

MODEL TRIBAL EMERGENCY MANAGEMENT CODE

Research & Recommendations Report

Prepared in partnership with the

Cowlitz Indian Tribe, Emergency Management

University of Washington, Center for Disaster Resilient Communities

Cascadia Coastlines and Peoples Hazards Research Hub



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Positionality Statement

Our team acknowledges the importance of our positionality in relation to our research and the findings of this report. Each of us holds different identities and backgrounds that inform the privileges and oppressions we experience in the broader social context of the United States. Our positionalities ultimately mold the ways we understand and engage with this work. As researchers, we recognize that these inherent biases cannot be fully removed from the research process. Nonetheless, we aim to mitigate these biases through maintaining transparency and accountability of our shortcomings and by employing uniform methods to collect data and analyze our findings. We also continue to hold ongoing check-ins and discussions of the limitations and assumptions present within our work.

The research methods used in this report are grounded mainly in Western and predominantly white ways of thinking that historically and presently exclude and devalue Indigenous and culturally diverse methodologies and knowledge systems. Throughout this project, we have attempted to bring together a thoughtful and robust analysis while remaining responsive to the needs of our client and respectful of the perspectives and experiences shared throughout this process.

We center the fact that Tribal Nations hold inherent sovereignty, and we acknowledge that each Tribal Nation holds distinct ways of governing through emergencies. The presented model Tribal emergency management code is intended as a tool to reinforce the right for Tribal Nations to navigate emergency powers in a way that is consistent with their worldviews, governance structures, and institutional norms. Rather than prescribing a certain approach to Tribal emergency governance, this code is simply intended as a resource for any Tribal Nations to consider using as long as it feels aligned with their priorities and processes.

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Glossary of Terms

Complex Emergency – A humanitarian crisis in a country, region, or society where there is a total or considerable breakdown of authority resulting from internal or external conflict, and which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing UN country programme.¹

Emergency – Any occasion or instance--such as a hurricane, tornado, storm, flood, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, fire, explosion, nuclear accident, or any other natural or man-made catastrophe--that warrants action to save lives and to protect property, public health, and safety.²

Emergency Order – An Emergency Order is an Executive Order issued only during a State of Emergency declaration and has the effect and force of law.³

Emergency Powers – Legal authority granted to executive officials to act beyond normal substantive or procedural limits during crises that cannot be managed through ordinary processes.⁴

Executive Authority – Power to enforce the law and implement policy; typically exercised by a president, governor, Tribal Chairperson, or a Head Executive by another title.

Federally Recognized Tribe – An American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation.⁵

¹ Coordination in Complex Emergencies. (n.d.). UNHCR.
<https://www.unhcr.org/publications/coordination-complex-emergencies>

² Federal Emergency Management Agency. (1999). *Glossary of terms*.
<https://www.fema.gov/pdf/plan/glo.pdf>

³ Community Bridges. (n.d.). *What is an executive order?*
https://www.communitybridgesnh.org/UploadedFiles/Files/What_is_an_executive_order_2.0.pdf

⁴ Legal Information Institute. (n.d.). *Emergency powers*. Cornell Law School. https://www.law.cornell.edu/wex/emergency_powers

⁵ What is a federally recognized tribe? | Indian Affairs. (2020, October 2). Wwww.bia.gov.
<https://www.bia.gov/faqs/what-federally-recognized-tribe>

Local Government – Generally includes counties, also known as boroughs in Alaska and parishes in Louisiana, and municipalities, or cities/towns.⁶

Major Disaster – Any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.⁷

Pacific Northwest – In this report, includes Oregon, Washington, Idaho, and Alaska.

Region 10 – Region 10 serves Alaska, Idaho, Oregon, Washington, and 271 Tribal nations.⁸

Sandy Recovery Improvement Act of 2013 – A federal law enacted on January 29, 2013, as part of the *Disaster Relief Appropriation Act, 2013 (Public Law 113-2)*. Its purpose was to modernize and streamline FEMA’s disaster assistance authorities following Hurricane Sandy.⁹

Stafford Act – Signed into law November 23, 1988; amended the Disaster Relief Act of 1974, PL 93-288. This Act creates the official authority for Federal disaster response activities especially as they relate to FEMA programs and services.¹⁰

State of Emergency – A State of Emergency is a situation in which a government is empowered to perform particular actions or implement policies that would normally be beyond its power.

⁶ White House. (n.d.). *State & local government*.

<https://obamawhitehouse.archives.gov/1600/state-and-local-government>

⁷ U.S. Congress. (1974). *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, 42 U.S.C. § 5122.

<https://www.law.cornell.edu/uscode/text/42/5122>

⁸ U.S. Environmental Protection Agency. (2026, April 15). *Organization of EPA’s Region 10 Office in Seattle*.

<https://www.epa.gov/aboutepa/organization-epas-region-10-office-seattle>

⁹ U.S. Congress. (2013). *Disaster Relief Appropriations Act, 2013*, Pub. L. No. 113-2, 127 Stat. 4.

<https://www.congress.gov/113/plaws/publ2/PLAW-113publ2.pdf>

¹⁰ <https://www.fema.gov/disaster/stafford-act>

During a state of emergency the normal workings of political and social life are altered in the given jurisdiction. A state of emergency may alter government operations, order specific action by individuals, and alter regular civil rights.¹¹

TEM - Tribal Emergency Management: Includes individuals who work in Tribal Emergency Management roles.

Tribal Sovereignty – Tribal sovereignty refers to the right of American Indian and Alaska Native Tribes to govern themselves. The U.S. Constitution recognizes Indian tribes as distinct governments and they have, with a few exceptions, the same powers as federal and state governments to regulate their internal affairs.¹²

¹¹ Legal Information Institute. (n.d.). *State of emergency*. Cornell Law School. https://www.law.cornell.edu/wex/state_of_emergency

¹² Washington Department of Fish & Wildlife. (n.d.). *Tribal sovereignty*. <https://wdfw.wa.gov/about/state-tribal-coordination/tribal-sovereignty>

Executive Summary

As Tribal Nations continue to face increasing threats from climate change, disasters and public health emergencies, the need for a clear and effective emergency governance structure has become increasingly important. This project examines the development of a Tribal Emergency Code as a way to strengthen emergency preparedness, response, recovery and sovereignty within Tribal Nations by providing a legal tool for decision-making, resource coordination and protections of lives, properties and cultural elements during emergencies.

Our research approach involved a review of literature that defined emergency powers and examined Tribal-US government relations, Tribal governance structure and tribal code drafting best practices. Emergency codes from five Tribal Nations, five counties, and five municipalities were analysed across themes including declaration authority, procedural changes, oversight, rights and limitation and fiscal powers. We also interviewed seven Tribal emergency managers across the Pacific Northwest concerning Tribal governance structures, Tribal emergency powers, jurisdiction and coordination, emergency management implementation and model emergency code relevance.

Our findings and comparative analysis from the literature review, emergency code analysis, and interviews ensured that the framework of this model code is useful and adaptable to fit a variety of Tribal Nations and governance structures.

Based on our findings, we conclude with four key recommendations for strengthening Tribal emergency management. First, Tribal Nations should consider codifying emergency management practices to clarify authorities, reinforce continuity of government, and strengthen expressions of sovereignty. Second, any emergency management code must be tailored to each Tribe's unique governance structures, operational needs, and cultural priorities. Third, a model code is most effective when it preserves core emergency management elements while remaining adaptable rather than prescriptive, offering guidance that can be customized by individual Nations. Finally, implementation should begin with a deliberative review of existing practices, legal frameworks, and governance structures, ensuring broad representation from Tribal leadership, emergency

management staff, legal counsel, and community voices.

Chapter 1: Introduction

1.1 Project Background

During an emergency, be it wildfire or flood, pandemic or invasion, the charge of a government is to protect its people and their lands, property, and values. Yet the actions needed to formulate an effective response to these situations are often impeded by the rigidity of normal democratic procedure and slow pace of deliberative decision making. Quick and responsive action saves lives during an emergency, yet a stable democracy requires thoughtful decision-making and a separation between the decision-maker and boots-on-the-ground implementation. Adhering to typical bureaucratic processes during an emergency is unrealistic and potentially dangerous. Because of this, many governments establish alternative emergency procedures to deal with these situations more efficiently and effectively.¹³

Emergency power provisions exist in the legal texts of federal, state, county, municipal, and Tribal governments. While there is variance in both the structure and substance of these provisions across these levels and types of governments, all deal with what authors Bjornskov & Voigt describe as an inherent paradox: “their declared goal is to re-establish constitutional order by temporarily suspending it.”¹⁴ A government’s solution to this problem is more than a simple procedural bypass; it is a thoughtful plan tailored to the needs of its citizens, identifying its strategy for protecting its people, their environment, property, and values when that protection is needed most. Codified emergency powers in Tribal governments’ legal texts, while relatively scarce, are particularly significant. This does not mean that Tribal governments do not actively manage and respond to emergencies; instead, this scarcity must be understood as a product of the unique relationship between Tribal governments and the United States.¹⁵ This relationship, defined by contradictory federal action in legal, political and cultural realms, serves to erode Tribal political power and cultural distinctiveness. As such, codification of emergency powers in Tribal legal texts does not serve simply to clarify the specific procedures and responsibilities of

¹³ Bjornskov, Christian. & Voigt, Stefan. (2017). Dealing with disaster: analyzing the emergency constitutions of the u.s. states. *Arizona State Law Journal*, 49(3), 883-906.

¹⁴Bjornskov, & Voigt, p. 887.

¹⁵ Sunshine, A., & Hoss, B. (2023). *Tribal emergency preparedness law*. Centers for Disease Control and Prevention. <https://www.cdc.gov/php/php/tribal-public-health/tribal-emergency-preparedness-law.html>

their government in emergency management, it is also an opportunity to protect and demonstrate sovereignty and cultural self-determination.

1.2 Project Purpose

In partnership with the Cowlitz Indian Tribe, the University of Washington Center for Disaster Resilient Communities (CDRC), and the Cascadia Coastlines and Peoples Hazards Research Hub, we were tasked with drafting a model emergency code and accompanying explanatory white paper. We aimed to create an informative tool for Tribes wishing to establish emergency codes in their legal texts.

The purpose of these products shaped our approach to their development in two crucial ways. First, given the diversity of Tribal government structures, values, and legal traditions it would be reductive, if not impossible, to draft a single uniform emergency code. Because of this, our team emphasized providing guidance on the significance, utility, and implications of example language for essential and non-essential provisions of an emergency code. Guidance on how provisions might be tailored to meet the needs of a given Tribe was also given. Second, because of the relative scarcity of existing Tribal emergency codes, relying on existing language—as is common in legal drafting—would disproportionately represent the norms and contexts of non-Tribal codes. Therefore, an essential task of this project was to first distill the core components of emergency powers codes. Having identified the essential components of an emergency code, we were then able to assess how Tribal governance structures and emergency response needs shape what example language and guidance we provided through the model code.

1.3 Research Questions

We established the following research question and four sub-questions as anchoring points, from which we iteratively considered how to meet the purpose of this project in our research, analysis, and drafting processes.

Main Research Question

What additional powers could Tribal Nations codify to more fully exercise their sovereignty and protect their peoples, lands, property, and values during natural disasters and complex emergencies?

Subsidiary Research Questions

- 1) What are common features of emergency powers code at the state, local, and Tribal levels?
- 2) How might the needs and processes of Tribal governments differ from those at the state and local levels?
- 3) What unique challenges do Tribal nations face in emergency response?
- 4) What should be considered to effectively apply a model state of emergency code to the specific needs of Tribal Nations?

Chapter 2: Literature Review

2.1.1 Introduction

Our team conducted a thorough review of publicly available literature to understand what emergency powers are and what happens when a state of emergency is declared, as well as what common features exist in currently adopted emergency management codes across a spectrum of jurisdictions. We also examined literature covering the diversity of historical and contemporary governance systems used by Tribal Nations across the United States, the complex relationships between Tribal Nations and various levels of US governments, particularly the federal government, and what unique considerations must be taken in drafting a Model Tribal Emergency Management Code.

2.1.2 Search Process & Protocols

Our team used the following search platforms: University of Washington Libraries Search,¹⁶ University of Washington Law Library Search,¹⁷ National Indian Law Library Search,¹⁸ Google Scholar, and various federal and state government websites.¹⁹ We also received a number of references directly from our project partner at the University of Washington Center for Disaster Resilient Communities.

We began our search using a broad scope to define key terms and to cultivate the foundational context necessary for developing Tribal code. We then narrowed our scope to find instances of either states of emergency being declared by a Tribal Nation or any instance of Tribal issuance of emergency orders. Specific search terms used can be found in *Table 1*. We also collected

¹⁶ UW Libraries, accessed January – April 2026
<https://lib.uw.edu/>.

¹⁷ UW Gallagher Law Library, accessed January – March 2026
<https://lib.law.uw.edu/indian-tribal>.

¹⁸ National Indian Law Library, accessed January – April 2026
<https://niil.softlinkliberty.net/liberty/opac/search.do>.

¹⁹ US Federal Emergency Management Agency (FEMA), accessed January – February 2026
<https://www.fema.gov/about/organization/tribal-affairs>.

US Environmental Protection Agency, accessed January – February 2026
<https://www.epa.gov/epcra/what-epcra>.

State of Washington Department of Ecology, accessed January – February 2026
<https://ecology.wa.gov/regulations-permits/reporting-requirements/emergency-planning-community-right-to-know-act/epcra-tribal-guidance>.

currently adopted emergency management codes from five counties and five municipalities within the State of Washington, as well as five from Tribal Nations across the United States. We ultimately used this collection to create a codebook for a qualitative analysis of the structure and central elements of the emergency management codes.

Table 1: Literature Review Search Terms

<i>Search Terms</i>	
Defining Terms	
<i>Emergency Powers</i>	Emergency powers definition, history of emergency powers
<i>Emergency Management</i>	Emergency management definition, Tribal emergency management, local government emergency management, Washington State emergency management, federal emergency management
<i>Tribal Sovereignty</i>	Tribal sovereignty definition, sovereignty definition, American Indian treaties
<i>Emergency Code</i>	Emergency code definition, example of emergency code, Tribal emergency code
<i>Federally Recognized Tribes</i>	Definition of a federally recognized American Indian Tribe, requirements for maintaining recognition
Tribal Governance Structures	
<i>Tribal Governance</i>	Tribal governance, Tribal governance structures, modern Tribal governance
<i>Tribal Law</i>	Tribal legal tradition, Tribal code
Emergency Powers	
<i>Historical Uses of Emergency Powers</i>	Federal state of emergency declaration, Washington State emergency declaration, local emergency declaration
<i>Tribal Emergency Declaration</i>	Tribal emergency declaration, Tribal state of emergency
Existing Emergency Codes	
<i>Emergency Code</i>	Washington State emergency code, Tribal emergency code, county level emergency code

Table 1: This table outlines the search terms and topic areas used to guide the literature review for this study. Search terms were organized across different categories including emergency powers, emergency management, Tribal sovereignty, emergency code, federally recognized Tribes, Tribal governance, Tribal law, historical uses of emergency powers, Tribal emergency declaration, and emergency codes.

2.1.3 Limitations

This literature review draws on previously published definitions, historical accounts, and a cross-section of emergency management codes from Tribal, county, and municipal governments. While our preferred region of focus was the Pacific Northwest, the limited numbers of emergency management codes adopted by Tribal Nations in this region required codes from across the United States, alongside five county and five municipal codes from the State of Washington, to identify common elements and structural patterns relevant to drafting a model Tribal emergency management code.

