

ORDINANCE NO. 1

TRIBAL BUILDING CODE

An Ordinance of the Saginaw Chippewa Indian Tribe of Michigan (“Saginaw Tribe”) adopting the International Energy Conservation Code regulating and controlling the energy efficiency of heating and air conditioning in newly constructed buildings as defined by the Code; and adopting the National Electrical Code, International Mechanical Code, International Plumbing Code, International Building Code, and International Residential Code, including Appendices and applicable provisions of codes or standards referenced by these Codes, regulating and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings, structures, and electrical, plumbing and mechanical systems on Tribal land and Tribal-Member-Fee-Lands; and also providing for the issuance of permits, collection of fees, and enforcement of said Codes.

Section 1. Statement of purpose and authority.

- (a) **Purpose.** The purpose of this Ordinance is to provide enforceable quality standards for commercial and residential building construction and improvement, and for the electrical, plumbing, and mechanical systems in such buildings so as to protect the health and safety of tribal members and the general public. For these reasons, and in the interest of maintaining reasonable consistency with surrounding jurisdictions, this Ordinance adopts certain standards similar to those of the State of Michigan, consisting substantially of certain uniform codes and standards published by national and international organizations dedicated to preserving energy efficiency as well as public health, safety and welfare through implementation of energy efficiency, building, construction, electrical, plumbing, and mechanical systems standards.
- (b) **Authority.** This Ordinance has been adopted pursuant to the Saginaw Tribe’s inherent, sovereign power to protect the health and safety of tribal members and other persons who are lawfully present on Indian land subject to tribal jurisdiction, and pursuant to Article VI, Section 1(o) of the Saginaw Tribal Constitution, as amended on November 5, 1986.
- (c) **Scope; Jurisdiction.** This Ordinance shall apply to all persons (including natural persons, corporations, limited liability companies, partnership, unincorporated associations and all other legal entities) who carry out or engage in work regulated by this code on “Tribal land” or “Tribal-Member-Fee Lands” as defined herein. For the purposes of this Ordinance Tribal land shall mean land either owned in fee by the Tribe or held by the United States in trust for the benefit of the Tribe or a Tribal Member. Tribal-Member-Fee-Lands means any parcel of land within the

Reservation that is owned in fee simple by any Tribal Member. “Reservation” has the meaning specified in the Order for Judgment entered by the United States District Court for the Eastern District of Michigan in *Saginaw Chippewa Indian Tribe of Michigan v. Granholm, et al.*, Case No. 05-10296-BC.

Section 2. Adoption of Codes. The 2009 International Mechanical Code, 2009 International Plumbing Code, 2009 International Building Code, and 2009 International Residential Code, including Appendices, as published by the International Code Council, and the 2008 National Electrical Code published by the National Fire Prevention Association, are hereby adopted as the building and construction codes of the Saginaw Tribe for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings and electrical, plumbing, and mechanical systems on the Indian land. The 2009 International Energy Conservation Code regulating and controlling the energy efficiency of heating and air conditioning in newly constructed buildings as defined by the Code. These Codes, applicable provisions of codes or standards referenced by these Codes and Chapter 26 of the 2009 International Fire Code are hereby adopted and made a part hereof as if fully set out in this Ordinance, and are identified collectively hereafter as the “Tribal Building Code.”

Section 3. Code Amendments.

- (a) **Residential Code.** The International Residential Code (“IRC”) shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height.

The following sections are hereby amended as follows:

Section R101.1, Insert: Saginaw Chippewa Indian Tribe of Michigan

Section R301.2.1.1, Insert Table 301.2(1) as follows:

TABLE 301.2(1)

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

TABLE 301.2(1)

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

			SUBJECT TO DAMAGE FROM								
GROUND SNOW LOAD	WIND SPEED	SEISMIC DESIGN CATEGORY	Weathering	Frost line depth	Termite	Decay	WINTER DESIGN TEMP	ICE SHIELD UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
40	90	θ <u>A</u>	SEVERE	42"	NONE TO SLIGHT	NONE TO SLIGHT	0	YES	FEMA Maps	1500	45°

