

RED CLIFF LAND USE PROJECT APPLICATION AND COMPLIANCE REVIEW (PAC)

POLICY AND PROCEDURES

PURPOSE OF THE REVIEW PROCESS

The Land Use Ordinance for the Tribe is described under Chapter 37 of the Tribal Code. It states, “This Chapter is for the purpose of controlling land use within the Red Cliff Reservation boundaries for the protection of the health, safety and welfare of the people who live within the Reservation. Its aim is to encourage the most appropriate use of the land, the protection of the Reservation’s economic and social stability, the promotion of orderly development on the Reservation, and the preservation of natural resources.”

The purpose of the Red Cliff Land Use Project Application and Compliance Review (PAC) is to provide the policies and procedures necessary for comprehensive land use management on the Red Cliff Reservation (Reservation).

This document is meant to reflect the community goals and objectives identified and adopted in the Integrated Resource Management Plan in determining how the Reservation’s assets and resources are utilized and developed for the future of the Tribe. The process will ensure that tribal officials, resource managers and community members will be informed of the potential effects of proposed activities and projects before the impacts occur. The intent is to minimize conflicts in management and to coordinate the planning process by taking an integrated approach to land use management.

Land use projects are defined as all projects on tribal land, allotted land and private (fee) land within the exterior boundaries of the Reservation which have potential to affect tribal land or resource use, through ground disturbance and/or aquatic or terrestrial habitat disturbance (Appendix 1).

Land use activities related to cultural practices are not considered reviewable under this process for the following reasons; 1) Religious, spiritual or ceremonial practices of tribal members are private and 2) Sacred areas require protection from becoming public knowledge. If called into question, it shall be at Tribal Council discretion to decide if a proposed land use activity is designated a cultural practice exempt from the PAC. See Appendix 2 for a detailed list of other exemptions from this process.

Tribal departments and programs which administer or permit land use management projects have developed the PAC to document projects which require departmental review. These tribal departments and programs are represented as the PAC Review Board (Appendix 3). Through the review process, the PAC Review Board evaluates land use projects for compliance with applicable tribal codes and ordinances, as well as applicable state and federal law. The review process documents all necessary information for the Tribal Zoning Administrator to make an informed decision on the proposed land use project. The completed PAC provides the Applicant

with information on any contingencies and restrictions that will affect their plans. The process also identifies any duplication in planning between tribal departments, between individuals, or between a department and individual. Once completed, a PAC will be available to the public through the Tribal Zoning Administrator and Red Cliff Tribal Website. A blank PAC Application can be viewed in Appendix 4 and a fillable form is available under the Planning tab of the Tribal Website.

POLICY

Who Submits Projects

Applicant: The applicant is here defined as the tribal department, tribal program, or tribal member who is proposing a land use project within the exterior boundaries of the reservation. In addition, all non-tribal member residents/landowners, non-tribal member commercial developments, utility companies, and government entities (town, county, state or federal) working on or affecting tribal land must also submit their land use projects for PAC.

Roles and Responsibilities

Applicant: It is the responsibility of the Applicant proposing a land use project to complete Section 1 of the PAC Application. The PAC Application must then be submitted to the Tribal Zoning Administrator by the Applicant to initiate the review process by the PAC Review Board. If Section 1 of the PAC Application is incomplete, a review of the proposed project will not be initiated. The Applicant must also pay the applicable permit fee(s) before the project commences (no fees will be charged for denied applications). The Applicant can expect a maximum of 15 calendar days for a submitted PAC Application to be reviewed under most circumstances.

Tribal Zoning Administrator: The Tribal Zoning Administrator is the designated lead for the PAC Application process. The Tribal Zoning Administrator receives the PAC Application and applicable permit fee(s) from the Applicant initiating the project. The Tribal Zoning Administrator then forwards the PAC Application to the PAC Review Board, along with the permit fees paid to their respective departments, to initiate the review. The Tribal Zoning Administrator also assists Applicants through the PAC from project initiation to final acceptance.

