



# Step-by-Step Guide to Enacting and Implementing Codes as Tribal Law

The following guide outlines steps for Tribes to enact codes that best serve their interests, concerns, policies, and goals. Because each Tribe has its own governance practices, the information below is universal and not specific to any one Tribe. It is intended to be tailored, modified, or adapted to each Tribe's needs.

## STEP 1 Form a Tribal Code Working Group

Form a small team to guide code development and implementation. Include representatives from Tribal leadership, legal counsel, housing, public works, planning, economic development, and local construction stakeholders.

### Example Working Group Members:

- Tribal Council representative/Administrator
- Tribal Attorney
- Housing Authority/Tribally Designated Housing Entity (TDHE)
- Facilities/Public Works
- Land planning/Environmental
- Economic Development/Planning
- A local builder/General Contractor (advisory)
- Optional: utility/efficiency program rep, HERS rater, neighboring jurisdiction code official

**Output:** Statement of intent, meeting schedule, and implementation timeline.

## STEP 2 Define Scope, Goals, and Code Pathway

Determine which buildings, projects, and lands will be covered, and select the most appropriate code approach (state code adoption, model code, Tribal amendments, or a Tribal-specific code). Identify acceptable methods of compliance.

- Buildings covered: residential only, commercial only, or both
- Work covered: new construction, additions, major alterations, modular/manufactured placement, rehab thresholds

- Land/status covered: trust land, Tribally owned fee land, member-owned fee land (if applicable), Tribal projects anywhere
- Compliance pathway: prescriptive, performance, or both (see compliance/enforcement resources)

**Output:** One- to two-page "Scope & Intent" memo for the Tribal Council and other associated departments (housing, land, environmental, construction). Code Pathway Selection; compliance methods (e.g., REScheck/COMcheck, energy modeling, HERS).

## STEP 3 Draft and Adopt the Tribal Energy Code Ordinance

Develop an ordinance that establishes the code, its applicability, permitting authority, inspections, enforcement, the appeals process, and other provisions such as the use of third-party inspectors. Your ordinance should serve as the definitive go-to document covering all aspects of enactment and enforcement.

Your ordinance should be the definitive go-to document that addresses all aspects of enactment and enforcement:

- Code enacted by reference (edition and effective date)
- Jurisdiction and applicability
- Permitting authority and stop-work authority
- Plan review and inspection authority
- Fees (if any), penalties, and appeals process
- Authority to approve third-party inspectors (HERS, special inspectors, circuit rider)
- Authority to issue administrative policies (forms, checklists)

**Output:** Draft ordinance and plain-language summary for community and Council review. See model ordinance at [www.itcmi.org](http://www.itcmi.org)

## STEP 4 Create Permitting and Inspection Processes

Develop standardized permit applications, plan review procedures, inspection checkpoints, and occupancy approval processes, including forms, checklists, and documentation requirements.

Build a simple, repeatable process:

- Permit application and required submittals checklist
- Plan review checklist (envelope, windows, HVAC sizing, ventilation, lighting)
- Inspection schedule checkpoints (foundation, rough-in, insulation/air sealing, mechanical, final)
- Certificate of Occupancy (or Tribal equivalent) and close-out documentation

**Output:** Permitting workflow, forms packet, and inspection checklists.

## STEP 5 Establish Enforcement and Compliance Procedures

Select an enforcement model—Tribal staff, contracted inspectors, a hybrid approach, or shared regional (“circuit rider”) services. Define how compliance will be demonstrated through prescriptive, performance-based, or third-party verification pathways.

### Enforcement Mechanism/Personal

#### A) Tribal in-house enforcement

Hire or assign a building official; train inspectors to conduct enforcement activities for new construction and existing buildings, and to conduct annual inspections of elevators, alarm systems, and other life-safety measures.

#### B) Contracted enforcement

Third-party firm handles plan reviews and inspections. Third parties may be state, county, or municipal inspectors. Private third-party inspectors, such as energy raters.

#### C) Hybrid

Tribal staff manage permits and final sign-off; third parties conduct testing/technical inspections.

#### D) Regional/shared (“circuit rider”)

Multiple Tribes share an inspector/plan reviewer/energy rater via MOU.