Section R313.2 DELETE

Section R313.2.1 DELETE

- (b) **Commercial Building Code.** Subject to the amendments set forth below, the International Building Code (“IBC”), published by the International Code Council, shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures within this jurisdiction, except detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures, which shall comply with the International Residential Code hereby adopted. (See IBC § 101.2)

The following sections of the IBC are hereby amended as follows:

Section 101.1. Insert: Saginaw Chippewa Indian Tribe of Michigan

Section 1612.3. Amend text to read as follows:

Establishment of flood hazard areas. To establish flood hazard areas, the Saginaw Chippewa Indian Tribe of Michigan hereby adopts by reference and declares to be part of this section the flood hazard maps and supporting data of each county or municipality in which Indian lands are located as prepared by the Federal Emergency Management Administration (FEMA).

Section 3101.1. Amend the text to read as follows:

3101.1 Scope. Except for those tents, membrane structures, or other temporary structures used for religious, ceremonial or cultural purposes, the provisions of this chapter shall govern special building construction including membrane structures, temporary structures, pedestrian walkways and tunnels, automatic vehicular gates, awnings, and canopies, marquees, signs, and towers and antennas.

Section 3.103.1. Amend the text to read as follows:

3103.1 General. The provisions of this section shall apply to structures erected for a period of less than 180 days. Except for those tents and other membrane structures used for religious, ceremonial or cultural purposes, tents and other membrane structures erected for a period of less than 180 days shall comply with the *International Fire Code*, provided that Sections 2403.12.6.1 and 2403.12.7 of the *International Fire Code* shall only apply when a tent or other membrane structure is in use after dusk. Those erected for a longer period of time shall comply with applicable sections of this code.

Section 3412.2. Insert: May 24, 2004

- (c) **Mechanical Code.** Subject to the amendments set forth below, the International Mechanical Code (“IMC”), published by the International Code Council shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems within this jurisdiction. (See IMC § 101.2)

The following sections of the IMC are hereby amended as follows:

Section 101.1. Insert: Saginaw Chippewa Indian Tribe of Michigan

Section 106.5. Amend text to read as follows:

Fees. A permit shall not be issued until the fees prescribed in this Ordinance have been paid, nor shall an amendment to a permit be released until the additional fee, if any, due to an increase in of the mechanical system, has been paid.

Section 106.5.2. DELETE

Section 106.5.3. DELETE

Section 108.4. Amend text to read as follows:

Violation penalties. Any person who shall violate a provision of this code or shall fail to conform with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the Compliance Officer, or a permit or certificate issued under the provisions of this code, shall be punishable by a civil penalty in accordance with Section 6 of the Building Code Ordinance.

Section 108.5. Amend text to read as follows:

Stop work orders. Upon notice from the Enforcement Office that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in accordance with Section 4(e) of the Building Code Ordinance.

- (d) **Plumbing Code.** The International Plumbing Code (“IPC”), published by the International Code Council, shall apply to the erection, installation, alternation, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction.

The following sections of the IPC are hereby amended as follows:

Section 101.1. Insert Saginaw Chippewa Indian Tribe of Michigan

Section 106.6. Amend text to read as follows:

Fees. The fees prescribed by Section 4(d) of the Building Code Ordinance shall be paid to the Tribal Enforcement Office before a permit to begin work for new construction, alteration, removal, demolition, or other building operation may be issued. In addition, an amendment to a permit necessitating an additional fee shall not be approved until the additional fee is paid.

Section 106.6.2. DELETE.

Section 106.6.3. DELETE.

Section 108.4. Amend text to read as follows:

Violation penalties. Any person who shall violate a provision of this code or shall fail to conform with any of the requirements thereof or who shall erect, install, alter, or repair plumbing work in violation of the approved construction documents or directive of the Compliance Officer, or a permit issued under the provisions of this code, shall be punishable by

a fine in accordance with Section 5 of the Building Code Ordinance.