PAC is based on the completion of Section 1 of the PAC Application submitted to the Tribal Zoning Administrator. If changes to the project are made after initial submission, the Tribal Zoning Administrator will determine whether the changes are sufficient to require a new PAC Application or if the changes only need to be forwarded to the affected PAC Review Board members. If the changes are substantial enough to require a new PAC, the changes will be treated as a new PAC Application and may be subject to the same time requirements as the first review.

It is the responsibility of the Tribal Zoning Administrator to list all the concerns raised by the PAC Review Board and/or any special committee or agency. The Tribal Zoning Administrator

must ensure that the decision on the PAC Application is represented in the final disposition. The Tribal Zoning Administrator posts the public notice based on the final disposition.

The Tribal Zoning Administrator will maintain an electronic file (and database) for all PAC Applications.

PAC Review Board: It is the role of the PAC Review Board to conduct a diligent review of the PAC Application on project contingencies relative to their Department. The PAC Review Board is responsible for conducting a timely review of the PAC Application within the review period. The PAC Review Board shall review projects for compliance with tribal codes and laws (Appendix 6) as well as relevant state and federal regulations. If special committee or outside agency review and recommendation are necessary, the PAC Review Board member in charge of obtaining that review must forward the results to the Tribal Zoning Administrator as soon as possible. In certain circumstances the need for outside review may extend the PAC past the 15 day review period, but every effort should be made to prevent a delay in the review process.

Emergency Review

There are some instances where emergency land use projects cannot follow the timeline of the PAC process. An emergency is defined as a situation which is detrimental to the health or safety of an individual or the Tribe and **that poses an immediate threat**. Designated emergencies include septic system failure, frozen water and sewer pipes, down power lines, hazardous waste spills, and immediate response to natural disasters. It is the responsibility of the Applicant handling the emergency to notify the Tribal Zoning Administrator. If the situation falls under a category of the designated emergencies above, the Tribal Zoning Administrator may give an immediate response for the project to proceed. However, if the project requesting emergency review does not fall under the emergency categories above, the Tribal Zoning Administrator must receive consensus from the PAC Team that the situation warrants an emergency review. Unanimous consensus from the PAC Team can be determined through email correspondence. Even in an emergency review, the PAC Team will still be given an opportunity to respond, issue permits if necessary, and monitor the repairs and/or actions initiated.

Fast PAC Review

If the Zoning Administrator receives a PAC Application for a project that is perceived to have “no effects”, the Zoning Administrator can declare a Fast PAC that does not require full PAC review if the Treaty Natural Resources Administrator and THPO likewise agree with this finding. If consensus is reached by the three parties, the proposed project can be summarily approved without the need for full PAC review.

Violations

Any Applicant who begins a land use project without first completing a PAC Application, or before receiving required permits identified by the PAC, will be considered in violation of policy. A stop-work injunction will be pursued by the Tribal Zoning Administrator. Violations

will be enforced by Tribal Administration through the use of applicable Tribal Codes. Violations can also be enforced through applicable state and federal laws and guidelines.

PROCEDURES

Application Submittal

Applicants must complete Section 1 of the PAC Application and submit it to the Tribal Zoning Administrator. The Tribal Zoning Administrator is the designated contact for land use projects and will assist Applicants in completing Section 1 of the PAC Application.

Applicants are required to submit a deposit with their application for the permit(s) in which they are applying. Appendix 5 provides a detailed Fee Schedule and explanation based on project type. Fees will support the departments that participate in tribal land use management planning as identified in the Tribal Codes and Integrated Resource Management Plan.

The Tribal Zoning Administrator will ensure the application is complete, assign the PAC Application number, and initiate the PAC by sending the application electronically to the PAC Review Board. The Tribal Zoning Administrator will also forward permit fees paid to their respective departments at this time. Incomplete applications will not be sent to the PAC Review Board.

Applicants will be told that PAC in most cases will take a minimum of 5 business days and a maximum of 15 calendar days to complete. A project start date will not be set until a complete application is received by the Tribal Zoning Administrator. Applicants should be aware however, that certain circumstances may require a project start date to be pushed past the 15 calendar day period. See the Application Review Process section below for instances that may delay the project start date.