2.1.4 Literature Review Structure

This literature review is divided by theme and topic. We begin by exploring the contours of emergency powers and the history of statutory mechanisms to declare states of emergency. The second section examines the unique relationships between Tribal Nations and the US government. Third, we explore various structures of governance Tribal Nations have practiced throughout history and in the present day. The final section of the literature review will cover the intricacies of drafting legal code for American Indian Tribes.

2.2 Emergency Powers

The term “emergency powers” refers to the legal authority granted to executive officials to act beyond normal statutory limits during a crisis that cannot be managed through ordinary processes.²⁰ In the United States, the principal framework governing emergency powers at the federal level is the National Emergencies Act (NEA) of 1976.²¹ The NEA authorizes the President to declare a national state of emergency, which then unlocks access to powers not typically held solely by the executive branch including the deployment of military forces, freezing of assets, regulation of commerce, and the restriction of telecommunications. These additional powers operate in tension with the constitutional design of separated powers, requiring

²⁰ Legal Information Institute. (n.d.). *Emergency powers*. Cornell Law School. https://www.law.cornell.edu/wex/emergency_powers

²¹ U.S. Congress. (1976). National Emergencies Act [H.R. 3884]. <https://www.congress.gov/bill/94th-congress/house-bill/3884>

careful oversight to ensure that no branch accumulates authority beyond what is necessary to manage the emergency.

In emergencies, checks and balances can make government response slow and unwieldy. Quick, decisive action may be needed to protect the state and its constitutional order, but the very protections that guard against tyranny can hinder effective crisis management.²² In practice, emergency powers function as a temporary mechanism for reconciling this tension by allowing governments to act swiftly while relying on oversight structures to ensure that extraordinary authority remains accountable and time-limited.

2.2.1 Emergency Powers in Use

Governments exercise their emergency powers by declaring a state of emergency (SOE). Governments generally make this declaration after identifying an “exceptional and imminent danger to the life of the nation”,²³ such as a natural hazard or terrorist attack.²⁴ A number of complex emergencies would qualify for an SOE declaration. Between 1985 and 2014, 137 countries declared a state of emergency at least once; that is roughly two-thirds of all sovereign nations in the world.²⁵

Declaring an SOE can have far-reaching consequences for all citizens not only because basic rights are often suspended under emergencies, but also because declaring an SOE often results in an imbalance of power advantaging the executive.²⁶ When a SOE is declared, additional emergency powers are granted in order “to act with speed and due diligence to save people and alleviate the social and economic consequences of emergencies.”²⁷ Taken together, these factors illustrate how SOE declarations can operate not only as legal tools for crisis response, but also as opportunities for executive overreach.

²² Ferejohn, J., & Pasquino, P. (2004). The law of the exception: A typology of emergency powers. *International Journal of Constitutional Law*, 2(2), 210–239. <https://doi.org/10.1093/icon/2.2.210>

²³ International Commission of Jurists. (1985). *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*. <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>

²⁴ Bjørnskov, C., & Voigt, S. (2017). *Why do governments call a state of emergency? On the determinants of using emergency constitutions*. <https://ssrn.com/abstract=2988014>

²⁵ Bjørnskov & Voigt, p. 2.

²⁶ Bjørnskov & Voigt, p. 2.

²⁷ Bjørnskov & Voigt, p. 2.

One example of this overreach is outlined in “*Get Out Now or Risk Being Taken Out by Force.*” In the Case Western Reserve Law Review, Michael Cook evaluates former Mayor of New Orleans Ray Nagin’s exercise of emergency powers during Hurricane Katrina, one of the worst natural disasters in US history.²⁸ Cook describes Mayor Nagin’s post-disaster order to evacuate residents in unflooded neighborhoods, which raised questions about necessity and proportionality, as a potential abuse of power.²⁹ Mayor Nagin also ordered police officers to take firearms away from anyone who remained in the city.³⁰ The Louisiana Legislature had conferred on the mayor the power both to direct and compel the evacuation and to “suspend or limit the sale, dispensing, or transportation of ... firearms.”³¹ The controversy ultimately prompted Congress to enact the Disaster Recovery Personal Protection Act of 2006, which amended federal law to prohibit any federal, state, or local official from confiscating lawfully possessed firearms during a declared disaster.³² The events that followed Hurricane Katrina were largely unprecedented at the time, and the firearm seizures in particular highlight how quickly expansive emergency authority can slide into overreach when executive power goes unchecked.

2.3 Tribal Emergency Powers

American Indian Tribes are sovereign nations and possess inherent authority to declare states of emergency within their jurisdictions.³³ This authority may stem from a Tribe’s constitution, its legal code, or the inherent powers of its governing council.³⁴ Several Tribes across North America have exercised this authority. In 2013, the Standing Rock Sioux Tribe’s chairman declared a state of emergency due to excessive rainfall and flash flooding that threatened roads, homes, and the Tribe’s irrigation system,³⁵ citing Article IV, Section 1 of the Tribe’s constitution, which authorizes the Tribe’s to “safeguard and protect general welfare, property, cultural and

²⁸ Cook, Michael. (2006). *Get out now or risk being taken out by force: judicial review of state government emergency power following natural disaster*. Case Western Reserve Law Review, 57(1), 265-300.

²⁹ Cook, *Get Out*, p. 267.

³⁰ Cook, *Get Out*, p. 267.

³¹ Cook, *Get Out*, p. 296.

³² U.S. House of Representatives, Committee on Transportation and Infrastructure. (2006). *H. Rept. 109–596: Disaster Recovery Personal Protection Act of 2006*. Congress.gov. <https://www.congress.gov/committee-report/109th-congress/house-report/596/1>

³³ Sunshine, G., & Hoss, A. (2015). Emergency declarations and Tribes: mechanisms under tribal and federal law. *Michigan State International Law Review*, 24(1), 33–44.

³⁴ Sunshine & Hoss, p. 35.

³⁵ Sunshine & Hoss, p. 36.

natural resources.”³⁶ Similarly, in 2011 the Tribal Business Committee of the Ute Tribe of the Uintah and Ouray Reservation declared an emergency due to flooding and landslides, relying on authority granted by the Tribe’s constitution and bylaws.³⁷ In addition to authority granted by the Tribal constitution, some Tribes have codified the authority to declare a state of emergency and established formal procedures for declaring emergencies.³⁸

2.3.1 Tribal Authority to Declare a State of Emergency

The emergency management code the Burns Paiute Tribe has adopted, authorizes the Tribal Chairman to issue a written proclamation for both declaring a state of emergency and imposing restrictions.³⁹ The Eastern Band of Cherokee Indians likewise codifies emergency authority, empowering the Principal Chief to declare a state of emergency and activate restrictions such as curfews, evacuations, and limits on dangerous weapons.⁴⁰ Uniquely, the Oneida Nation’s emergency management code assigns the Oneida Business Committee responsibility for proclaiming or ratifying emergencies and authorizes the Emergency Management Director to “exercise complete emergency authority over the Reservation” once an emergency is declared.⁴¹ Codes adopted by the Ho-Chunk Nation and the Snoqualmie Tribe authorize their respective Head Executives to declare an emergency and both codes also put emphasis on the importance of establishing mutual aid agreements with federal, state and local governments for instances when Tribal capabilities have been exceeded.⁴² Together, these codified frameworks demonstrate how Tribal Nations operationalize their sovereignty by establishing clear lines of authority, standardized procedures, and intergovernmental coordination mechanisms for emergency response.

³⁶ Standing Rock Sioux Tribe. (2015). *Constitution of the Standing Rock Sioux Tribe*. <https://www.standingrock.org/wp-content/uploads/2021/07/Standing-Rock-Sioux-Tribe-Constitution.pdf>

³⁷ Sunshine & Hoss, p. 36.

³⁸ Sunshine & Hoss, p. 37.

³⁹ Burns Paiute Tribe. (2009). *Emergency Management Code* (BPTC Chapter 8.3). Adopted by Tribal Council Resolution No. 2009-24.

⁴⁰ Eastern Band of Cherokee Indians. (2009). *Emergency Management Code* (Cherokee Code Chapter 166). Originally enacted March 5, 1992; amended September 25, 2009.

⁴¹ Oneida Nation. (2023). *Emergency Management* (3 O.C. 302). Originally adopted July 15, 1998; amended March 8, 2023.

⁴² Ho-Chunk Nation. (2022). *Emergency Preparedness and Disaster Planning* (6 HCC § 8-9). Enacted May 20, 2002; amended December 6, 2022.

Snoqualmie Indian Tribe. (2023). *Emergency Management Response Act* (Title 10, Chapter 1). Enacted January 10, 2008; amended February 23, 2023.

2.3.2 The Stafford Act

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”) authorizes the U.S. President to declare a “major disaster” or “emergency” in response to an “event or threat that overwhelms state, Tribal, local, or territorial governments.”⁴³ A Stafford Act declaration triggers access to federal technical, financial, logistical, and other assistance to the affected government.⁴⁴ There are presently two ways a Tribe can receive benefits of a Stafford Act declaration: 1) a Tribal request for the President to issue a declaration, or 2) a state’s governor’s request for the President to issue a declaration when the Tribe’s land falls within the requesting state’s borders.⁴⁵

2.3.3 The Sandy Recovery Improvement Act

Prior to 2013, only a state governor could request a Stafford Act declaration.⁴⁶ The Sandy Recovery Improvement Act of 2013 now allows the Chief Executive of a Tribal government to request a Stafford Act declaration in the same manner as a state governor.⁴⁷ When doing so, the Chief Executive of a Tribal government must first determine that effective response is “beyond the capabilities of the Tribe”⁴⁸ and must provide information describing the Tribe’s efforts and resources that have been or will be used to alleviate the emergency.⁴⁹

The first Tribe to request such a declaration was the Eastern Band of Cherokee Indians in 2013 due to severe storms, flooding, landslides, and mudslides.⁵⁰ Following the Tribe’s Principal Chief’s request, the federal review process proceeded under the Stafford Act’s requirements. The Tribe documented that the storms exceeded the Tribe’s response capacity and provided information on the resources it had already deployed. FEMA then reviewed the Tribe’s submission to ensure it was consistent with the new Sandy Act’s procedures, it was then forwarded to the President for approval. On March 1, 2013, the President issued a major disaster declaration for the Tribe, formally recognizing that the severity of the storm warranted federal

⁴³ Sunshine & Hoss, p. 39.

⁴⁴ Sunshine & Hoss, p. 39.

⁴⁵ Sunshine & Hoss, p. 39.

⁴⁶ Sunshine & Hoss, p. 40.

⁴⁷ Sunshine & Hoss, p. 40.

⁴⁸ Sandy Recovery Improvement Act of 2013, H.R. 219, 113th Cong. (2013). <https://www.congress.gov/bill/113th-congress/house-bill/219>

⁴⁹ Sunshine & Hoss, p. 40.

⁵⁰ Sunshine & Hoss, p. 41.

assistance and the Tribe received ultimately more than \$2.4 million for emergency work, repair, or replacement of facilities damaged in the storm, and hazard mitigation measures.⁵¹

2.4 Tribal Governments & the U.S. Government

The relationship between Tribal governments and the U.S. government can be conceptualized in many ways. For this project it was important to understand the varying descriptions of this relationship both to provide context and properly account for the full range of authority and power wherein our model code is situated.

2.4.1 The Dual Identity of Tribal Nations in Federal Law

One of the most common descriptions of this relationship is that of dual identity. This description holds that Tribal nations are sovereign governments holding a nation-to-nation relationship with the United States while also existing in a role analogous to the beneficiary of a trust. This role, rooted in what is known as the U.S. trust doctrine, establishes a “legally enforceable fiduciary obligation on the part of the United States to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native tribes and villages.”⁵² The legal enforceability of this doctrine is, however, questionable.⁵³ Federal Supreme Court decisions have regularly reversed or reinterpreted the U.S. position on the status or obligation towards Tribes. Taken together, many of these decisions establish that trust responsibility exists primarily in situations where Tribal self-determination is lacking.⁵⁴ This tradeoff maintains a paternalistic interpretation of federal responsibility towards Tribal nations that is more analogous to a “guardianship.”⁵⁵ This interpretation positions Indigenous groups as wards of the United States, which not only flips Federal obligations of protection and limited authority but also complicates the notion that the

⁵¹ Sunshine & Hoss, p. 41.

⁵²U.S. Department of the Interior, Bureau of Indian Affairs. (n.d.). *Frequently asked questions*.
<https://www.bia.gov/frequently-asked-questions>

⁵³ Washburn, K. K. (2017). *What the future holds: The changing landscape of federal Indian policy*. *Harvard Law Review Forum*, 130, 200–224.

<https://harvardlawreview.org/forum/vol-130/what-the-future-holds-the-changing-landscape-of-federal-indian-policy/>

⁵⁴ Washburn, p. 212

⁵⁵United States v. Kagama, 118 U.S. 375 (1886).

Federal-Tribal government relations are uniform or consistent across history.⁵⁶ Instead of sorting through these inconsistencies, the majority of scholarship accepts the concept of dual identity as a working definition as it presents a non-specific spectrum that encompasses both the sovereignty and limitations to self-governance that are apparent in historic and present expressions of this relationship.⁵⁷ Still, it is important to reconcile the inconsistencies of Federal relations with Tribal governments. Wilkins & Stark posit a politics of Federal ambivalence, whereby various perceptions held across legal, public, and political realms allow for a pattern of contradictory federal action which in turn serves to erode Tribal political power and cultural distinctiveness.⁵⁸

2.5 Tribal Governance

Today, Tribal governance across the United States showcases a remarkable variety of governance structures, all shaped by distinct histories, cultural traditions, and the pressures of federal Tribal policy. No single model captures the full range of Tribal governmental forms; contemporary Tribal governments represent adaptive systems that blend traditional governance principles with imposed or negotiated constitutional frameworks.⁵⁹ Case studies, spanning the Seneca Nation, Muscogee (Creek) Nation of Oklahoma, Cheyenne River Sioux, Isleta Pueblo, and the Yakima Nation, illustrate how Tribes have reasserted sovereignty by reshaping governance institutions to meet present-day needs while maintaining cultural continuity.

2.5.1 Historical Shifts in Tribal Governance

Across North America, many Tribal Nations historically organized governance in ways that emphasized distributed authority, community participation, and mechanisms to prevent the concentration of power. While these structures varied widely, many relied on forms of consensus-building among leaders, clans, or bands to preserve values of balance, respect, and collective responsibility.⁶⁰ During the treaty-making era, however, the US federal government frequently pressured Tribes to adopt more centralized and hierarchical systems in order to

⁵⁶ Wilkins, D. E., & Stark, H. K. (2018). *American Indian politics and the American political system* (4th ed.). Rowman & Littlefield.

⁵⁷ Sunshine & Hoss, p. 40.

⁵⁸ Wilkins, D. E., & Stark, p. 67.

⁵⁹ O'Brien, S. (1989). *American Indian tribal governments*. University of Oklahoma Press.

⁶⁰ O'Brien, p. 93.

streamline negotiations and align Tribal governance with federal administrative expectations.⁶¹ One example of this shift can be seen in the Muscogee (Creek) Nation's 1867 constitution, which established a government modeled on the US federal system with three branches and a bicameral legislature.⁶² In 1979, the Nation adopted a new constitution that retained the tripartite structure but replaced the bicameral legislature with a single legislative body.⁶³ Although this change streamlined the formal structure of governance, available scholarship does not indicate whether it altered the extent to which the Nation relied on consensus-oriented decision-making traditions.

Many Tribal Nations employ governance models shaped by their own cultural frameworks and historical experience. The Cheyenne River Sioux, for example, operate under a constitution that establishes a Tribal Council and elected leadership designed to balance Lakota cultural norms with the administrative demands of a large reservation.⁶⁴ The Southern Tiwa of the Pueblo of Isleta maintain a governance system deeply rooted in Pueblo tradition, where religious and civil leadership roles are intertwined and authority continues to be grounded in community consensus rather than electoral politics.⁶⁵ The Yakima Nation illustrates a hybrid approach that blends traditional structures with modern organizational practices.⁶⁶ Together, these examples demonstrate that contemporary Tribal governments are not uniform, but instead, they represent dynamic expressions of sovereignty shaped by culture, history, and the evolving needs of their communities.