Section 108.5. Amend text to read as follows:

Stop work orders. Upon notice from the Compliance Officer, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in accordance with Section 4(e) of the Building Code Ordinance. Any person who shall be served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the civil penalty provisions prescribed by Section 5 of the Building Code Ordinance.

Section 305.6.1. Amend text to read as follows:

Sewer depth. A building sewer that connects to a private disposal system shall be a minimum of 8 inches to the top of the pipe below finished grade at the point of septic tank connection. Building sewers shall be installed a minimum of 42 inches below grade.

Section 904.1. Insert: 12 inches (305 mm)

- (e) **Electrical Code.** The National Electrical Code (“NEC”), published by the National Fire Prevention Association, shall apply to electrical work within this jurisdiction as encompassed under Section 90-2 of the NEC.
- (f) **Energy Conservation Code.** International Energy Conservation Code, published by the International Code Council, shall regulate and control the energy efficiency of heating and air conditioning in newly constructed buildings as defined by the Code.

The following sections of the International Energy Conservation Code are hereby amended as follows:

Section 101.1. Insert Saginaw Chippewa Indian Tribe of Michigan

Section 108.4. Amend text to read as follows:

Violation penalties. Any person who shall violate a provision of this code or shall fail to conform with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the Compliance Officer, or a permit or certificate issued under the provisions of this code, shall be punishable by a civil penalty in accordance with Section 6 of the Building Code Ordinance.

- (g) **Energy Standard for Buildings Except Low-Rise Residential Buildings**, No. 90.1-1999, published by ASHRAE, shall apply to commercial and other buildings exempted from Standard No. 90.2-1993 within this jurisdiction.

Section 4. Enforcement.

- (a) **Creation of Enforcement Office.** The Office of Tribal Code Enforcement (the “Enforcement Office”) is created within the Planning Department of the Saginaw Tribe, under the supervision and control of the Tribal Building Code Compliance Officer (“Compliance Officer”), who shall report to the Director of Planning. The Compliance Officer is authorized and directed to administer and enforce the Tribal Building Code.
- (b) Subject to the approval of the Planning Director and the Tribal Council, the Compliance Officer may (i) contract with qualified professionals for the review of building plans or specifications regarding any project for which a permit is required under this Ordinance; and (ii) contract with qualified professionals to inspect any work site or project for which a permit is required under this Ordinance, all persons so-retained and other enforcement personnel shall be properly licensed as pursuant to the laws of the State of Michigan.
- (c) **Permits.** The Compliance Officer is authorized and shall issue permits for the construction or improvement of any building or structure and any associated electrical, plumbing, and mechanical work within the jurisdiction of this Ordinance and the Tribal Building Code;
- (d) **Fees and Special Permits:**
 - (1) Building Permit Fees are required according to the estimated cost of a project as follows:

BUILDING PERMIT FEES
(per \$1,000 or fraction thereof)

PROJECT COST	FEE	PROJECT COST RANGE
\$0-500	\$15	
\$501-1,000	\$25	\$10,000/\$115
\$1,001-10,000	\$25 + \$10/1,000	\$20,000/\$215
\$10,001-20,000	\$125 + \$9/1,000	\$30,000/\$295

\$20,001-40,000	\$215 + \$8/1,000	\$40,000/\$375
\$4,001-100,000	\$375 + \$7/1,000	\$50,000/\$445
\$100,001-300,000	\$795 + \$5/1,000	\$60,000/\$515
\$300,001-500,000	\$1,795 + \$4/1,000	\$70,000/\$585
\$500,001-750,000	\$2,595 + \$3/1,000	\$80,000/\$655
\$750,001 and up	\$3,345 + \$2/1,000	\$90,000/\$725

NOTE: IN PROJECTS WITH MULTIPLE BUILDINGS, PERMITS WILL BE ISSUED FOR EACH BUILDING SEPARATELY. THIS ALLOWS BUILDINGS TO BE FINAL-INSPECTED AND OCCUPIED AS THEY ARE COMPLETED.