Application Review Process

The PAC Team will review the PAC Application and place their comments in the space provided in Section 2 of the PAC Application. PAC Review Board members may attach additional pages to the PAC Application if more space for comments is needed. A PAC Application submitted in winter months when field inspections cannot be completed may contain a statement that the project may not begin until ground conditions allow departmental field investigations to be completed.

In some cases, it may be necessary to submit the proposed project to other agencies and committees. If a special committee or outside agency review is required, this must be stated on Section 2 of the PAC Application by the PAC Review Board member seeking additional review. The PAC Review Board results and any special review will be submitted within 15 calendar days directly to the Tribal Zoning Administrator. If it is not possible to obtain committee or outside agency review within the 15 calendar day period, the Tribal Zoning Administrator must be notified immediately of any delay.

If there is no response after 15 calendar days, the Tribal Zoning Administrator will complete the final disposition without the PAC Review Board member's review.

Finalization of Application

When all reviews are received and the recommendations are completed, the Tribal Zoning Administrator will post a public notice for a period of seven (7) calendar days. Ten day public notices for leases/land use will be done at this time by the Tribal Land Department in accordance with Chapter 18 section 18.4.3(a) of the Red Cliff Code of Laws.

After the results of the public notice, the Tribal Zoning Administrator will return the final disposition with requirements to the Applicant and will provide copies to the PAC Review Board waiting for an outcome to process their final paperwork.

The Tribal Zoning Administrator will notify the Applicant of the completed PAC with recommendation, if any, along with further action needed. The Applicant will be informed that completion of the PAC does not mean that the project is ready to start. In some cases, additional permits must be obtained in addition to the permits paid by the Applicant when the PAC Application was originally submitted. The Applicant should be made aware of further meetings that may need to be held with committees, outside agencies, or the PAC Review Board to explain contingencies or restrictions prior to the project start. At the end of the review of the completed PAC with the Tribal Zoning Administrator, the Applicant will sign a document acknowledging receipt of the completed PAC stating that they understand the conditions, including the potential need for further meetings, and that they will pursue additional permits that may be required.

Applicants are responsible for all compliance requirements listed on the PAC.

Project reviews are good for one year after the date of the final approval by Tribal Zoning Administrator.

PAC Evaluation

This process will be reviewed to address benefits, effectiveness, efficiency, and improvements annually by the PAC Review Board. All meetings shall be conducted according to the *Robert's Rules of Order*. A quorum shall consist of four members. No action(s) of the PAC Review Board will be considered official unless ratified by a quorum at a Regular or Other meeting. Agenda items shall be in an identified format. Minutes shall be typed and filed with the Zoning Administrator within thirty (30) days of their approval by the PAC Review Board. Community participation is important in this process when changes are being proposed and will involve a public input forum. The PAC Review Board may meet quarterly to discuss any problems in the process and to suggest changes to the policy that should be highlighted during the next public forum. Changes to the PAC will be recommended to Tribal Council for approval with prior Legal Department review if necessary.

APPENDIX 1

PAC REVIEWABLE PROJECTS

Forestry projects

- Timber harvests
- Timber stand improvement
- Prescribed burns
- Fuels management
- Herbicide/pesticide use

Agriculture

- Establishing new farms
- Wood lots

Residential and Business

- New land leases
- Proposed new housing subdivisions and additions to existing subdivisions
- New house or business construction including clearing the land, well digging, septic system, driveway, shoreline reconstruction, landscaping, decks and docks
- Other new construction (administration buildings, apartments/condominiums, casino and resort construction, police and fire stations, health care facilities, schools, libraries, child care facilities, community centers, museums, churches, cemeteries, advertising signs, etc.)
- New construction on existing houses such as garages and house additions
- Historic building rehabilitation
- Utility construction
- New hook-ups to community water and sewer
- Landfill development/expansion, auto salvage yards, wastewater treatment, hazardous waste repository
- Construction and/or modification of conventional and alternative energy
- Construction of cell towers, electric lines, telephone, cable, gas and oil pipeline
- Installation of a portable and temporary structure if it is placed 150 feet from a shoreline/bank

