

BUILDING A STRONG FOUNDATION for LASTING ENERGY CODE ENACTMENT BY NATIVE NATIONS IN MICHIGAN

This resource has been developed to support Tribal councils in enacting building energy codes in jurisdictions without them. The document includes guiding questions to support decision makers in identifying goals and outcomes, building requirements, and an outline for a code adoption ordinance.

Step 1: Identify Goals and Opportunities

If no building code has been enacted, the first step towards developing a Tribal Building & Energy Code is to convene a group of tribal members (referred to as Tribal Working Group) to identify and develop Tribal Goals and assess code opportunities by enacting a code, law or ordinance that addresses the construction of new buildings and major retrofits.

Questions to ask before enacting a building and energy code

- Empowerment: How can enacting a Tribal building code leave control in the hands of the Tribal Nation? Examples may include:
 - Incorporate and share Tribal technical knowledge on special construction types, such as Healing Rooms
 - Require developers, contractors and tradespeople to be licensed and trained.
 - Promote available training for Tribal members.
- Sovereignty: How does enacting a Tribal building code respect Tribal sovereignty? Examples may include:
 - Laws are enacted by the Tribal Nation
 - Tribal Nation Council or Authority determines who can work on Tribal lands by requiring a licensed professional to perform the work.
 - The health, safety and economic well-being of the Tribal Nation is protected
 - Traditional materials and building practices are protected.
- Economic Development & Growth: How would enacting a Tribal building code improve economic conditions? Examples may include:
 - Provide an opportunity to promote Tribal-Owned design, development and construction firms
 - Emerging construction methods may provide new career opportunities

Five goals to consider when enacting an ordinance or law for **new or upgraded buildings** include:

- Safety and Resiliency: Should the ordinance require that new homes and other buildings be constructed to withstand specific extreme weather events, such as windstorms, heavy rain, snowstorms, prolonged high temperatures? How can the ordinance effectively balance increased construction costs and safety and resilience requirements to preserve housing affordability?
- Health: Should provisions in the code require that new homes and buildings be constructed with methods, such as mechanical ventilation, that help prevent mold growth and circulate fresh air within the enclosed space to remove potential toxins and harmful particulates?
- Economic Growth: Is it important to train Tribal community members to do the work to ensure investment stays in the community? What programs exist or which steps can be taken to ensure increased costs of construction and workforce do not make homes less affordable?
- Empowerment: Should builders and contractors be held accountable for the quality of their work? What structures are in place or need to be established to ensure quality work and building requirements are met? Should Elders be protected?
- Sovereignty: Should the Tribal Nation control or manage who can work on Tribal land and buildings?

Content to consider – should the ordinance or law require the following components for new or upgraded buildings:

- Safety and Resiliency
 - *Provide safety for inhabitants*: Materials used for building construction considered should be a quality grade. This grade level identifies that the material is a balance between price, durability and aesthetics. Evaluating building materials used, based on cost versus the material or product lifespan, will *reduce* the need for frequent repair or replacement and avoid potentially hazardous conditions.
 - *Provide building resiliency to withstand weather extremes*: Materials to reduce the transmittance of hot and/or cold outside temperatures should be installed. During extreme heat or cold temperatures, the building envelope should be constructed for maximum thermal resistance. This would require different levels of roof, wall, and floor insulation and window efficiency depending on climate zone and a well-sealed building envelope.
- Health
 - *Prevent fungi growth*: Mold can be the result of water entering through the building envelope, or moisture building up inside the building and becoming trapped. Walls, roofs, and floors should be constructed to prevent rain and moisture from infiltrating the building.
 - *Provide comfort*: Heating and cooling equipment should be designed specifically to the building and should not be over- or under-designed. When equipment is right-sized, temperature and humidity levels are easier to manage. (This also reduces operational costs.)

- *Reduce indoor air pollutants:* Ventilation should be designed to provide continual air flow (a few air changes per hour) through the building, and the HVAC duct work should be well-sealed.

Step 2: Build the Ordinance

Once the Tribal Council has identified its goals and intended outcomes for a new building code or ordinance, they may draft the language and seek to incorporate it into Tribal law. Existing building codes, such as the model codes developed by the International Code Council, can be used as a resource to aid in determining important content for the first Tribal Building Code.

This first enacted building code could be up to a few pages. The following is an outline that may be used to draft a code or ordinance.

Level 1 Building Construction Ordinance outline recommendation:

1. Section 1. Title and Authority

1.1 TITLE of the Ordinance

1.2 AUTHORITY. Location of the ordinance in Tribal law, often a Tribal Constitution.

1.3 PURPOSE. Include goals for the code/ordinance identified in Step 1.

Section 2. Jurisdiction. Buildings covered by the code that require a permit, including building type and lands covered.

Section 3. Enactment of Codes. Listing of any code(s) enacted, and process by which a building code is enacted. If applicable, include any relevant appendices, deletions, and Tribe-specific amendments to the reference code.

Section 4. Administration and Enforcement.

4.1 Appointment of Tribal Building Official. The title of the person appointed to manage building construction permitting and ensure compliance with the ordinance.

4.2 Duties of the Tribal Building Official.

4.3 Qualifications of the Tribal Building Official. If applicable, any relevant certifications required of the Building Official.

Section 5. Permits and Plan Review. Identify what building construction permits are required and provide an overview of the application and review process.

Section 6. Inspections. Authorizes the Building Official to conduct inspections of all projects subject to the provisions of the code. If desired, this section may also authorize the Building Official to engage third-party inspectors.

Section 7. Waivers and Disputes. Outline if waivers may be granted and process for disputes.

The Building Construction Ordinance should periodically be reviewed and updated or expanded as needed.