### How Compliance is Demonstrated

Choose what documentation Tribe accepts for each pathway:

**Prescriptive Path**—The energy code prescriptive path is a straightforward compliance method that requires builders to meet minimum, fixed, and mandatory standards for individual building components—such as insulation R-values, window U-factors, and HVAC efficiencies—without energy modeling. It is a checklist-based approach, often considered simpler and faster, and it requires no trade-offs.

- REScheck/COMcheck reports (or equivalent)
- Manufacturer specs (windows, insulation, equipment)

**Performance Path**—The energy code performance path is a compliance method that uses energy modeling software to demonstrate that a proposed building's total energy use is equal to or less than that of a standard reference design. It provides flexibility, allowing builders to balance building components (e.g., using lower-grade insulation with higher-efficiency HVAC) to meet energy targets.

- Energy model report and assumptions
- As-built verification through inspection

**Third-party Verification**—Energy code third-party verification is an independent inspection and testing process conducted by certified professionals, such as HERS Raters, to confirm that a building's construction complies with mandatory energy-efficiency standards. It verifies that insulation, HVAC, and airtightness meet code requirements, reducing dependence on overburdened building departments.

- Certified inspector (county, shared tribal circuit rider)
- HERS rater report, blower door, duct testing, ventilation verification
- Clear pass/fail thresholds aligned to your enacted code

**Output:** Enforcement plan, roles and responsibilities, and compliance documentation requirements. Compliance Documentation Policy, Inspection forms/checklists.

## STEP 6 Launch Implementation, First Year Plan, and Build Tribal Capacity

### Implementation and Effective Date

Prepare customary Tribal documents that enable formal enactment and implementation of the codes.

- Community notice and hearing (as per Tribal administration)
- Council vote/enactment
- Publish: ordinance, checklists, FAQs
- Set an effective date with a clean transition:
  - Permits applied for before the date, use the old rules
  - After the date, use the new rules

**STEP 6 CONTINUED—Launch Implementation, First Year Plan, and Build Tribal Capacity**

**Begin with a “First-Year” Implementation Plan**

- Start simple, more rigorous, or more requirements over time
- First 3–6 months: focus on Tribal projects + TDHE housing
- Track common issues (air sealing, insulation install quality, HVAC sizing, ventilation)
- Monthly coordination with builders/raters/inspectors
- Adjust forms/checklists based on real projects

**Build Tribal Capacity**

Train Tribal staff, inspectors, housing personnel, and contractors. Establish certification pathways and begin implementation in phases, focusing first on Tribal and housing authority projects.

- Identify Tribal member(s) to step into a certified inspector role (ICC, RESNET, BPI, Energy Star, Passive House, Enterprise, Living Building, apprenticeship/shadowing)
- Train Tribal housing staff and local contractors on the new requirements
- Set up continuing education expectations

**Output:** Implementation documents, first-year implementation plan, and capacity building strategy.

**STEP 7 Monitor, Evaluate, and Improve**

Conduct audits, field verifications, and annual reviews of enforcement effectiveness. Update forms, procedures, and code amendments as needed to support continuous improvement.

**Quality Assurance and Continuous Improvement**

- Consider and create quality-assurance and continuous-improvement protocols.
- Random file audits (10–20% of permits)
- Field verification spot checks
- Annual review of amendments, enforcement capacity, and update schedule

**Output:** Annual Code Compliance and Outcomes Report with recommendations for future updates.

**For additional information or questions, contact:**

**Laura Manthe, Slipstream**  
Senior Manager—Indigenous Community Outreach  
920.309.7453 | [lmanthe@slipstreaminc.org](mailto:lmanthe@slipstreaminc.org)

**Bill Bernier, R.S., Inter-Tribal Council of Michigan**  
Environmental Services Director  
906.632.6896 x 115 | [bbernier@itcmi.org](mailto:bbernier@itcmi.org)

**Michigan Tribal Code Initiative  
Who We Are and How We Work**

**The Inter-Tribal Council of Michigan (ITCM)** is a non-profit organization that serves as a forum and advocacy group for 12 federally recognized Native American Tribes in Michigan.

**The Bay Mills Indian Community (BMIC)** is a federally recognized Ojibwe Tribe located in Brimley, Michigan.

**The Midwest Energy Efficiency Alliance (MEEA)** is a collaborative network, promoting energy efficiency to optimize energy generation, reduce consumption, create jobs, and decrease carbon emissions in all Midwest communities.

**Slipstream** is a nonprofit that develops and scales energy efficiency programs with a focus on climate solutions for buildings.