2.6 Drafting Tribal Legal Code

Drafting legal code is often described as more of an art than a science because of the inherent challenge of using technical writing to convey a singular meaning to a diverse audience across differences in historical context, identity, and background.⁶⁷ Still, there are best practices for this task.

⁶¹ O'Brien, p. 93.

⁶² O'Brien, p. 126.

⁶³ O'Brien, p. 133.

⁶⁴ O'Brien, p. 152.

⁶⁵ O'Brien, p. 176.

⁶⁶ O'Brien, p. 189.

⁶⁷ Donelan, E. (2022). *Legislative drafting*. Regulatory Governance. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-030-96351-4_5

2.6.1 Language & Best Practices

The goal of legal drafting is to express a function in a way that can be reliably interpreted as intended for purposes of application and enforcement.⁶⁸ The challenge is that there is no single agreed upon practice for how these interpretations should be made. For this reason, legal code should be drafted using clear and specific language that is considerate of a variety of interpretative methods.⁶⁹ Two methods of interpretation deserve specific mention. “Purposivism” seeks to determine the intended purpose of the law as expressed by those who drafted, debated, and enacted it, while “textualism” asserts an interpretation should be rooted solely in the meaning of each word. Textualists believe through anchoring their interpretation in the definition of each word individually, their approach is more neutral and valid. This position allows for a law's interpretation to potentially diverge significantly from its intended purpose.⁷⁰ Regardless of these differences, it is largely agreed that practitioners must anticipate either of these interpretative methods and ground their code in clear, well defined language.⁷¹

2.6.2 Considerations for Tribal Legal Drafting

Additional factors must be considered when drafting Tribal code. In particular, code must be structured to anticipate efforts by federal, state, and local governments to erode Tribal political power and cultural distinctiveness. These challenges are best addressed by asserting Tribal authority and then grounding all elements of code in this authority.⁷² Similar to the way code is strengthened by anticipating multiple interpretation methods, connecting code to the multiple sources of Tribal authority can protect against challenges to a code's legitimacy.⁷³ Attorney Chloe Moyer, a prominent figure in Tribal legal drafting scholarship, articulates four overarching sources of authority. These are Inherent, Constitutional, Judicial, and Congressional authority.⁷⁴

⁶⁸ Meadows, D. B. (2016). *A beginner's guide to legislative drafting*. Harvard Journal on Legislation. <https://journals.law.harvard.edu/jol/2016/10/24/a-beginners-guide-to-legislative-drafting/>

⁶⁹ Brannon, V. C. (2023, March 10). *Statutory interpretation: Theories, tools, and trends* (CRS Report No. R45153). Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R45153>

Moyer, C. M. (2024). *Bridging the gap: A systematic guide to tribal code drafting*. *Oklahoma Bar Journal*, 95(4), 22–27.

Meadows, p. 1.

⁷⁰ Brannon, p.14, Meadows, p. 1.

⁷¹ Brannon, p.47, Meadows, p. 1.

⁷² Moyer, p. 27.

⁷³ Moyer, p. 23.

⁷⁴ Moyer, p. 23-25.

Inherent authority is rooted in the powers Tribes have exercised since time immemorial and the “bedrock principles” recognized by the Supreme Court in 1978 which include but are not limited to the powers to regulate membership, domestic and international relations, taxation, property, and administration of justice.⁷⁵ The phrase “since time immemorial” is an essential aspect of this authority in its recognition of the complex political, social, and cultural systems Tribes formed and continuously practiced for thousands of years prior to Western colonization of North America. Constitutional authority refers to both powers and limitations collectively defined by the U.S. Constitution, the constitutions of each Tribe, and any treaties between a Tribe and the Federal government. Congressional authority refers to the plenary (total) power of Congress to limit, modify, or eliminate tribal powers through federal statutes. Lastly, judicial authority refers to how existing case law defines the scope of tribal criminal and civil jurisdiction. Establishing connections across each of these types of authority reduces reliance on any singular source authority. Our team utilized a drafting approach that established emergency code provisions in relation to these four sources of authority while also highlighting how and where this language may be tailored to capture a Tribe’s unique perspective.

2.7 Conclusion

Emergency powers operate at the intersection of law, governance, and sovereignty, and their use carries significant implications for the distribution of authority during crises. Across federal, state, local, and Tribal contexts, emergency powers are designed to enable swift action in moments of acute danger, yet they also create conditions in which executive authority can expand rapidly and, at times, problematically. Understanding these dynamics is essential for developing emergency management frameworks that are both effective and accountable.

For Tribal Nations, the exercise of emergency powers is further shaped by the unique legal and political relationship between Tribes and the United States. The dual-identity framework, recognizing Tribes as sovereign governments while simultaneously positioning them as beneficiaries of a federal trust, creates a landscape marked by both authority and constraint. This relationship is neither static nor uniform, instead, it reflects a long history of federal

⁷⁵ Moyer, p. 23.

contradiction, shifting judicial interpretations, and ongoing Tribal efforts to assert self-determination.

The diversity of Tribal governance structures adds another layer of complexity. Tribal Nations have developed and adapted governmental systems that reflect their cultural values, historical experiences, and contemporary needs. Whether through traditional consensus-based systems, constitutional governments modeled on external frameworks, like the US federal structure, or hybrid structures that blend both, Tribal governance today is dynamic and varied. This diversity underscores the importance of avoiding a one-size-fits-all approach when drafting legal code for Tribal Nations.

Finally, the literature on legal drafting, particularly in the Tribal context, highlights the need for clarity, precision, and grounding in multiple sources of Tribal authority. Effective code must anticipate varied interpretive methods, resist external pressures that may erode Tribal sovereignty, and reflect the unique priorities and governance philosophies of the Tribal Nation adopting it.

Taken together, these bodies of scholarship provide the conceptual, legal, and practical foundation necessary for developing a Model Tribal Emergency Management Code. They underline the challenges and opportunities inherent in developing emergency powers that support rapid response while safeguarding sovereignty, cultural integrity, and the long-term resilience of Tribal Nations.

Chapter 3: Research Methods

3.1.1 Data

Our data collection process included two key processes. First, a qualitative review of emergency management codes from Tribal, county, and municipal governments. This qualitative review sought to understand the core elements of emergency management code, as well as identify key differences across these three government types. Second, our team interviewed 7 Tribal emergency management practitioners and conducted a qualitative analysis of the transcripts from these interviews. The focus of these semi-structured interviews was to identify how emergency management practitioners interacted with, understood, and valued emergency management code.

3.1.2 Existing Emergency Code Data Collection

The data collected for our qualitative analysis of existing emergency management codes was aimed most directly at answering research Sub RQs 1, 2, & 4 (*See Chapter 1*). Collectively, these questions ask what similarities and differences exist in emergency management code across Tribal, municipal, and county governments. To answer this question we collected a non-random sample of emergency codes across these government types. The sample was non-random because we wanted a sample representative of codes and practices across jurisdiction sizes, population sizes, rural vs urban location and potential hazard types related to geographic location. While we had originally intended to limit the sample of emergency management codes to just Washington, the relative scarcity of publicly available Tribal emergency management code examples for Washington based-Tribes required us to expand our sample to national scale. In the end we collected 17 codes from 15 governments across each of these government types (*See Appendix D*). Two governments, Kitsap and King counties, separate their codes by emergency powers and emergency management. This separation is structural rather than substantive, so while separate documents, they each represent two halves of a whole emergency management code.

3.1.3 Interview Data Collection

We focused interview outreach and sampling on those who have served or are currently serving in Tribal emergency management-affiliated roles. The participants were required to be at least 18 years old and able to participate in a 45-minute virtual interview in English. Our partner with the

Cowlitz Indian Tribe distributed an electronic flyer to her professional network containing a QR code and link to our Microsoft Bookings scheduling system, through which participants could provide their contact, age, and professional affiliation to sign up for an interview slot with us. In our initial communications, we provided interview questions in advance to ensure participants had time to think about their responses.

With the informed verbal consent of each participant, interviews were recorded and transcribed to capture the content of participants' responses for analysis. All participants consented to a transcription of their recordings, and Zoom transcription was used to generate a first draft transcript, after which our team reviewed and edited to ensure accuracy. The team made sure participants received clear information regarding the study's objectives, the nature of their involvement, the use of their data, and the measures taken to make their identity confidential.

Each interview lasted 45 minutes, with one note-taker and one facilitator, and used the same standardized interview guide. The questions explored participants' experiences in their roles, the challenges they have encountered in Tribal emergency management, their perspectives on existing legal frameworks, and their insights into what an effective Tribal emergency code should include. Interviews were designed to be conversational, including different possible filler or follow-up questions that naturally built off participant answers. Each interview concluded with the option for participants to include anything more and an offer for further communication and/or a copy of the model code following completion of the project.

Interview transcripts were edited to remove typos and filler words from the Zoom transcription into a clean verbatim transcript and de-identified prior to analysis. Identifying information was codified and stored separately from the transcripts and recordings within the secure shared drive. This information was used only to aid in synthesizing transcriptions. All identifying information was deleted after the project was completed, and only unidentifiable, synthesized data was retained and implemented into our final materials.

The interview protocol (*See Appendix C*) received approval from the Cowlitz Tribal Council.⁷⁶

3.2 Analytical Framework

3.2.1 Approach

Our analysis brought together findings from our emergency code review and TEM interviews. Each source contributed distinct yet complementary perspectives (*See Table 2*).

Through our emergency code review, we analyzed how emergency powers are formally structured across jurisdictions, including Tribal, county, and municipal governments. This review focused on common structural components found in emergency powers frameworks, including Declaration Authority, Procedural Changes, Oversight, Rights and Limitations, and Fiscal Powers. Through our TEM interviews, we analyzed experiential understandings of how these powers are exercised within Tribal governance systems. The interviews highlighted how staff working in Tribal emergency management might experience emergency powers and code, including Tribal Governance Structure, Tribal Emergency Powers, Jurisdiction & Coordination, Emergency Management Implementation, and Model Emergency Code Relevance. The literature review provided a conceptual foundation that guided our research questions and framing. Themes we identified in literature included situating findings within broader discussions of emergency powers, intergovernmental relations, Tribal governance, and developing legal code..

Table 2: Sources of Data

Source	Themes and Purpose in Analysis	Connection to Research Questions
Literature Review	Conceptual and legal foundations for... <ul style="list-style-type: none"> ● Emergency Powers ● Tribal Emergency Powers ● Tribal Governments & The U.S. Government ● Tribal Governance ● Drafting Tribal Legal Code 	Main RQ Subsidiary Question 1,2,3,4

⁷⁶ This study was reviewed by the University of Washington Human Subjects Division and determined to be human subjects research that qualifies for exempt status Study No. 00024826 - Developing Tribal Emergency Code. Study participants were provided with information about the research prior to their agreement to participate.

	<p>This section helped situate our research questions within existing bodies of literature and broader discussions of the above topics. It provided us background information and context around how emergency powers interact with and are enacted within different governmental and legal structures.</p>	
<p>Emergency Code Review</p>	<p>Common structural elements of emergency-powers code across multiple Tribal (with a focus within FEMA Region 10), U.S. county, and U.S municipal jurisdictions. Provided an understanding of...</p> <ul style="list-style-type: none"> ● Declaration & Termination Authority ● Changes to Procedures ● Monitoring & Oversight ● Rights, Protections, and Limitations ● Emergency Funding and Fiscal Powers ● Use Cases <p>This section helped inform the more structural pieces relevant to our research questions. It provided us context for comparing how different legal codes convey emergency powers.</p>	<p>Main RQ</p> <p>Subsidiary Question 1, 2</p>
<p>Tribal Emergency Management (TEM) Interviews</p>	<p>Experiential understanding of...</p> <ul style="list-style-type: none"> ● Tribal Governance Structure ● Tribal Emergency Powers ● Jurisdiction & Coordination ● Emergency Management Implementation ● Model Emergency Code Recommendations <p>... across multiple Tribal Nations in the Pacific Northwest. This section helped us understand experiential perspectives in relation to our research questions. It provided us insight into how emergency powers play out in practice within different Tribal governance systems and contexts.</p>	<p>Main RQ</p> <p>Subsidiary Question 2, 3, 4</p>

Table 2: Describes how each of the sources, along with the theme, contributed to our analysis and research questions.

3.2.2 Codebook Development and Coding Process

To organize our findings across the sources of data, we developed two Content Analysis Codebooks—one for our qualitative review of existing emergency management codes (*Appendix A*) and one for our qualitative review of Tribal emergency management interviews (*Appendix B*).

We developed the Emergency Code Analysis codebook (*Appendix A*) based on a combination of insights gathered from the Chapter 2 review of literature and from common functions and recurring themes gathered from reading through a number of emergency management codes. The codebook and emergency management codes were all uploaded to the qualitative analysis software Dedoose. Using Dedoose, coders practiced applying the codebook to an emergency management code not included in our final sample. Afterwards coders met to discuss any confusion, or elements that needed further clarification. Edits were made to the codebook to create the final version (*Appendix A*). Two coders were assigned to each emergency management code. Emergency management codes were independently coded using the codebook in Dedoose. After all emergency management codes (*Appendix D*) had been coded, coders met to discuss how the codebook was applied to every emergency code, and differences in code application were reconciled by consensus among the coders.

For the Interview Analysis Codebook, the codebook development was informed by the insights we got from the literature review and the emergency code review which informed the themes and subthemes of the codebook. The codebook broke down common themes into multiple subthemes, which included, for each, a definition for clarity as well as a code name and coding instructions.

Once we set our themes and subthemes, we uploaded the de-identified transcripts from each interview along with the codebook onto Dedoose. Then, two members of our team independently applied the codebook to the transcript from each interview. To ensure coding reliability, after independently coding each transcript, the two coders met to discuss and reconcile all coding differences in a manner similar to that used in the review of emergency management codes.