- (a) Building Plan Review Fees: Preliminary review of drawing when requested *25% of building permit fee.*
- (b) Temporary Structure Permit Fee: \$50.
- (2) Mechanical Permit and Inspection Fee: See Appendix A
 - (a) Mechanical Plan Review Fees: Preliminary review of Mechanical plans shall cost *25% of total mechanical permit fee.*
- (3) Plumbing Permit and Inspection Fee: See Appendix B.
 - (a) Plumbing Plan Review Fees: Preliminary review of Plumbing plans shall cost *25% of total plumbing permit fee.*
- (4) Electrical Permit and Inspection Fee: See Appendix C
 - (a) Electrical Plan Review Fees: Preliminary review of Electrical plans shall cost *25% of total electrical permit fee.*
- (5) Special Permits and Inspections

Welding and Hot Work Permit and Inspection Fee *\$100 per permit and \$100 per inspection*

Mobile Home Installation *\$50 per mobile home*

Demolition *\$50 per structure*

Moving *\$50 per structure*

Flammable Liquid *\$40 per tank*

Special Inspections *\$75/hr or fraction thereof*

(Special Inspections are any inspections required by the Tribal Fire Department or any other Tribal regulatory agency for which no fee has been established or for temporary installations which require a permit.)

(e) **Enforcement procedures.** Subject to the provisions of Section 6 of this Ordinance, the Compliance Officer shall have the following enforcement responsibilities and authorities:

- (1) The Compliance Officer may deny any permit required by this ordinance or the Tribal Building Code if s/he finds that the applicant has failed to comply with any of the conditions established thereby for the issuance of the permit. Denials shall be in writing, shall state the reasons therefor, and shall be sent by certified mail, return receipt requested, to the applicant at the address given in the permit application.
- (2) The Compliance Officer may revoke any permit issued pursuant to this Ordinance if he/she finds that the permittee is in violation of any substantial provision thereof; provided that a stop work order for the violation first has been issued to the permittee pursuant to subsection 4(d)(3) and the permittee has failed to correct the violation as specified in the order. Permit revocations shall (i) be in writing; (ii) state the reasons therefor; and (iii) be sent by certified mail return receipt requested to the permittee at the address shown on the permit.
- (3) The Compliance Officer shall issue a stop work order for any work in progress within the jurisdiction of this Ordinance that he/she finds to be in violation the this Ordinance or the Tribal building Code. Stop work orders shall (i) state the reasons therefor; (ii) be posted at the job site; (iii) state a deadline for correcting the violation; (iv) and shall be sent by certified mail return receipt requested to the permittee at the address shown on the permit.

Upon notice from the Compliance Officer that the violation has been corrected, the Compliance Officer shall issue a compliance notice allowing work to continue.

- (4) The Compliance Officer shall issue citations for violations of Section 5 of this Ordinance. Copies of citations issued hereunder shall be served on the permittee on a form prescribed by the Compliance Officer and shall be served personally or by certified mail, return receipt requested, with copies posted at the job site and provided to the Tribal Prosecutor.
- (5) Subject to the approval of the Tribal Council, the Compliance Officer may (i) contract with professionals appropriately certified in the State of Michigan for the review of building plans or specifications regarding any project for which a permit is required under this Ordinance; and (ii) contract with professionals appropriately certified in the State of Michigan to inspect any work site or project for which a permit is required under this Ordinance.

Section 5. Appeal of Decisions of the Compliance Officer.

- (a) A person who is denied a permit, who is the subject of a stop work order, or whose permit is revoked by the Compliance Officer may appeal such decision as provided in this section.
- (b) Within ten days of receiving notice of any decision of the Compliance Officer described in subsection (a) of this section, the subject thereof may appeal the decision to the Building Code Review Committee (“BCRC”), which shall consist of the Planning Director and five tribal members appointed by the Tribal Council. Upon his/her written request, the BCRC shall promptly hold a hearing on the appeal under such rules as the committee shall adopt. Within thirty days of the appeal, the BCRC shall make written recommendations for disposition of the appeal to the Tribal Council. Within ten days of receiving the recommendation of the BCRC, the Tribal Council shall issue a final decision on the appeal. Such decision, which shall be final and unappealable, shall be (i) in writing; (ii) approved by official action of the Council; (iii) and sent to the petitioner by certified mail return receipt requested at the address shown on his/her appeal with copies to the BCRC and the Compliance Officer.

