

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting "Building Codes" as 18 Tohono O'odham Code Chapter 3)

RESOLUTION NO. 13-168

1 **WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham Legislative**
2 **Council with the authority "to promote, protect and provide for public health, peace,**
3 **morals, education and general welfare of the Tohono O'odham Nation and its**
4 **members" (Constitution, Article 1(c)(2)); and**

5 **WHEREAS, the Tohono O'odham Nation's Uniform Housing Code of 1964, the National Electrical**
6 **Code of 1965, and the Fire Prevention Code of 1965, currently compiled in Title 18,**
7 **Chapter 3 of the Tohono O'odham Code, are in need of an update; and**

8 **WHEREAS, the Nation's members suffer from a chronic shortage of safe and affordable housing;**
9 **and**

10 **WHEREAS, in the absence of relevant building codes and a building inspections and code**
11 **enforcement infrastructure, houses and other structures on the Nation are likely to**
12 **continue to be constructed in an unsafe manner; and**

13 **WHEREAS, the Housing Committee has met with the Nation's Planning and Economic**
14 **Development Department, Fire Department, Environmental Protection Office, Natural**
15 **Resources Department, Health and Human Services Department, Tohono O'odham**
16 **Utility Authority, and Ki:Ki Association (collectively, "Building Codes Working Group")**
17 **to review and discuss which model building codes would best serve the Nation and its**
18 **members; and**

19 **WHEREAS, the Building Codes Working Group recommends adopting the "Building Codes" as 18**
20 **Tohono O'odham Code Chapter 3, which includes codes addressing structural,**
21 **plumbing, electrical, mechanical, and other construction standards; and**

22 **WHEREAS, while Title I of the Americans with Disabilities Act of 1990, as amended, excludes**
23 **Indian tribes from the designated "employers" who are required to reasonably**
24 **accommodate qualified disabled employees and Title I is not binding on the Nation,**
25 **the Legislative Housing Committee believes it is in the Nation's best interest to**
26 **voluntarily adopt the ADA Accessibility Guidelines for Buildings and Facilities without**
27 **accepting the application of the ADA as a whole to the Nation; and**

28 **WHEREAS, each model building code includes an "Administration" chapter which provides for**
29 **plans review and approval, permitting, fee schedules, building inspections, and**
30 **enforcement that is designed to and capable of holding builders accountable; and**

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1 **WHEREAS, the Nation's Planning and Economic Development Department has full-time building**
2 **inspectors on staff and is best qualified to administer the codes within 18 Tohono**
3 **O'odham Code Chapter 3, Building Codes; and**

4 **WHEREAS, the Housing Committee and Building Codes Working Group scheduled, provided**
5 **notice, and met with the Nation's members at four public hearings on June 9, 2012,**
6 **June 11, 2012, June 16, 2012, and June 25, 2012 at different locations within the Nation;**
7 **and**

8 **WHEREAS, a majority of the Nation's members who attended the public hearings expressed**
9 **support for the adoption of updated building codes, however, when the Housing**
10 **Committee presented the building codes to Council on August 13, 2012, the building**
11 **codes weren't approved; and**

12 **WHEREAS, on April 11, 2013, the Housing Committee provided notice to the Nation's members of**
13 **a revised Nation's Building Codes, which include all the previous building codes**
14 **identified during the August 2012 session, but which revises the section addressing**
15 **traditional homes; and**

16 **WHEREAS, since August 2012, the Nation's Economic Development and Planning Department, in**
17 **coordination with the Office of Chairman and Vice-Chairwoman, drafted an**
18 **administrative plan outlining how the Department would implement the Nation's**
19 **Building Codes, if they are adopted; and**

20 **WHEREAS, it is in the best interest of the Nation to adopt the "Building Codes" as 18 Tohono**
21 **O'odham Code Chapter 3.**

22 **NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it adopts the**
23 **"Building Codes" as 18 Tohono O'odham Code Chapter 3, provided that:**

- 24 **1. Resolutions No. 67-1565, 67-1566, 1567, 1568, 1569 and 18 Tohono O'odham Code**
25 **Chapter 3, Articles 1, 2, and 3 are repealed.**
- 26 **2. Any other laws of the Nation that directly conflict with the provisions of the**
27 **"Building Codes" are repealed to the extent of the conflict.**
- 28 **3. The ADA Accessibility Guidelines for Buildings and Facilities are adopted solely**
29 **on a voluntary basis; the Nation is neither adopting nor conceding to the**
30 **application of provisions of the Americans with Disabilities Act of 1990, as**
31 **amended, that are otherwise inapplicable to the Nation.**

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4. The Nation's Economic Development and Planning Department shall submit written proposals for the jurisdiction-specific insertions identified in the Building Codes.

The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 17TH Day of MAY, 2013 at a meeting at which a quorum was present with a vote of 2,576.0 FOR; 204.60 AGAINST; -0- NOT VOTING; and [03]ABSENT, pursuant to the powers vested in the Council by Article 1 (c)(2) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

21 day of May, 2013

ATTEST:

Evonne Wilson, Legislative Secretary

21 day of May, 2013.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 21 day of May, 2013 at 4:50 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Timothy Joaquin, Legislative Chairman

APPROVED

on the 23 day of May, 2013

DISAPPROVED

at 9:45 o'clock, A.M.

NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

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Returned to the Legislative Secretary on the 23 day of

May, 2013, at 12:15 o'clock, P.M.

Evonne Wilson

Evonne Wilson, Legislative Secretary

ACTION: ADOPTING "BUILDING CODES" AS 18 TOHONO O'ODHAM CODE CHAPTER 3

MOVED: COUNCILWOMAN OLIVIA VILLEGAS-LISTON

SECOND: COUNCILWOMAN ETHEL GARCIA

DATE: MAY 17, 2013

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (<i>Absent</i>) (Roberta Harvey) (<i>Present</i>)	171.0	X			
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	171.0	X			
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X			
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			X
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL ()	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ()	93.15	X			
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
SAN LUCY 204.6	1. LORRAINE EILER (<i>Absent</i>) (Diana Manuel) (<i>Present</i>)	102.30		X		
	2. JANA MONTANA (Gloria Ramirez)	102.30		X		X
SAN XAVIER 215.8	1. HILARION CAMPUS (<i>Absent</i>) (Racheal Vilson-Stoner) (<i>Present</i>)	107.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (Anthony J. Rios)	84.90	X			
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			
	2. MARIA ACKERMAN ()	237.85	X			X
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95	X			
	2. MARY LOPEZ ()	105.95	X			
TOTAL		2,780.60	2,576.0	204.60	-0-	[03]