3.2.3 Analysis

To guide our analysis, we identified common patterns, intersections, and deviations through our content analysis coding conducted in Dedoose. The codebooks provided us with consistent structures to guide a more cohesive analysis. We used them to identify patterns across the data sources and better align our analysis and findings with the project’s research questions. We considered which themes were more and less prevalent within the emergency code review codes and the TEM interview codes. We also compared the two, including where themes aligned and where they diverged. Across these findings, we gained a more holistic insight into the commonalities and differences between formal legal structures and lived practices. This approach allowed us to holistically review the most important and relevant components that should be included in the model Tribal emergency code as outlined in our analytical process below, under 3.2.4 Analytical Process (Figure 1):

3.2.4 Analytical Process

Figure 1: Analytical Process for Developing a Model Tribal Emergency Code

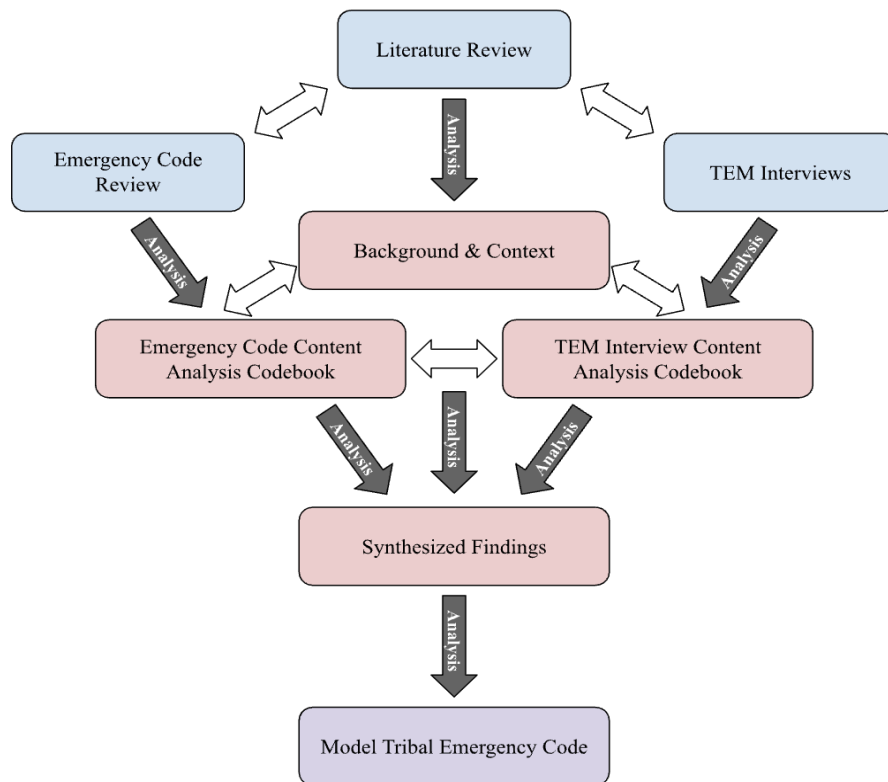


Figure 1: Illustrates the analytical framework used to develop the model Tribal emergency code. The framework integrates findings from the literature review, emergency code review, and TEM interviews to inform the project's background & context, as well as both the content analysis codebooks. Findings from these analyses were synthesized to ultimately support in the development of the model Tribal emergency code.

3.3 Limitations

Our team recruited participants using convenience sampling, as we only interviewed people within the professional network of our partner at the Cowlitz Indian Tribe. Most participants were Tribal emergency managers in the Pacific Northwest.

We were limited in our ability to speak with Tribal Council members and/or enrolled members of the Tribes due to Capstone timeline misalignment with Tribal IRB processes. Collecting Tribal emergency management codes was also challenging as many Tribal codes are not publicly available and difficult to access and thus limiting our scope and introducing a selection bias toward the Tribes with publicly accessible Tribal Emergency Codes. This created a bias toward Tribes that make their codes publicly accessible (e.g. because they might have higher institutional capacity).

Our interviews also used a semi-structured approach where the participants were able to share their experiences and insight in their roles in Tribal emergency management and the interviewers built off of their answers to ask clarifying questions. The drawback with this approach was that there could be response bias where participants may omit or provide responses based on what they might perceive as more professionally acceptable.

Another important point to note is that our client, the Cowlitz Indian Tribe, requested and agreed to review the UW IRB process. While this does not eliminate the general limitations of our approach with regards to data quality, it reflects our clients's active participation in the process.

Chapter 4: Findings and Analysis

4.1 Introduction

This chapter analyzes findings from the emergency code review and TEM interviews, guided by the main research question (Main RQ) and four subsidiary questions (Sub RQs), as shown in *Figure 2*.

Figure 2: Main Research Question and Subsidiary Questions

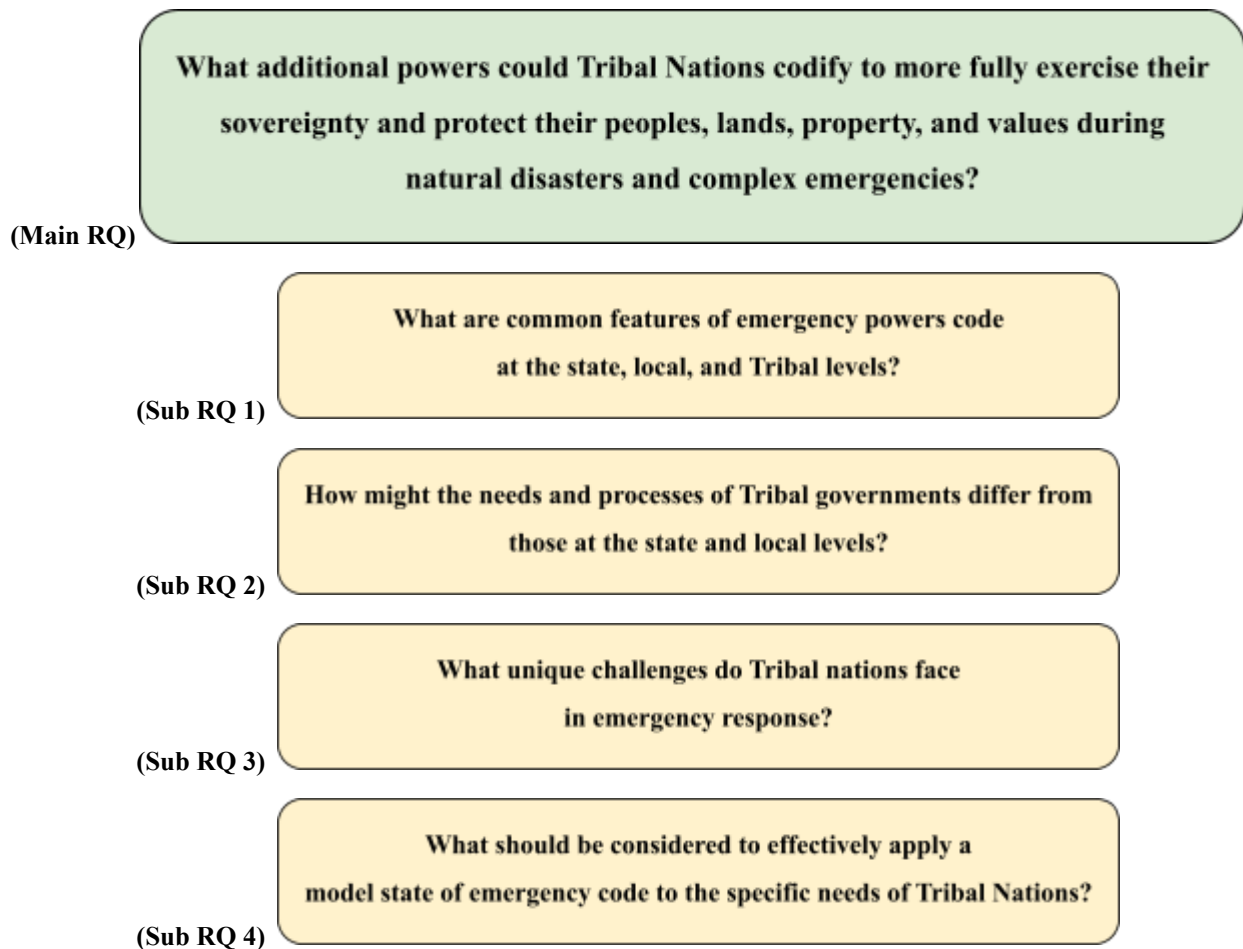


Figure 2: Lists the main research question and subsidiary questions used to guide this project, as outlined in Chapter 1.

This chapter presents our TEM interview and emergency code review findings, then synthesizes them to inform the creation of a model Tribal emergency management code. We structure the

chapter in this way to address the purpose and relevance of a model emergency code across different TEM perspectives before delving into possible code structures and elements. The TEM interviews and code review sections will each address a set of overlapping yet distinct research questions. At the conclusion of this chapter, we will loop back and answer the main question through our drafted model Tribal emergency management code. Refer to *Table 2: Sources of Data* to see an overview of how the different data sources relate to each research question.

We begin with TEM interviews, which primarily address Sub RQs 2, 3, and 4. The interviews offer important insight into how Tribal governance differs from state and local governance. This includes diverse Tribal systems and priorities across different Tribal Nations. TEM interviews also provide input into how a code can facilitate emergency response, as well as components to consider when adapting emergency powers frameworks to Tribal contexts. Through answering the Main RQ and sub RQs, we analyze how lived emergency management experience may be contextually integrated into a model emergency code and adaptable code development process.

The chapter then turns to the emergency code review, which primarily addresses Sub RQs 1, 2, and 4. The code review identifies common structural patterns and features across Tribal, county, and municipal emergency codes and documents. It also highlights ways Tribal codes may differ from county and municipal codes, while identifying essential elements to include in Tribal emergency code. These findings will ultimately inform both the structure and content of our model emergency code.

The final sections address the Main RQ by synthesizing findings across both data sources to examine broader implications for Tribal emergency powers. Analyzing the synthesized findings, the final section discusses considerations in drafting the model Tribal emergency management code and adaptable code development process. The goal of the final annotated model Tribal emergency code and accompanying implementation guide would be to strengthen sovereign Tribal emergency governance while leaving room for any given Tribe to adapt the code to fit their structures, systems, contexts, and priorities.

4.2 Tribal Emergency Management Interview Analysis & Findings

This section analyzes findings from interviews conducted with TEM practitioners, and it primarily addresses Sub RQs 2, 3, and 4 (*Figure 2*). Interviews were structured to spark conversations on and better understand the five codebook analysis themes of Tribal governance structure, Tribal emergency powers, jurisdiction & coordination, emergency management implementation, and emergency code recommendations. From these themes, responses revealed the following:

- Ways different Tribal governments are structured
- Ways emergency powers and decision making authority are structured, and how they might play out when activated
- Ways Tribes navigate jurisdictional authority as sovereign Nations, and how authorities might coordinate with local, state, and federal governments
- Ways emergency governance impacts emergency management operations
- Ways a model emergency code might or might not be relevant to different Tribes

These points were important in understanding the needs, processes, and challenges of Tribal governments not only in the implementation of the model emergency code, but also in its engagement and development. In particular, we identified several key insights highlighting alignment and divergence in experiences and perspectives across different Tribal Nations. A brief overview of each of the five themes can be found in *Table 3*, along with a summary of major findings that emerged across interviews.

An important consideration to note as we move through this section: you may notice frequency and depth of emergency-management- or operations- related discussions and more generalized emergency-powers-related discussions. *Figures 3 and 4* highlight themes that appeared least consistently include termination authority, public reporting requirements, community consultation, declaration structure, declaration review authority, community consultations, equitable protections, and advisory structure. *Figure 6* shows that emergency management implementation topics appeared more frequently across interviews than emergency powers topics, further supporting the idea that interviewees may have more experience with emergency

management and operational authority as opposed to broader decision making authority. There are several possible reasons for this. Most of the participants we interviewed held emergency management or operational responsibilities, which carry less decision making authority than those holding emergency powers responsibilities. This may also indicate that interview participants view emergency governance and powers in terms of institutional capacity and implementation. This is highlighted by the finding that interview participants repeatedly connected effective governance with the ability to operationalize emergency authority while considering factors such as capacity and barriers, plans and processes, pre-implementation requirements, and experiential knowledge. Another possible contributing factor is the finding that certain Tribal Nations' emergency governance may follow a pattern of norms and practice rather than a more formalized system, allowing for adaptive roles and responsibilities. This may indicate that accumulated knowledge and longstanding relationships may sometimes be more important than written emergency powers codes more commonly emphasized within county or municipal governments. Overall, this takeaway influences our analysis of findings to additionally consider the effects that emergency powers and code have on emergency management and operations, and the interconnectedness between the two.

Nonetheless, interviews provided valuable context and insight into experiential perspectives in emergency management and their relationships with emergency powers. To better understand the importance of how these interviews ultimately informed the development of the model Tribal emergency management code, we analyze the following common findings noted across interviews:

1. Tribal Governance Structures and Emergency Governance

Because Tribal governments and governance authority differ so significantly from local and state governments, the model emergency code must include certain elements relevant to Tribal emergency governance and must be accessible and adaptable to different Tribal worldviews, structures, contexts, and norms. Interviews consistently highlighted the significant diversity of Tribal emergency governance, which cannot be separated from broader Tribal governance structures. While state and local governments often operate within relatively standardized governance systems, Tribal governments vary significantly in their approach to governance and

authority. Interview participants described most governance structures as centralized systems where authority rests primarily with Tribal Council or executive leadership, but we also found that some Tribal governments held more layered systems involving multiple governments, departments, committees, or more advisory-informed decision-making processes. Oftentimes, Tribal governance systems integrate emergency management with public safety or other governmental departments. TEM interview participants therefore generally held occupational, coordination, planning, advisory, or technical responsibilities. This finding is reflected in *Figures 3, 5, and 6*, where governance structure emerged as one of the most frequently coded and consistently occurring themes across interviews. Governance-related codes appeared across nearly all participants regardless of Tribal context, suggesting that governance structures serve as a foundational lens through which emergency powers are understood and exercised.

These variations influence the ways each government exercises power during emergencies. They often influence the speed and flexibility of emergency decisions, which then affects implementation and downstream effects. While Tribal governance powers might provide legitimacy and accountability to roles and processes, they may also sometimes create challenges when emergencies require quick action or access to resources. Many interview participants discussed situations in which emergency management staff were responsible for coordinating response but may not have had authority to make certain decisions (often requiring approval from Tribal Council or executive leadership before action could be taken). This delay may impact Tribes from responding immediately to rapidly-moving or rapidly-evolving emergencies, or from accessing emergency grants that have shorter cycles or fast-approaching deadlines.

2. Protection of Sovereignty

Protection of sovereignty appeared throughout nearly every interview and was one of the most prominently discussed findings across interviews. Participants often discussed emergency governance through a self-determination lens, highlighting the importance for Tribal Nations to maintain authority over emergency decisions, resources, priorities, and response within their jurisdiction. Interview participants shared sovereignty as an active and ongoing responsibility, frequently intertwining emergency powers conversations with an alignment of existing Tribal structures, decision-making, priorities, and values. The prominence of sovereignty within

interviews is also reflected in *Figures 3 and 4*, where sovereignty protection appeared among the most frequently discussed themes. Its consistent presence across interviews suggests that sovereignty is viewed as a principle that influences emergency governance and powers.

TEM interviews also emphasized that coordination with local, state, and federal governments should not come at the expense of Tribal authority. Interview participants expressed the importance of working intergovernmentally in the context of communication and mutual aid between governmental authorities. However, especially in the context of resource allocation and emergency priorities in overlapping jurisdictions, they stressed that authority relationships should occur on a government-to-government basis that respects Tribal sovereignty. These findings indicate that emergency powers not only support emergency response and recovery, but they also help protect and reinforce Tribal governance during periods of uncertainty and disruption. Consequently, we should keep considerations of sovereignty central to the development and adaptation of model Tribal emergency codes. *Appendix F* further supports this finding, as sovereignty frequently co-occurred with governance structure, jurisdictional authority, and intergovernmental coordination. This suggests that interview participants often understood sovereignty through the ability to maintain Tribal authority while navigating relationships with external governments.

3. Intergovernmental Relations & Coordination

Coordination between governments was brought up consistently throughout the interviews, with participants oftentimes referencing complex networks of relationships across local, state, federal, and other Tribal governments. These relationships were observed to be very context- and location-dependent, so descriptions of coordination structures and relationships varied widely across interviews. Continual interaction and relationship-building across authorities in multiple governments and jurisdictions was found to be important before, during, and after emergencies. In relation to emergency governance, emergency codes may consider the importance of cross-jurisdictional and intergovernmental coordination. *Figures 3, 5, and 6* further demonstrate the prominence of coordination across interviews. Codes related to coordination structures, government-to-government relationships, and coordination across multiple scales appeared

consistently across participants, indicating that emergency governance frequently occurs within interconnected systems requiring continual communication and negotiation between authorities.