Section 6. Violations; civil penalties.

- (a) Any person who does any of the following is guilty of a civil infraction punishable by a civil penalty of not more than \$500.00:

- (1) Knowingly violates this ordinance or the Tribal Building Code.
 - (2) Knowingly constructs or builds a structure or building in violation of a condition of a building permit issued pursuant to this ordinance.
 - (3) Knowingly fails to comply with an order issued by the Enforcement Office pursuant to this ordinance.
 - (4) Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval, or appeal.
 - (5) Knowingly refuses entry or access to the Compliance Officer or any other lawfully-authorized inspector to inspect any premises, building, or structure pursuant to this ordinance.
 - (6) Unreasonably interferes with an authorized inspection.
 - (7) Knowingly issues, fails to issue, causes to be issued, or assists in the issuance of a certificate, permit, or license in violation of this Ordinance or a rule promulgated under this ordinance or other applicable law.
 - (8) Having a duty to report violations of this ordinance or other applicable law, knowingly conceals a violation.
- (b)** With respect to Section 6(a)(1), a person is guilty of a separate offense for each knowing violation of this ordinance or the Tribal Building Code. With respect to Section 6(a)(2), a person is guilty of a separate offense for each knowing violation of a condition of a building permit. With respect to Section 6(a)(3), a person is guilty of a separate offense for each day that the person fails to comply with a stop construction order validly issued by the Enforcement Officer. With respect to Section 6(a)(4), a person is guilty of a separate offense for each false or misleading written statement or omission of required information or statement knowingly made in an application, petition, request for approval, or appeal.
- (c)** In addition to any other penalties or remedies provided by law, a person who is required to be licensed as a residential builder or residential maintenance and alteration contractor, or as a master or journeyman plumber, an electrical contractor or master or journeyman electrician, or a mechanical contractor shall not perform work on a building or structure without first providing proof of licensure in the State of Michigan. A

person who violates this section is responsible for a civil infraction and shall be fined not less than \$100.00 or more than \$500.00.

- (d) The Tribal Prosecutor, at the request of the Compliance Officer, may bring an action in the Community Court of the Saginaw Tribe to impose any of the civil penalties specified in this section.

Section 7. Severability. If any section, subsection, sentence, clause or phrase of this ordinance or Code adopted herein is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Tribal Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases to be declared unconstitutional.

Section 8. Effect of Ordinance. Nothing in this ordinance or in the Tribal Building Code 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; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance. Further, nothing in this Ordinance or in any of the Codes hereby adopted shall be construed to waive or limit the Tribe's sovereign status and immunity.

Section 9. Effective date. This ordinance and the Tribal Building Code shall become effective on July 16, 2001, except for sections 4(a) and (b) which shall become effective immediately upon adoption.

Appendix A: Application for Mechanical Permit
Saginaw Chippewa Indian Tribe Tribal Building Code Enforcement

(See attached)

Appendix B: Application for Plumbing Permit
Saginaw Chippewa Indian Tribe Tribal Building Code Enforcement

(See attached)

Appendix C: Application for Electrical Permit
Saginaw Chippewa Indian Tribe Tribal Building Code Enforcement

(See attached)

Legislative History

Ordinance No. 1 Adoption of New Members, enacted by oral motion approved October 3, 1938. Ordinance No. 1 repealed by Resolution No. JA-10-81 approved December 7, 1981. Ordinance No. 1 Tribal Building Code enacted by Res. No. 01-091 approved July 3, 2001. Subsection 4(d) amended by Resolution 02-034 approved on November 1, 2001. Technical amendments adopted by Resolution 02-054. Technical amendments adopted by Resolution 04-078 approved July 28, 2004. Technical amendments and appendices adopted by Resolution 07-039 approved January 17, 2007. Technical amendments adopted by Resolution 12-128 approved August 1, 2012.