Code and Uniform Fire Code Standards, the Property Maintenance Code, and Access Standards as they apply to structures occupied on the effective date of this chapter and to structures approved for occupancy by the construction manager/building inspector after the effective date of this chapter.
  - 2. Whenever any code adopted by reference as part of the Tribal Building Code assigns rulemaking authority or authority to establish fees, those authorities shall be subject to review and approval by the Tribal Council.
  - 3. Except as otherwise explicitly stated in subsection A of this section, no agency or department shall be created, and no official shall be appointed, pursuant to any code adopted by reference as part of the Tribal Building Code.
- B. Liability. Any tribal employee, officer, or other individual charged with the implementation and enforcement of the Tribal Building Code, while acting on behalf of the Squaxin Island Tribe, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any such individual because of any act or omission in the



lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the Tribe until the final termination of the proceedings. The individual shall not be liable for costs in any action, suit, or proceeding that is instituted in pursuance of the provisions of this code; and any such individual, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

C. Appeals.

1. By Departments, Unincorporated Enterprises and Divisions, Corporations or other entities owned and operated by the Squaxin Island Tribe.
  - a. Wherever any provision of the Tribal Building Code allows appeal of a decision or action, such appeal shall be made to the Squaxin Island Tribe ~~Tribal Administrator~~Executive Director, in writing, within five working days of the date of the decision or action complained of. The appeal shall clearly describe the action or decision complained of and shall identify the Building Code section(s) violated by the decision or action. The ~~Tribal Administrator~~Executive Director shall uphold the decision or action unless he or she finds that it violated a provision of the Building Code. The ~~Tribal Executive Director~~shall Administrator shall issue his/her decision in writing, as soon as possible after reviewing all relevant materials and information.
  - b. As to appeals by departments, unincorporated enterprises and divisions, corporations, or other entities owned and operated by the Squaxin Island Tribe, the decision of the ~~Tribal Executive Director~~shall Administrator shall be final and may not be further appealed.
2. By Individuals or Non-Tribal Entities.
  - a. Wherever any provision of the Tribal Building Code allows appeal of a decision or action, such appeal shall be made to the Squaxin Island Tribe ~~Executive Director~~Tribal Administrator, in writing, within five working days of the date of the decision or action complained of. The appeal shall clearly describe the action or decision complained of and shall identify the Building Code section(s) violated by the decision or action. The ~~Executive Director~~Tribal Administrator shall uphold the decision or action unless he or she finds that it violated a provision of the Building Code. The ~~Tribal Executive Director~~shall Administrator shall issue his/her decision in writing, as soon as possible after reviewing all relevant materials and information.
  - b. As to appeals by individuals or non-Tribal entities, the decision of the ~~Executive Director~~Tribal Administrator may be further appealed to a third-party arbitrator retained by the Tribe to provide such service. The appeal shall be made, in writing, within five working days of the date of the ~~Executive Director~~Tribal Administrator's written decision. The arbitrator shall be an individual with sufficient expertise in construction and the applicable Building Code provisions to provide an expert review. The appeal shall clearly describe the action or decision complained of and shall identify the Building Code section(s) violated by the decision or action. The arbitrator shall uphold the decision or action unless he or she finds that it violated a provision of the Building Code. The decision of the arbitrator shall be final and may not be further appealed.

(Res. 06-62 (part))

**11.16.080 Violation and penalties.**

- A. The building inspector(s)/construction manager(s) and the emergency and safety manager may issue a stop work order or a notice of violation, or take other action necessary to prevent the continued violation of this chapter. The stop work order or notice of violation shall be posted on the structure or at the construction site and may not be removed except by the Tribal official who placed it thereon.



- B. It is unlawful for any person to erect, construct, materially alter or improve, or maintain any building or structure or cause or permit the same to be done in violation of this chapter, or to violate a stop work order or the conditions of a notice of violation issued pursuant to this chapter.
- C. The Tribe may impose reasonable penalties, not to exceed one thousand dollars (\$1,000.00) per occurrence or per day for the knowing violation of this chapter in the absence of a stop work order or notice of violation. The penalties shall be paid by the individual or entity actually violating the chapter, not by the individual or entity at whose request the work is being done, unless the requesting individual or entity knowingly requests that action be taken in violation of this chapter.
- D. The Tribe may impose reasonable penalties, not to exceed five thousand dollars (\$5,000.00) per day, for the violation of a stop work order or conditions of a notice of violation issued pursuant to this chapter. The penalties shall be paid by the individual or entity actually violating the stop work order or conditions of a notice of violation, not by the individual or entity at whose request the work is being done, unless the requesting individual or entity knowingly requests that the action be taken in violation of a stop work order or notice of violation.
- E. Where the individual or entity liable for any penalty under this section is performing work for which it will be paid by the Squaxin Island Tribe or any of its departments, unincorporated enterprises and divisions, corporations or other entities owned and operated by the Tribe (collectively, the "Tribe"), such penalties shall not be charged to the Tribe and may be withheld from payments due from the Tribe if not promptly paid by the liable individual or entity.

(Res. 06-62 (part))

#### **11.16.090 Severability.**

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

(Res. 06-62 (part))

#### **11.16.100 Effective date.**

This chapter shall be effective immediately upon adoption by the Squaxin Island Tribal Council. Nothing in this chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character existing on the effective date of this chapter be lost, impaired, or affected by this chapter.

(Res. 06-62 (part))