Interview participants also described challenges associated with coordinating across governance systems due to differences in procedures, timelines, organizational structures, priorities, and understandings of Tribal governance. Some participants expressed situations where the state or federal government lacked familiarity with Tribal emergency governance systems or context-specific emergencies, which then affected perceived legitimacy or access to resources. Multiple other bureaucratic processes were also often mentioned as barriers to access resources or assistance. We found that across interviews, participants often noted having a code as a means of perceived legitimacy, with the disclaimer that external governments must also adapt to their processes. In developing the model Tribal emergency code, it is important to be reflective of the intended use of emergency code within Tribal contexts, and to recognize that the code may also serve as a mechanism for navigating and communicating Tribal authority to external partners. The model code should therefore remain adaptable and further utilize language and elements key to Tribal governance.

4. Jurisdictional Authority

Jurisdictional authority emerged as one of the most nuanced areas of discussion across interviews. Participants frequently described operating within environments characterized by overlapping authorities or multiple governance systems. Relationships between these systems were oftentimes turbulent. In many cases, interview participants may have felt uncertain about how different authorities interact during emergencies when Tribal, federal, state, and/or local jurisdictions overlap. Large-scale emergencies that require extensive coordination across multiple governments and agencies often magnified these challenges. Interview participants also shared that unclear jurisdictional authority and boundaries frequently influenced decision-making within Tribes. We found that this uncertainty tended to be discussed during conversations around topics such as emergency declarations, resource access, law enforcement involvement, disaster assistance, and emergency response authority. Jurisdictional authority also emerged as one of the most prominent coded themes across interviews. *Figures 3 and 6* show that jurisdiction discussions frequently appeared alongside governance and coordination themes,

reinforcing the interconnectedness between jurisdictions and emergency authority and sovereignty.

We found that an understanding of jurisdictions varied significantly across interviews, indicating that Tribal Nations' operational understanding of jurisdictions depended heavily on components such as governance structures, geographic location, historical agreements, relationships with neighboring governments, and legal status. While some interview participants described jurisdictional authority as relatively clear within their contexts, others expressed uncertainty regarding how authority would function under specific emergency conditions. These findings suggest that emergency powers cannot be fully understood without considering the jurisdictional environments in which they operate. Consequently, emergency governance frameworks should clearly articulate authority relationships while still remaining responsive to Tribal Nations' complex and often overlapping jurisdictions. This relationship is further illustrated in *Appendix F*, where jurisdictional authority frequently co-occurred with sovereignty protection, government-to-government relations, and state and federal coordination. These overlaps reinforce the idea that jurisdictional authority operates within broader governance systems and intergovernmental interaction.

5. Dependency on Capacity

Another common finding across interviews was the extent to which emergency authority and institutional capacity connected. Across interviews, we noted a strong link between staffing, training, and resource capacity with emergency powers and decision-making processes. Some participants noted having abundant capacity, acting as a resource for other Tribes or local governments during emergencies. On the other hand, many described operating with limited personnel and resources, which require staff to wear multiple hats and fill multiple responsibilities. Emergency managers often served roles such as planners, coordinators, trainers, grant administrators, communicators, sheriffs, and responders, sometimes in addition to other governmental responsibilities. This emphasis on capacity is reflected in *Figures 3 and 6*, where resource capacity, department roles, and operational responsibilities appeared frequently across interviews. The prevalence of these themes further supports the finding that participants often discussed emergency governance through its implementation and operationalization of

emergency powers. This may indicate the importance of institutional capacity and operations in the downstream activation of emergency powers, as well as potential viability and sustainability resulting from activation of emergency authority.

Furthermore, several interview participants described situations where authority technically existed but was difficult to operationalize because of staffing shortages, lack of training, and resource limitations, in addition to potential administrative barriers or competing priorities. We found that this sometimes contributed to unclear roles or continuity of government (especially when certain authorities or personnel might be unavailable yet hold knowledge acquired from training). Participants also shared the importance of pre-existing relationships, plans, procedures, and organizational systems in supporting emergency authority implementation. These findings suggest that on top of clearly defined authority, effective emergency powers also depend on investments in preparation and accessibility (for example, personnel, training, resources, and a general clarity in roles and continuity of government). Because of this, we found that creating an implementation guide to accompany the model emergency code may be supportive.

6. Codification of Roles, Responsibilities, and Continuity of Government

Across interviews, conversations around gaps between code and implementation or role formalization cropped up. We found that many interview participants shared a need for writing down and clearly defining authority structures, roles, responsibilities, and continuity of government before emergencies occur. Conversations frequently highlighted uncertainty regarding topics such as declaration authority, delegated authorities and other decision-making responsibilities, resource access authority, and continuity of government, during emergencies. In many Tribal contexts, interview participants described that their governance systems heavily relied on institutional knowledge and informal practices. While these approaches often reflected strong or longstanding working relationships and accumulated emergency experience, participants also noted potential challenges that arise when responsibilities and authorities are not clearly documented. *Figures 5 and 6* indicate that themes related to emergency plans, resource authority, department roles, and governance structures appeared consistently across interviews. This suggests a shared concern among participants regarding how authority is operationalized and maintained during emergencies.

The need to balance flexibility with clarity became a recurring finding throughout interviews. Participants generally acknowledged that emergencies are dynamic and often require flexibility in authority to respond to changing circumstances. They also emphasized that ambiguity in authority can create confusion and delays during implementation and operationalization. We found that unclarity in authority structures may muddle roles and responsibilities, creating challenges in areas such as decision-making, coordination, resource access, and continuity of operations. These findings suggest that codification is important for governance to play out because it helps clarify expectations and supports continuity during emergencies. Effective emergency codes can therefore help establish a shared understanding of authority while still allowing sufficient flexibility to respond to changing emergency conditions.

7. Model Tribal Emergency Code Relevance and Recommendations

Some interview participants viewed a model Tribal emergency code as relevant or valuable, while others felt it to be less so. Across interviews, participants expressed concern that an overly prescriptive or generalized code could make the code less relevant or aligned with local governance contexts. They stressed that Tribal Nations are not a monolith and to consider the significant variance between topics such as governance structures, systems, values, priorities, capacities, and jurisdictional authority across Tribes when drafting the model emergency code. On top of this, some participants shared that the code would not be as valuable because they felt their structures already had strong emergency powers systems in place or that their emergency plans felt comprehensive enough to use as their code. A few participants expressed confusion or unclearness in the difference between an emergency code versus emergency plan and were uncertain whether it would be valuable or not. However, across interviews, participants generally felt the code would be helpful in acting as a guidepost or structure, especially if it was developed as adaptable and accessible. Additionally, *Figures 5 and 6* demonstrate variation in the frequency of many governance and emergency powers themes across interviews. This variability reflects differences in governance structures, capacities, jurisdictions, and emergency management systems across Tribal Nations, reinforcing participants' recommendations that the model code function as an adaptable code.

Participants described a model code as most valuable when it can be adapted and tailored to individual Tribal needs. Common recommendations included providing a guide for implementation, making sure emergency management authorities are aligned on definitions, roles, and responsibilities, clearly defining certain terminology and authorities, incorporating flexibility into governance provisions, and building compatibility with existing Tribal governance documents and systems. Interview participants also shared that creating a code supporting sovereignty and strengthening governance is key in creating a valuable model Tribal emergency code. Collectively, these recommendations suggest that a successful model emergency code supports adaptation and local ownership while clarifying authority and emergency declaration, orders, roles, and responsibilities. The model code can then be best understood as a tool that helps facilitate conversations around emergency governance across different Tribal contexts.

The coding analysis below supports the qualitative findings discussed above. Across interviews, sovereignty protection, governance structure, coordination structure, coordination across multiple scales, department role, jurisdictional authority, emergency plans, resource authority, resource capacity, and government-to-government relations emerged as the most prominent and consistently occurring themes (*Figures 3 and 5*). These findings may indicate a shared set of elements relevant to different Tribal Nations that must be accounted for in the model Tribal emergency code. Co-occurrence analysis further demonstrated strong relationships between sovereignty, governance, jurisdiction, and coordination, suggesting that interview participants often understood emergency governance as an interconnected system of authority (*Appendix F*). Collectively, these findings reinforce the importance of governance structures, sovereignty, coordination, and implementation capacity in the operationalization of Tribal emergency powers.

Figure 3: All Code Counts for TEM Interviews

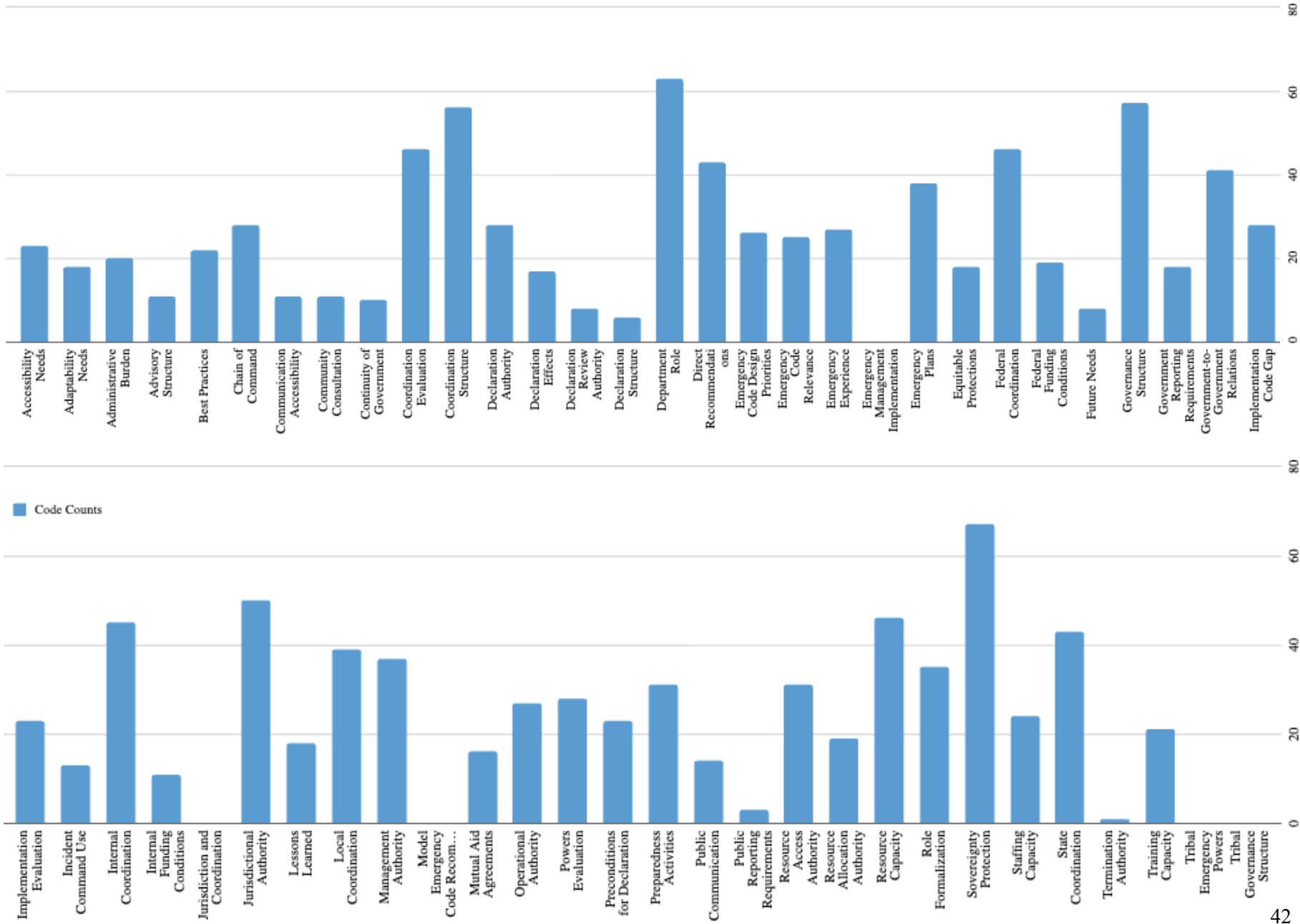


Figure 4: TEM Interview Word Cloud



Figure 4: Visualizes data from Figure 3 into a word cloud correlating font size to frequency of occurrence of each theme. This figure helps us quickly interpret commonly discussed themes in comparison to less commonly discussed themes.

Figure 5: Code Presence in TEM Interviews

Tribal Emergency Management Interviews	Tribal Governance Structure									Tribal Emergency Powers	Preconditions for Declaration										Jurisdiction and Coordination										
	Governance Structure	Chain of Command	Incident Command Use	Continuity of Government	Coordination Structure	Advisory Structure	Department Role	Role Formalization	Preconditions for Declaration		Declaration Effects	Declaration Structure	Declaration Authority	Declaration Review Authority	Termination Authority	Management Authority	Operational Authority	Resource Access Authority	Resource Allocation Authority	Community Consultation		Equitable Protections	Powers Evaluation	Sovereignty Protection	Jurisdictional Authority	Government-to-Government Relations	Federal Funding Conditions	Federal Coordination	State Coordination	Local Coordination	Internal Coordination
Participant 8	1	0	0	0	1	0	1	0	0	0	1	1	0	0	0	1	1	1	1	0	0	1	1	1	1	1	1	1	1	0	1
Participant 7	1	1	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Participant 6	1	1	1	1	1	1	1	1	1	1	0	1	0	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Participant 5	1	1	1	1	1	1	1	1	1	1	0	1	1	0	1	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1	1
Participant 4	1	1	1	1	1	1	1	1	1	1	0	1	0	0	1	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1	1
Participant 3	1	1	1	1	1	0	1	1	1	1	1	1	1	0	1	1	1	1	1	0	1	1	0	1	1	1	1	1	1	1	1
Participant 2	1	1	1	1	1	1	1	1	1	1	1	1	0	0	1	1	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1

Tribal Emergency Management Interviews	Emergency Management Implementation															Model Emergency Code Recommendation	Emergency Code Relevance							Future Needs
	Staffing Capacity	Training Capacity	Resource Capacity	Internal Funding Conditions	Administrative Burden	Emergency Experience	Emergency Plans	Preparedness Activities	Government Reporting Requirements	Public Reporting Requirements	Public Communication	Communication Accessibility	Implementation Code Gap	Implementation Evaluation	Emergency Code Relevance		Emergency Code Design Priorities	Adaptability Needs	Accessibility Needs	Best Practices	Lessons Learned	Direct Recommendations		
Participant 8	0	1	1	0	0	1	1	1	0	0	1	0	1	1	1	1	1	1	1	1	1	1		
Participant 7	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0		
Participant 6	1	1	1	1	1	1	1	1	1	1	1	0	1	1	1	1	0	1	0	0	1	0		
Participant 5	1	1	1	1	1	1	1	1	1	0	0	0	1	1	1	0	1	0	1	1	1	1		
Participant 4	1	1	1	1	1	1	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1	1		
Participant 3	1	1	1	1	1	1	1	1	1	0	1	1	1	1	1	1	1	1	0	1	1	1		
Participant 2	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0		

Legend:
 1 = Present in code
 0 = Not present in code

Figure 5: Indicates whether a theme appeared or was coded in each TEM interview. A number of themes appeared consistently across different interviews while others were far less regular or altogether absent. Conditional formatting was used to visually distinguish frequency values across the matrixes. Colors represent differing levels of coded occurrence, with warmer colors generally indicating higher frequencies and cooler or neutral colors indicating lower frequencies. White indicates an absence of code. The same formatting was used for Figures 6, 8, and 9.