Natural Resources Projects

- Construction and /or reclamation of new facilities, wildlife habitat, shoreline and river bank rehabilitation, wetland restoration, beaver management
- Endangered species management
- Invasive species management
- Dredging
- Stream diversion
- Wetland draining

Recreation and Zoning

- Road building
- Recreational facilities such as campgrounds, marinas, sports arenas and ball fields
- Construction of new and expansion of existing motorized and non-motorized trails
- Repairing and maintenance of trails and parking areas
- Boat landings and boat cleaning facilities
- Excavating, grading, dock building
- Construction/maintenance of scenic pull-outs

APPENDIX 2

EXEMPTIONS TO THE PAC

- Land use activities related to cultural practices, subject to Tribal Council approval
- Designated emergencies which qualify for Emergency Review (septic system failure, frozen water and sewer pipes, down power lines, hazardous waste spills, and immediate response to natural disasters)
- Wildfire response
- Rehabilitation of apartment and/or condominium buildings
- Emergency replacement of septic fields and tanks
- Removal of Christmas trees and/or dead, diseased or storm-damaged trees. This does not include stump removal
- Installation of a mailbox, flag poles, deer hanger or basketball goals. No exemption exists if the project involves wetlands, riparian areas or the use of heavy equipment
- General maintenance of a single-family residence, which includes painting, replacing siding, installation of a new roof, interior maintenance, installation of new windows and doors, renovation of basement foundations that do not include use of heavy equipment, and basic remodeling that does not include expansion
- Clearing for planting a single-family garden of no more than a quarter acre in size, including planting of trees, shrubs and flowers around a residence and filling in dips and holes. No exemption exists if the project involves major landscaping, anything in Tribal historic inventory or anything which involves wetlands or the use of heavy equipment. Tribal code setbacks must be observed
- Replacement of an existing fence in the exact location of the old one
- Driveway maintenance
- Traditional harvesting
- Brushing an existing road and trail, without heavy equipment

Only those projects which fit the descriptions on this list are considered exempt from the PAC Review Process. This list does not exempt projects from compliance with applicable tribal codes and laws (Appendix 4) or county, state and federal regulations.

APPENDIX 3

PAC REVIEW BOARD MEMBERS

- Tribal Historical Preservation Officer
- Tribal Land Specialist
- Tribal Public Works Department Administrator
- Treaty Natural Resources Administrator
- Environmental Health Specialist

Designated PAC Review Board Members may participate directly or through a designated alternate.

APPENDIX 4
PAC APPLICATION
PAC FORM # _____

FOR OFFICIAL USE ONLY

Section 1: To be completed by Applicant

MM/DD/YYYY

PROJECT DESCRIPTION:

DATE SUBMITTED:

NAME OF APPLICANT/CONTACT PERSON: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: _____ CELL PHONE: _____

FAX: _____ EMAIL: _____

TRIBAL MEMBER: YES NO MEMBER ID#: _____

PROJECT LOCATION: (ADDRESS) _____

TOWNSHIP: _____ RANGE: _____ SECTION: _____ LEASE/LOT#: _____

REQUIRED: ATTACH MAPS OF PROJECT LOCATION AND LAYOUT, APPLICATION WILL NOT BE PROCESSED WITHOUT MAPS

LAND STATUS: (TRUST, PRIVATE, ALLOTMENTS, COUNTY, STATE, FEDERAL) _____

PROOF OF OWNERSHIP – Attach deed, lease or tax statement, as applicable

PROJECTED START DATE: _____

SPECIAL ISSUES: _____

FEE: _____

Section 2: PAC Team Review

TRIBAL LAND SPECIALIST
FLOODPLAIN ADMINISTRATOR

REQUIREMENTS/PERMITS: ___YES ___NO ___N/A

Project in Floodplain ___Yes ___No If yes, name of insurance company: _____
Results of Review:

Signed: _____

TREATY NATURAL RESOURCES DIVISION

REQUIREMENTS/PERMITS: ___YES ___NO ___N/A

Division Programs: Environmental, Water Resources, Forestry and Wildlife, Fisheries, Air, Hatchery, Wardens
Results of Review:

Signed: _____

HISTORIC PRESERVATION OFFICER
Results of Review:

REQUIREMENTS/PERMITS: ___Yes___No___N/A

Signed: _____

PUBLIC WORKS DIVISION
Results of Review:

REQUIREMENTS/PERMITS: ___YES ___NO ___N/A

Signed: _____

ENVIRONMENTAL HEALTH SPECIALIST
Results of Review:

REQUIREMENTS/PERMITS: ___YES ___NO ___N/A

Signed: _____

Recommendations: The PAC Team has completed their review and issued the following finding:

___The project is in compliance with all tribal codes and applicable laws as originally designed and will be forwarded to the Tribal Council, if necessary.