Figure 6: Code Application Counts for TEM Interviews

Tribal Emergency Management Interviews	Tribal Governance Structure	Governance Structure	Chain of Command	Incident Command Use	Continuity of Government	Coordination Structure	Advisory Structure	Department Role	Role Formalization	Tribal Emergency Powers	Preconditions for Declaration	Declaration Effects	Declaration Structure	Declaration Authority	Declaration Review Authority	Termination Authority	Management Authority	Operational Authority	Resource Access Authority	Resource Allocation Authority	Community Consultation	Equitable Protections	Powers Evaluation	Jurisdiction and Coordination	Sovereignty Protection	Jurisdictional Authority	Government-to-Government Relations	Federal Funding Conditions	Federal Coordination	State Coordination	Local Coordination	Internal Coordination	Mutual Aid Agreements	Coordination Evaluation
Participant 8		2	0	0	0	3	0	1	0		0	0	1	2	0	0	0	1	5	2	1	0	0		5	7	1	2	6	4	2	4	0	1
Participant 7		10	5	2	2	8	0	8	6		6	3	2	8	6	1	9	1	7	3	5	5	8		21	12	13	3	11	6	7	9	4	9
Participant 6		9	1	1	1	11	4	15	7		3	5	0	5	0	0	3	3	10	3	3	3	6		9	9	7	5	9	13	7	7	3	5
Participant 5		9	5	1	1	5	3	10	1		6	2	0	4	1	0	5	1	1	2	0	2	2		8	4	4	3	5	7	6	4	2	7
Participant 4		8	9	4	3	9	1	16	6		4	1	0	1	0	0	11	10	2	4	0	8	8		16	8	7	4	6	3	3	10	2	10
Participant 3		8	4	3	2	11	0	9	7		2	1	2	5	1	0	6	5	3	1	1	0	3		1	0	1	1	4	4	4	4	1	7
Participant 2		11	4	2	1	9	3	4	8		2	5	1	3	0	0	3	6	3	4	1	0	1		7	10	8	1	5	6	10	7	4	7
Totals		57	28	13	10	56	11	63	35		23	17	6	28	8	1	37	27	31	19	11	18	28		67	50	41	19	46	43	39	45	16	46

Tribal Emergency Management Interviews	Emergency Management Implementation	Staffing Capacity	Training Capacity	Resource Capacity	Internal Funding Conditions	Administrative Burden	Emergency Experience	Emergency Plans	Preparedness Activities	Government Reporting Requirements	Public Reporting Requirements	Public Communication	Communication Accessibility	Implementation Code Gap	Implementation Evaluation	Model Emergency Code Recommendation	Emergency Code Relevance	Emergency Code Design Priorities	Adaptability Needs	Accessibility Needs	Best Practices	Lessons Learned	Direct Recommendations	Future Needs	Totals
Participant 8		0	1	2	0	0	3	2	2	0	0	1	0	3	2		4	6	2	3	6	5	19	2	113
Participant 7		4	2	7	4	8	2	7	4	3	1	6	5	5	2		4	3	3	4	5	4	2	0	285
Participant 6		2	3	8	3	2	6	8	7	4	1	1	0	3	1		3	6	0	6	0	0	5	0	236
Participant 5		1	1	6	1	2	5	3	2	2	0	0	0	2	2		1	0	1	0	2	1	3	1	147
Participant 4		7	6	8	2	4	5	6	3	3	0	4	2	6	11		5	2	1	2	5	3	7	1	267
Participant 3		3	5	4	1	1	4	5	8	5	0	1	1	6	3		6	4	3	6	0	2	2	4	175
Participant 2		7	3	11	0	3	2	7	5	1	1	1	3	3	2		2	5	8	2	4	3	5	0	214
Totals		24	21	46	11	20	27	38	31	18	3	14	11	28	23		25	26	18	23	22	18	43	8	0

Figure 6: Breaks down the frequency in which codes were applied to different TEM interviews.

These figures support our findings above by illustrating the nuanced ways in which Tribal Nations enact emergency powers given their governance structures, relationships, jurisdictions, capacities, and written codes, and the effects these may have downstream on emergency management operations. They highlight the ways emergency powers move through varying contexts with the shared goal of self-determination, and how these factors shape the way emergency authorities are played out. A summary of TEM Interview findings and analysis are presented below, in *Table 3*.

Table 3: TEM Interview Findings and Implications

Theme	Description	Interview Findings	Example Quotes (exemplifying theme and findings)	Overall Implications
Tribal Governance Structure	<p>Codes in this category described Tribal emergency governance systems and structures.</p> <p>Addresses Sub RQ 2 and 4.</p>	<ul style="list-style-type: none"> -Tribal government structures varied widely across different Tribal Nations, from centralized to layered or consensus based -Tribal Council or Tribal Chairman generally tended to hold the most decision-making power across Tribal Nations, especially with powers such as declaration authority -Processes tended to be slow and take longer than what Tribal emergency management practitioners needed for time sensitive decisions such as funding deadlines or quick emergency response -Emergency management practitioners often hold multiple roles -Tribal emergency management structures are oftentimes integrated into broader public safety systems such as police, sheriffs, and public safety departments 	<p>“So the policy we have has a chain of command with the Tribal Chairman to the Tribal Council, and then it goes down to basically the [boss's role], and then it goes to me. So there is a succinct chain of command that starts with the Tribal Council and works its way pretty quickly to department heads with the [boss's role], who's the [boss's role 2], and I work under him. So I'm [number in chain of command] in line for even declaring disasters if I had to, or to make decisions about operating and opening the EOC or Tribal closure. So my boss, the [boss's role], pretty much gets his directions from the Tribal Council, who said, “Look. You're gonna make the call, Chief, whether we close or not based on when you think it's safe” because he's been here [decades], he has the experience level.</p> <p>So we do have a pretty good chain of command of who determines declarations, delegation of authority, and when and if we're going to close the Tribe and make decisions about emergency operations. It's pretty well defined.”- Participant 2</p>	<p>Governance structures help define and shape how emergency powers could play out during emergencies, and significant variance across Tribal Nations indicate a need for an adaptable model emergency code that can be aligned across different governance structures. Governance oftentimes concentrate decision making authority within Tribal Council or Tribal executive leadership, and operational emergency management staff frequently discussed holding operational, advisory, coordination, and technical responsibilities without necessarily possessing formal emergency authority. Additionally, governance processes designed to integrate accountability and consensus could sometimes create challenges for emergency response, especially when emergencies required immediate action or time-sensitive funding decisions.</p>
Tribal Emergency Powers	<p>Codes in this category described authorities to declare emergencies, activate emergency operations, allocate emergency resources, access finances, and ways authority shifts</p>	<ul style="list-style-type: none"> -Delegated authority should be clearly established -Declarations generally must be approved by Tribal council, which demonstrates a barrier in quick response to emergencies -In some cases, emergency declarations must be passed 	<p>“I think they are pretty clear. The ultimate decision lies with our Tribal Council. They have the ultimate decision to make any emergency response decisions.”- Participant 3</p> <p>“ Well, I've been with the Tribe as [role]. We're structured under the Public Safety</p>	<p>Many emergency decisions require approval through Tribal Council resolutions, which may be potentially challenging during emergencies due to processes being slower than the required pace required for emergency grant funding deadlines and emergency operations. Emergency powers structures should also clearly define and delegate</p>

	<p>during emergencies.</p> <p>Addresses Sub RQ 2, 3, and 4.</p>	<p>through Tribal Council resolution but immediate emergency authority may temporarily rest with executive leadership during urgent situations</p> <ul style="list-style-type: none"> -Tribal emergency management practitioners tended to be in more of an advisory or operational role rather than explicitly holding declaration authority -Tribal emergency management practitioners typically in the role of coordination, technical, operational, planning, briefing, facilitating communication, guiding emergencies -There was a general uncertainty around continuity of governance -Some Tribal emergency management practitioners expressed a lack of clarity with declaration structure -Emergency governance intertwined with federal, state, local, and Tribal coordination -Tribal authorities often interact with external governance systems -The way federal, state, and local governments function is very different from how different Tribal governance function -Tribal emergency governance sometimes deviated from written code or plans 	<p>Division, which is our Police Chief. He's head of Public Safety. It's not unusual to see emergency managers in counties, usually under the Sheriff's Department, or Public Safety, or a combination, so it's very typical.</p> <p>”- Participant 2</p>	<p>authority. Ambiguity in authorities (for example, declaration authority and resource access authority) or temporary shifts in authority could slow operational response during emergencies. Emergency powers should also remain flexible during changing situations and contexts, while also having oversight and accountability measures.</p>
<p>Jurisdiction & Coordination</p>	<p>This category focused on jurisdictional authority, intergovernmental coordination with local,</p>	<p>-Tribal emergency management practitioners expressed some uncertainty around jurisdictional authority, especially with</p>	<p>“We're unique in a sense, whether you folks know it or not, we're a [description of Tribe], which doesn't give jurisdiction to any federal state or county jurisdiction, but I believe in</p>	<p>Tribal emergency governments often operate across jurisdictional systems requiring coordination between different authorities. Jurisdictional overlap, differing emergency</p>

	<p>state, and federal U.S. governments, and internal coordination. It included considerations around Tribal sovereignty when interacting with external governments.</p> <p>Addresses Sub RQ 2, 3, and 4.</p>	<p>overlapping jurisdictions</p> <ul style="list-style-type: none"> -It is sometimes unclear how authorities should interact with each other, especially when working with local, state, and federal governments -Sovereignty protections were the biggest concerns amongst Tribal emergency management practitioners -Certain Tribal and jurisdictional structures are layered, including different types of governments, which may not align with centralized decision making governance 	<p>partnerships, I believe in working with state agencies, but they're always a guess. They're always going to be guests.”- Participant 4</p> <p>“I do know during COVID, as well as during this flooding, we got to work because FEMA's working closely with the state and the county, so them providing us with deploying the [State department], with the National Guard, helping out with the sandbags, and as well as distribution of things, and so us, personally, we ended up not needing those, but they did have them available and ready to go in the event that we did need them.” - Participant 5</p>	<p>processes, tensions between governments, and lack of recognition/understanding of Tribal emergencies sometimes created barriers to emergency operations or financial access. On the other hand, strong relationships and mutual aid agreements often supported stronger responses. Emergency codes should then account for coordination between Tribal authorities while also protecting Tribal sovereignty and self determination during emergencies.</p>
<p>Emergency Management Implementation</p>	<p>This category focused on how emergency governance impacts emergency management operations in Tribal contexts. It included topics such as implementation challenges, staffing and resource capacity, planning processes, communication systems, and operational roles.</p> <p>Addresses Sub RQ 2, 3, and 4.</p>	<ul style="list-style-type: none"> -There is ambiguity around delegated authority which then creates operational challenges during emergencies, often caused by a lack of code or written procedure -Tribal emergency management practitioners often used their existing emergency plans as their emergency code -Tribal emergency management practitioners often felt unclear about what a code vs a plan entails -Common expressed importance of relationship building and trust in Tribal contexts, including in relation to authority and delegation of authority -Scope of event may decide breadth of authority -Planning and quick operational response is important in emergency 	<p>“ Okay, concept of operation. So activation levels, operation of incident, response of pre-activation. 24-hour notification, initial response, and reporting, those types of things. Things that we normally do, but we just don't have it in a process that's written on paper. So a lot of us will be doing these things, but of course, there's emergency declaration, the activation of the EOC, roles and responsibilities. So that's a big one, because it identifies a lot of the different people that should be responding within the Tribe. And then there's an emergency support function. Resource management of mutual aids, volunteer coordination, and financial management”- Participant 6</p>	<p>Emergency powers influence operational emergency management. Many interview participants noted that ambiguity in emergency authority may lead to slower emergency response. Further, emergency management staff often are balancing multiple responsibilities with limited capacity in staffing, training, or resources. Especially when resource/financial access authority is unclear, this can lead to certain operational challenges during emergencies. Further, emergency authority roles and responsibilities may act more anecdotally, leading to more role uncertainty and harder implementation of continuity of governance.</p>

		management operations		
Model Emergency Code Recommendations	This category focused on the relevance of a model emergency code within each Tribe. It included interview participant perspectives on what should be considered when developing an aligned and adaptable model Tribal emergency code. Addresses Sub RQ 2 and 4.	-Terminology and roles should be defined from the beginning -An implementation guide could support in aligning code with governance, as well as aligning internally on topics such as language and authority -Expressed encouragement to mirror language currently being used in existing codes or plans (which vary widely across different Tribes) -Consistent request for ability for the model code to be adaptable -Importance of flexible but clearly defined authority structures -More clarity in the ways different authorities interact	“ If you go to a community where the real focus is on understanding each other, and not necessarily the Western line by line. You're gonna want that code to match that community, because otherwise. It's not going to be interpreted, it's not going to be received, and it's not going to be operationalized in any functional way.”- Participant 8	TEMs consistently emphasized how important adaptability and access is in code, as well as alignment to current governance and structures. The code should function as an adaptable framework that can be reviewed and developed to become more relevant to the Tribe. Participants highlighted the importance of maintaining Tribal sovereignty during this process. There is support for both accountability in governance as well as flexibility in operations, recognizing that Tribal Nations are not a monolith and that emergencies are consistently changing.

Table 3: This table summarizes key findings and supportive quotes from TEM interviews organized across five themes: Tribal governance structure, Tribal emergency powers, jurisdiction & coordination, emergency management implementation, and model emergency code recommendations. These findings are then analyzed and explained as overall implications for the project.

To summarize, we found different avenues to create a more adaptable code to the way different Tribal powers, authorities, structures, and systems influence emergency operations. Along with this, we gained a better understanding of the need for and relevance of a model Tribal emergency code across different Nations. In the upcoming section, we will delve deeper into the structural analysis of drafting the model emergency code.

4.3 Emergency Code Review Analysis & Findings

This section analyzes the findings from our qualitative review of emergency management codes, and it primarily addresses Sub RQs 1, 2, and 4 (*Figure 2*). Code review was structured to focus on six topics. These are declaration and termination authority, changes to procedures, monitoring and oversight, rights protections, and limitations, emergency funding and fiscal powers, and use cases. We identified several reoccurring structural patterns present across Tribal, county, and municipal emergency powers codes. *Table 4* provides a brief description of each of these six topical themes and an overview of the resulting takeaways. A number of opportunities for adaptation and specialization were also clear. *Figure 7* shows how all codes were applied to all reviewed emergency management codes.

The elements described in emergency management codes may initially appear more procedural or administrative. However, examining differences in emergency code structure, elements included, and variation across government type, reveals far more than basic procedural language. Emergency management codes define assumptions of risk, delegations of authority, management procedure and essential structures of emergency governance. Reviewed emergency codes were designed primarily around the idea that emergencies require governments to act quickly. This was operationalized through unitary decision making, suspension of procedures explicitly described as “time consuming,” and granting additional authority to emergency management personnel. In this sense, emergency codes both gave legal authority for emergency response and clarified how governments may temporarily reorganize around emergency response and continuity of government. This remained true across Tribal, municipal, and county governments.

Six core/essential elements of emergency management code were almost always present. These essential elements, existing as a section of the emergency code chapter are:

1. Purpose & Definitions

This section generally outlined the tasks and functions of the code while also grounding these tasks in the source of the government's authority. Definitions often established what constituted an emergency, what role functioned as a unitary decision maker in an emergency, and what roles led emergency management.

2. Continuity of Government

This section identifies structures of emergency governance. That is, who fills a role should the incumbent be incapacitated, and how the decision making body will function should one or more members be incapacitated.

3. Declaration of Emergency

This section states how an emergency should be declared, including when it is authorized, who is authorized to make this declaration, what oversight is required, and how long the declaration remains in effect.

4. Duties of Emergency Management

This section describes what tasks emergency management practitioners are required to do and what resources they are enabled to utilize during a declared emergency. It most often outlines how the code connects to an emergency management plan.

5. Authorized Emergency Orders

This section provides the authority for, and describes, special orders or alternative procedures triggered by a declaration of emergency.

6. Other Elements

Many examples use an emergency management code as the section of their legal text where they outline the creation, structure, and tasks of a department of emergency management. This was not ubiquitous across reviewed codes, but frequent enough we included it in our model code (*See Appendix E.*) Other structural/non-substantive elements of code such as liability or severability clauses were also ubiquitous.

While each of these 6 elements were present across Tribal, municipal, and county government types, the specific language describing these elements did vary. Because our sample consisted of municipal and county codes only from Washington, we surmise that many of the similarities in

language within and across these government types can be attributed to state-level emergency management guidance. Some county and municipal codes utilized exactly the same language in certain sections, typically those that authorized emergency orders, established duties of emergency management, or defined terms. These sections often made reference to, or utilized definitions found in, state-level code (Revised Code of Washington). Language for these same sections found in Tribal emergency management code examples varied significantly. While this may in part be a result of how our sample was taken (Tribal emergency management code examples were gathered from across the nation), it was also clear that observed variation in Tribal governance structure created additional variation in language throughout the code. For example, while in municipal or county governments there was typically a formally identified emergency manager role or head of a department of emergency management, in Tribal government examples emergency management duties were exercised by a greater variety of formally and informally identified roles. These could include Tribal police chiefs, multiple emergency managers, or no formal emergency manager whatsoever.

We also observed variation in how the term “emergency” was defined between Tribal governments and other government types. County and municipal examples utilized similar language. These definitions typically identified similar lists of specific emergency situations ranging from all types of natural disaster to civil unrest, or invasion. Tribal examples identified similar types of situations but with less continuity between examples than municipal and county. In all three government types it was common to see that, in addition to specified emergency situations, “catch-all” language was utilized. This language typically preceded listed emergency situations describing emergencies as “including but not limited to...” These “catch-all” phrases allowed for a state of emergency to be declared in a wide variety of emergency situations despite significantly different definitions of “emergency.” This is visible in *Figure 9*, which shows nearly all use cases being coded for in each example code. This observation is representative of a common theme across our analysis, which is that variation in language allowed for specification and contextualization of emergency management practices and use cases, and that these specifications did not sacrifice the applicability or function of emergency management code as a whole.

Figure 7: All Code Counts for All Emergency Management Codes

All Code Counts

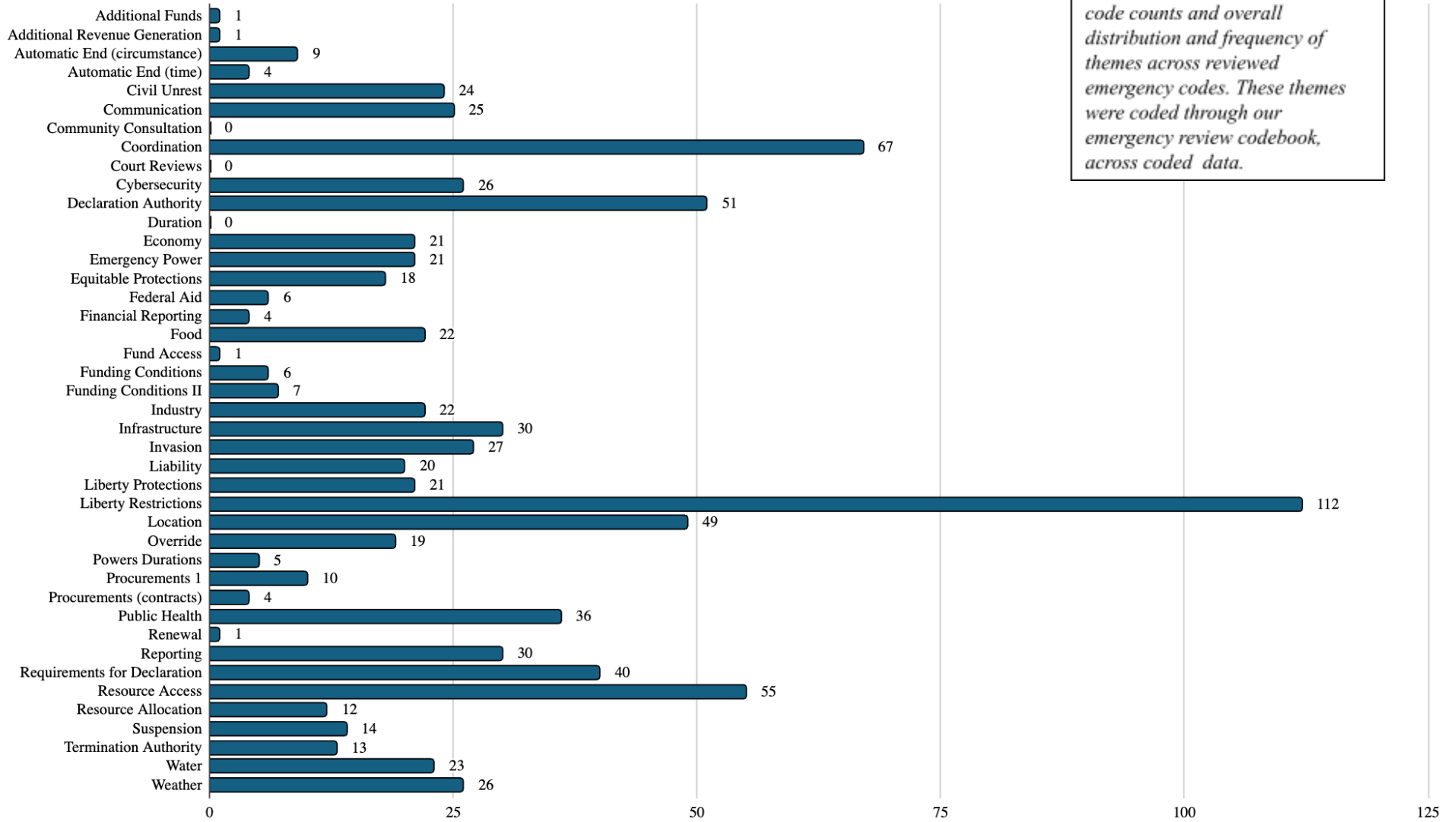


Figure 7: Presents the aggregate code counts and overall distribution and frequency of themes across reviewed emergency codes. These themes were coded through our emergency review codebook, across coded data.

One of the themes that appeared most commonly in our review was “Liberty Restrictions,” which appeared 80% more frequently than “Liberty Protections.” This difference is notable for two reasons (*see figure 7*). First, it underscores the inherent tension at the core of an emergency management code: “their declared goal is to re-establish constitutional order by temporarily suspending it.”⁷⁷ The ubiquity of this theme indicates that liberty restrictions are a ubiquitous and necessary element of this temporary suspension.⁷⁸ Second, it highlights the need for our model code to describe both the functional necessity of a liberty restriction and any concurrent opportunity for the protection of liberty so that implementers are fully informed.

Some of the themes in our codebook appeared rarely (*see figure 8*). “Court reviews,” “community consultation,” “duration,” and many of the themes in the emergency funding and fiscal powers section were rare in codes from all three types of governments. There are a number of reasons this may be the case, these reasons, and associated levels of certainty differ for each of the rarely used codes. “Judicial review” is not present in emergency management codes because a judicial review does not need to be authorized through code, it is a distinct and inescapable function of a government’s constitution or charter. Community consultation, if utilized, is a function of an emergency management plan, not code. Community consultation practices are time-consuming and deliberative, the opposite of the intended pace and function of emergency management codes. The theme “duration” referred to the practice of specifying time-specific uses of declarations. This theme was not present in our sample. We believe this may be an element included on the declaration form rather than required in code. The themes in the emergency funding & fiscal powers category were rarely triggered not because they were not present, but because our codebook defined these themes differently from how they appeared in reviewed emergency management codes. The instructions in our codebook described, among other themes, references to accessing specific funds or automatic budget alterations. In practice these functions are typically described in relation to resource access or utilization rather than specifying fund or monetary resources.

⁷⁷Bjornskov, & Voigt, p. 887.

⁷⁸Bjornskov, & Voigt, p. 887.

Overall, the emergency code review helped us understand core elements, structure, and language necessary in drafting a model code. Meanwhile, TEM interviews helped us understand ways to make the code adaptable and aligned across different Tribes, and the need for it to be operationally sound through the addition of certain elements. In the next sections, we will explore a synthesis of the findings and how they inform the drafting of the model Tribal emergency management code.

Table 4: Emergency Code Review Findings and Implications

Theme	Description	Emergency Code Findings	Sample Excerpts	Overall Implications
Declaration & Termination Authority	<p>Codes in this category describe who has the power to declare or terminate an emergency, general requirements for declaration, expiration, and override.</p> <p>Addresses Sub RQ 1, 2, and 4.</p>	<p>-Head executive typically declared with ratification, alteration, or override residing in the council.</p> <p>-Requirements often relied on situations of impending or actual loss of life or property as a result of a situation defined as an emergency in the definitions section.</p> <p>-Terminations or expirations were typically tied to an end of the emergent situation and rarely a result of a set duration.</p>	<p>Declaration and Requirements for Declaration: “Whenever a civil emergency, or the imminent threat thereof, occurs in the City and results in, or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the mayor, extraordinary and immediate measures to protect the public peace, safety and welfare, the mayor shall forthwith proclaim in writing the existence of a civil emergency, including in the proclamation a brief description of the facts constituting the civil emergency.”⁷⁹</p> <p>Termination Authority and Override: “The mayor shall terminate the declaration of civil emergency when order has been restored in the affected area of the City.”⁸⁰</p>	<p>Emergency powers structure frequently prioritized quick, centralized executive decision making while still maintaining some degree of oversight through councils or other governing bodies. Tying declarations and terminations to the existence of emergency conditions rather than fixed durations suggests that many emergency powers codes are designed to remain flexible and responsive to changing emergency conditions. However, this structure may create ambiguity around when emergency authority should formally end if termination thresholds are not clearly defined. Across jurisdictions, these structures reflected broader governance priorities around balancing quick and efficient emergency response with political oversight and accountability.</p>
Changes to Procedures	<p>Codes in this category described how procurements & resources may be accessed differently, how coordination must be carried out with other entities, and any suspensions to normal operating procedures.</p>	<p>-Typically accounted for the acquisition or use of any government owned private resources deemed necessary to protect life and property.</p> <p>-Many procedures included language that allowed for a decision maker to act unilaterally, with ratification or rejection of this action taking place at a later time.</p>	<p>Suspension: “In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.”⁸¹</p> <p>Procurements: “The city manager or designate, including but not limited to the purchasing manager, may make emergency procurements consistent with the provisions of those portions of Section 2 of Ordinance M-2129 codified at VMC (Emergency</p>	<p>Emergency powers focused on procedural flexibility, as many codes were designed to temporarily bypass standard administrative or procurement procedures in order to speed up emergency response and mobilizing resources. This then suggests that emergency authority is oftentimes structured around expanding executive authority during declarations. Meanwhile, provisions that allowed unilateral action with later ratification show that accountability structures are frequently deferred until all immediate actions have already been operationalized. These structures then may increase</p>

⁷⁹ City of Spokane. (n.d.). *Title 02: Council and legislation—Emergency management*. Spokane Municipal Code.

⁸⁰ City of Spokane. (n.d.). *Title 02: Council and legislation—Emergency management*. Spokane Municipal Code.

⁸¹ Oneida Nation. (2023). *Emergency Management (3 O.C. 302)*. Originally adopted July 15, 1998; amended March 8, 2023.

	Addresses Sub RQ 1, 2, and 4.		procurement). ⁸²	responsiveness while also still concentrating decision making authority during emergencies.
Monitoring & Oversight	<p>This category identifies language that describes reporting requirements, oversight mechanisms, community consultation, communication of actions taken, and duration limits to specific powers.</p> <p>Addresses Sub RQ 1, 2, and 4.</p>	<p>-Reporting of emergency management actions to governing body was not common.</p> <p>-Community consultation was not present in any reviewed code.</p> <p>-Communication was typically a required action following an emergency declaration or emergency order.</p> <p>-Few powers were limited to durations different from that of the state of emergency.</p>	<p>Reporting and Communication: “Notice. Prior to conducting and holding special meetings, each member of the council shall be given notice of the meeting and public notice shall be provided as required by the Open Public Meetings Act, Chapter 42.30 RCW. Notice of a special meeting may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage as provided in RCW 42.30.080.”⁸³</p>	<p>These appeared limited compared to other themes across reviewed codes. While communication and reporting following declarations were often required and showed up more frequently, duration limits on powers, court review, and community consultation were far less common. This suggests that many emergency governance systems place more emphasis on activating and maintaining emergency authority over establishing ongoing accountability/oversight into the processes. The absence of community consultation may also reflect how emergency governance might prioritize administrative efficiency and speed, and centralized coordination, over community driven decision making when it comes to emergencies.</p>
Rights, Protections, and Limitations	<p>This category included codes for language that describes how civil liberties are protected or restricted, as well as how the authority to alter these liberties may be limited.</p> <p>Addresses Sub RQ 1, 2, and 4.</p>	<p>-This section was most varied and situationally specific in Tribal Code examples. In municipal and county examples language was frequently identical across examples.</p> <p>-Liberty restrictions were ubiquitous in emergency orders.</p> <p>-Many emergency codes allowed for ratification or override of specific powers, creating opportunity for further liberty protection.</p>	<p>Liberty Restrictions and Liberty Protections: “An order requiring the closure of any or all business establishments where firearms and/or ammunition for firearms are sold or otherwise dispensed; provided, that with respect to those business establishments which are not primarily devoted to the sale of firearms and/or ammunition and in which such firearms and/or ammunition may be removed or made secure from possible seizure by the public, the portions thereof utilized for sale of items other than firearms and ammunition may, in the discretion of the mayor, be allowed to remain open.”⁸⁴</p>	<p>Emergency codes often included broad authority to restrict civil liberties during emergencies, which reflects how emergency governance is often designed to prioritize collective safety & processes that facilitate quick response. Override or limitation elements in some codes may suggest attempts to preserve checks on emergency authority while reducing the risk of unrestricted powers. Furthermore, larger variability in Tribal codes may highlight how the differences in their governance structures, governance & community priorities, local contexts, sovereignty considerations, and specific processes and approaches then balance the need for public safety and individual & collective rights.</p>

⁸² City of Vancouver. (2000). Chapter 2.12: Emergency management. In Vancouver Municipal Code. City of Vancouver.

⁸³ Kitsap County. (2019). Chapter 2.104: Emergency management. In Kitsap County Code.

⁸⁴ City of Yakima. (2009). *Chapter 6.06: Emergency powers of mayor, city council, and city manager*. Yakima Municipal Code.

<p>Emergency Funding & Fiscal Powers</p>	<p>This category coded for language describing how funding or aid may be accessed during an emergency.</p> <p>Addresses Sub RQ 1, 2, and 4.</p>	<p>-This category was the least utilized from our codebook. We found that emergency codes used the language of resource access rather than access to funds or monetary resources.</p>	<p>Federal Aid: “Coordinate preparation of disaster proclamations and the appropriate documentation thereof for the purpose of obtaining state and federal relief and assistance.”⁸⁵</p> <p>Additional Revenue Generation: “Levy of taxes to meet costs of disaster response and recovery operations; and upon such review the city council may ratify and confirm, modify, or reject any such order, and if rejected, any such order shall be void.”⁸⁶</p>	<p>Financial authority explicitly appearing the least out of other areas of emergency governance, with language around resource access instead, may indicate that emergency governance codes might often assume funding mechanisms may exist somewhere else within the governmental/administrative structure or system. Further, this could indicate a reliance on external aid programs. This limited specificity around emergency funding and fiscal powers may create unclarity or challenges with funding access federally or externally, and considerations around reimbursement or long term capacity/funding during recovery.</p>
<p>Use Cases</p>	<p>This category coded for what situations an emergency may be declared for including, weather, attack, public health crisis, and food or water disturbances.</p> <p>Addresses Sub RQ 1, 2, and 4.</p>	<p>-While specific language varied significantly, the vast majority of codes allowed for declaration across most types of emergency situations.</p>	<p>“‘Disaster’ includes, but is not limited to, actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, accident, chemical spills or other impending or actual calamity endangering or threatening to endanger health, life or property of constituted government.”⁸⁷</p>	<p>The wide range of emergency use cases appeared across jurisdictions, which suggests that many emergency codes are designed to intentionally function flexibly through different types of hazards. This shows an understanding across codes that emergencies are dynamic and open to interpretation, and are context dependent. Suggesting an adaptable governance that is capable of responding to a variety of conditions that may be changing. Variation across terminology also suggests a need for each government to align on terminology and definitions when developing their emergency code.</p>

Table 4: This table summarizes key findings and supportive excerpts from emergency code review organized across six themes: declaration & termination authority, changes to procedures, monitoring & oversight, rights, protections, and limitations, emergency funding & fiscal powers, and use cases. These findings are then analyzed and explained as overall implications for the project.