___The project is not in compliance with all tribal codes and applicable laws. The requirements noted above must be met prior to submittal to the Tribal Council, if necessary.

___The project is not in compliance with all tribal codes and applicable laws and cannot proceed without redesign and/or mitigation.

___The project as designed is in conflict with/does not fit the mission of the IRMP and/or the best interest of the Red Cliff community, detrimental to the long term interests of the Tribe and is not recommended.

Signed: _____
Zoning Administrator

I hereby agree to comply with the Red Cliff Code of Laws and submit to jurisdiction by the Red Cliff Tribe.

Signed: _____
Applicant

APPENDIX 5

FEE SCHEDULE

Land Use Permit <i>RCCL 37.8 (37.8.1-37.8.3)</i>	\$20
Special Land Use Permit <i>RCCL 37.9 (37.9.1-37.9.5)</i>	\$20
Logging <i>RCCL 11.1 (11.1.1-11.1.4), 11.2 (11.2.1-11.2.3)</i>	
Member Permit	\$100
Non-member Permit	\$500
Logging Violations (each day is separate violation)	\$1000
Woodcutting Permit (only for members) <i>RCCL 11.4 (11.4.1-11.4.7)</i>	\$10
Woodcutting Violations	<i>not to exceed</i> \$250
Burning Permit <i>RCCL 11.3 (11.3.1-11.3.3)</i>	no fee
Violations	<i>not to exceed</i> \$5000
Dangerous Environmental Activity Permit <i>RCCL 12.1.2, 12.3 (12.3.1-12.3.5)</i>	\$250
Environmental Change Permit <i>RCCL 12.1.3, 12.4 (12.4.1-12.4.3)</i>	\$250
Pollution Permit <i>RCCL 12.1.1, 12.2.1, 12.2.2</i>	\$250
Environmental Violations	<i>not to exceed</i> \$5,000
Historic Preservation <i>RCCL 20.2.1, 20.2.2, 20.3.1</i>	
Member Permit Fee	\$10
Tribal Department Permit Fee	\$20
Outside Contractors and Utilities Permit Fee	\$40
All Other Agencies Permit Fee	\$50
Historic Preservation Violations	<i>not to exceed</i> \$5,000
Private Sewage System Permit* <i>RCCL 34.8 (34.8.1-34.8.5), 34.9</i>	\$25
Transfer of Sanitary Sewage Permit	\$10
Return Inspection	\$10
Site Evaluation (no permit issued)	\$10
* <i>Applicant shall pay no more than one of the above sewage system fees in any 12 month period</i>	
Sanitary Sewage Violations	<i>not to exceed</i> \$5,000
Land Lease – Recreational and Residential (paid each year) <i>RCCL 18.5.1</i>	
Members	\$50
Non-members or Spouse is Non-member	\$100

APPENDIX 6

TRIBAL CODES AND ORDINANCES REVIEWED FOR PAC PROJECTS

Tribal Historic Preservation Officer
– Tribal Code Chapter 20

Tribal Realty/Land Lease Department/Land Recovery
– Tribal Code Chapters 18, 30 and 37

Tribal Water and Sewer
– Tribal Code Chapter 25 and 34

Tribal Zoning Administrator/ Tribal Planning Department/Tribal Roads
– Tribal Code Chapter 37 and 55

Tribal Environmental Department
- Tribal Code Chapter 12 and 37

Tribal Natural Resources Department
– Tribal Code Chapter 11 and 12

Tribal Water Resources Program
– Tribal Code Chapter 12 and 37