⁸⁵ King County. (2023). *Chapter 2.56: Emergency management*. King County Code.

⁸⁶ City of Yakima. (2009). *Chapter 6.06: Emergency powers of mayor, city council, and city manager*. Yakima Municipal Code.

⁸⁷ Burns Paiute Tribe. (2009). *Emergency Management Code (BPTC Chapter 8.3)*. Adopted by Tribal Council Resolution No. 2009-24.

4.4 Synthesized TEM Interview & Emergency Code Review Findings

Across the two sources, we saw several consistent patterns emerge that suggest both alignment and deviation in findings. While the code review provided us valuable information in understanding common structural patterns within emergency code, interviews offered nuance and insight into governance structures and systems, how authorities interact, how governance impacts emergency operations, and direct recommendations from interview participants. Combined, both sources shaped the development of the model Tribal emergency code.

Sovereignty protections and adaptability of the code became a significant finding because many existing emergency codes appear to be built around assumptions in county and municipal governance, whereas Tribal emergency governance, as noted through interviews and literature review, is highly place-based and relational. Interview participants consistently emphasized that no singular emergency governance structure could universally apply across Tribal Nations due to variations across Tribes, as discussed in *Section 4.2*. Meanwhile, we did notice several common themes across jurisdictions, including Tribal, county, and municipal codes. One of the clearest overlaps between the emergency code review and TEM interviews were the need for clarity in structures, roles, and responsibilities of authorities. This includes clarity in continuity of governance including those making declarations, those in Tribal emergency management, and those responding to emergencies. Another consistent finding was the importance of sovereignty protection within emergency management powers systems. Presented together, these findings indicate a need for Tribes to align on purpose and definitions before drafting of the model code.

By synthesizing the emergency code review and TEM interviews, we identified several elements as critical to include in our model emergency code.

Figure 10: Synthesized Priorities between Emergency Code Review and TEM Interviews

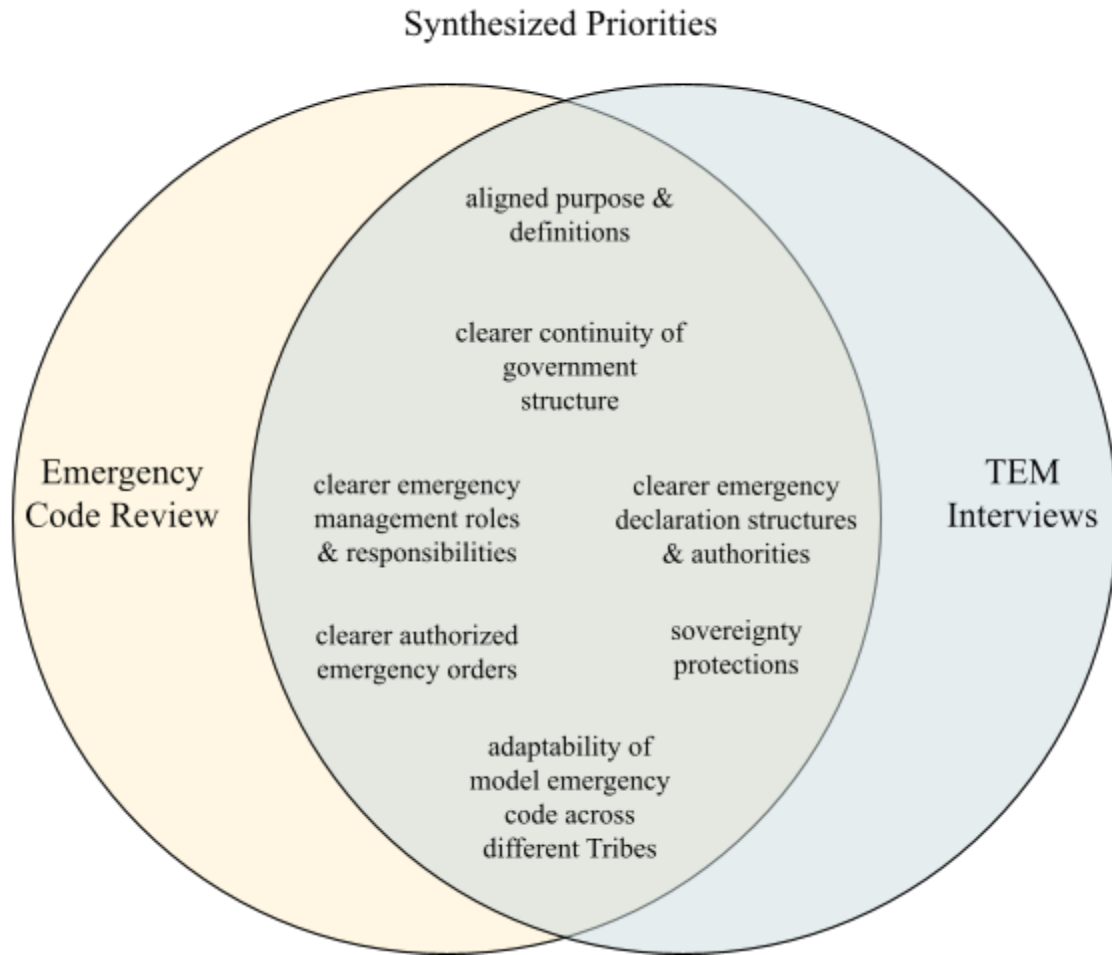


Figure 11: Illustrates the shared priorities identified across both the emergency code review and TEM interviews.

As shown in *Figure 10*, findings revealed outlines a need for the following:

1. Sovereignty protections
2. Adaptability of model emergency code across different Tribes
3. Aligned purpose & definitions
4. Clearer continuity of government structure
5. Clearer emergency declaration authorities
6. Clearer emergency management roles & responsibilities
7. Clearer authorized emergency orders

These findings went on to inform the drafting of our model Tribal emergency management code, as outlined in the following section.

4.5 Implications for Drafting a Model Tribal Emergency Management Code

Findings from our analysis were used to develop the structure and purpose of the model Tribal emergency management code. One of the biggest implications was that because Tribal governance differs significantly from local and state governance, and because governance structures differ significantly between Tribal Nations, the code should be an adaptable governance framework intended to support sovereign emergency powers within different Tribal governance structures. By centering Tribal governance and supporting adaptability of the code, we aim to preserve Tribal agency in developing a more relevant and useful emergency code from the model code.

Below in *Table 5*, we outline a summary of our key findings and what they mean for the development of a model Tribal emergency management code.

Table 5: Findings that Inform Drafting a Model Tribal Emergency Management Code

Key Finding	Implication for Drafting a Model Tribal Emergency Management Code
Sovereignty protections	Tribal emergency code must reinforce Tribal sovereignty and reflect Tribal governance philosophies. Tribal Model code acts as a tool for reinforcing Tribal sovereignty within emergency governance. Model code centers Tribal governance and contexts, with existing Tribal codes acting as a reference from which language and core elements were pulled.
Adaptability of model emergency code across different Tribes	Tribal governance systems and contexts vary significantly across Tribal Nations. Model code is adaptable across different systems & contexts, and is treated as an annotated guide rather than solely a template.
Aligned purpose & definitions	Alignment on purpose and definitions will be crucial in developing an emergency code grounded in different Tribal contexts. Model code includes a

	section for Tribes to define their purpose, as well as align on different terminology they may be using.
Clearer continuity of government structure	Continuity of governance felt unclear or was not explicit in some Tribal governance structures. Model code includes a section for Tribes to clarify who assumes authority when an incumbent official is incapacitated.
Clearer emergency management roles & responsibilities	Emergency management authorities need clarity on structures, roles, and responsibilities. Model code includes an outline for Tribes to better align and understand the structures, roles, and responsibilities within Tribal emergency management departments.
Clearer emergency declaration structures & authorities	It is requested for declaration authorities to have clarity on structures, roles, and responsibilities. Model code includes an outline for Tribes to better align and understand the structures, roles, and responsibilities within Tribal emergency declarations.
Clearer authorized emergency orders	It is requested to have clarity on provisions that are enacted after a state of emergency is declared. Model code includes a section for Tribes to align on provisions such as procedures for procurement and use of resources, temporary restriction of personal liberties, procedures for commandeering private property, and interacting with aid.

Table 5: Analyzes the synthesized findings from the emergency code review and TEM interviews and shares implications for developing the model Tribal emergency management code.

The core elements included in the model code were pulled from the key findings listed above, and were adapted into the following sections: Purpose & Definitions, Continuity of Government, Department of Emergency Management, Authorized Emergency Orders, and Additional Necessary Elements. The model emergency code also includes an Implementation Guide and a set of instructions in Interacting with this Model Code. These supplementary resources would support Tribal sovereignty by facilitating discussion amongst Tribes to gain alignment in definitions, roles, and responsibilities, while adapting the code to the specific Tribe and enabling

the exercise of emergency powers in ways that are responsive to local contexts and priorities. The sections are outlined as follows (refer to *Appendix E* for more details):

- Implementation Guide
- Interacting with this Model Code
- Purpose & Definitions
- Continuity of Government
- Department of Emergency Management
- Authorized Emergency Orders
- Additional Necessary Elements

4.5.2 Considerations for an Adaptable Tribal Model Emergency Code

Many interview participants expressed concern over a model template, emphasizing the vast differences between Tribal Nations and how crucial it is for Tribes to drive the code development and discussion process. Accessibility and adaptability emerged as some of the most common findings across TEM interviews and emergency code review. This underlined the importance of offering components such as modular language, optional or expandable provisions, annotations, and prompts to help each Tribe determine what sort of emergency-powers code would align with its governance structure. To encapsulate the diversity of Tribal governance, the code shifted away from functioning as a standardized template while moving toward an adaptable annotated-style framework. We embedded annotations within the model code and created an implementation guide as a supplementary document to meet these needs.

Annotations were included to support Tribes in better understanding the nuances within each section, as well as how they might operate within the context of their own Tribe. It provides prompts that will help Tribes answer questions on the consistency of their language, what language makes the most sense for their contexts, what authority might look like, whether there are accountability measures in place, and how their emergency code might compare to codes in other Tribes, cities, and counties (see *Appendix E* for more details).

To further provide clarity and accessibility, we developed an implementation guide to support pre-drafting discussions amongst relevant code development participants in Tribal governments. This addition was informed by a recommendation from an interview participant, as well as an expressed concern amongst participants on the adaptability of this model code. The implementation guide is intended to provide a structure and rhetorical questions to guide conversations concerning what language, authorities, powers, systems, structures, and approaches might be most appropriate for a Tribe's specific priorities and contexts. It includes a suggested structure to set up these conversations, including who should participate; what documents, frameworks, structures, and authorities already exist that may be helpful in developing the code; and considerations for community and leadership review as well as future updates and maintenance. The guide also helps users work through questions that the code and annotations alone cannot answer, such as those supporting users in addressing possible adaptations for certain code elements. These include sovereignty, purpose and definitions, continuity of government, department of emergency management, governance structures, roles and responsibilities, coordination, declaration of emergencies, authorized emergency orders, adaptability, and communication (see *Appendix E* for more details).

Chapter 5: Recommendations & Future Evaluation

5.1. Recommendations

We make the following recommendations based on our experience developing the model code. We would like to reiterate that this emergency management code is simply intended as a resource for any Tribal Nation to consider using as long as it is aligned with existing priorities and processes.

A) Tribal governments should consider codifying their emergency management practices.

In investigating the use and prevalence of emergency management codes across Tribal, municipal and county governments two things became clear. First, emergency management codes were far less prevalent in Tribal Government contexts. Second, codified emergency management practices and powers have significant utility. Codification both clarifies these extraordinary practices and legitimizes them through grounding in legal authority. These benefits are even more important in a Tribal context because they also serve as protection and demonstration of sovereignty.

B) Tribal emergency management code should be tailored to the needs and structures of an individual Tribe.

Through our research we came to understand that, while there are identifiable core elements of emergency management code that exist across Tribal, municipal, and county governments, these core elements are tailored to the specific needs and structures of an individual government. Interviews with Tribal emergency management practitioners reinforced this necessity. When asked about the utility of codified emergency management practices, practitioners often pointed to how code could clarify delegation of authority, operational abilities, and decision making structures, all of which are specific to an individual Tribe. For this reason, a cookie-cutter approach will not work—instead, we recommend that emergency management code is tailored in a thoughtful way to the needs and structures of an individual Tribe.

C) A useful model emergency management code should maintain the core elements of emergency management code, while also being informative and adaptable.

The purpose of this study was to understand not only how emergency management codes may function in a Tribal government context, but to provide a useful tool that assists Tribes wishing

to codify emergency management practices. Two insights shaped our approach to incorporating utility in our model code. First, given the necessity of tailoring emergency management code to an individual tribe, a “one-size-fits-all” model code would be ineffective. Second, ensuring that this tool supported the protection and demonstration of Tribal self-governance meant that guidance should be adaptable rather than prescriptive. Taken together, a useful code should include the essential elements of emergency management code, provide supporting analysis, and highlight where language should/could be adapted.

D) Implementing this Model Code should start with review of existing practices, government structure, and legal frameworks in a deliberative and well-represented setting.

Emergency management codes almost always incorporate extraordinary powers or alternative procedures that, without purposeful consideration, can endanger a government’s continuity, hinder effective response, and erode the trust of the public. Because of this, effective implementation requires significant understanding of the implementing government’s structure, values, and emergency management practices. We recommend that Tribes seeking to implement the model code begin by addressing these elements in a setting conducive to deliberation and representation across the emergency management and governance structures of the Tribe. Depending on the Tribe’s governance structure and priorities, this may include Tribal Council, other Tribal leadership, emergency management staff, emergency operations staff, department representatives, legal counsel, code committees, Elders, cultural leaders, community representatives, or other participants identified by the Tribe.

5.2 Limitations

A) Interaction with other governments’ emergency management procedures & law.

Model code is designed to share useful legal language and basic analysis with the intention that it is used by a broad audience. In shaping this tool for a broad audience, there are inherent limitations to the depth of analysis provided. In particular, we are limited in how deeply we can explore Tribal emergency management code interaction with the legal frameworks of a state and the subdivisions of that state’s government.

B) Fidelity with existing Tribal Code.

Effective code benefits from grounding definitions and authorities in preexisting elements of government's legal text. Maintaining continuities in language and setup between existing code and newly drafted code is a significant part of tailoring a legal mechanism to the context of a specific government. This tool is inherently limited in its ability to meet this need. It is altogether possible that our model code is significantly dissimilar from the setup, or state of development of a Tribe's existing code, and therefore less useful without significant customization.

C) Limited perspective of non-emergency management related government personnel.

In addition to emergency management code providing essential guidance for emergency response, these codes also describe the structure of an emergency government—that is, strategies for continuity of operations should the government itself be negatively affected or incapacitated in some form during an emergency. While appointing interim successors or developing chains of continuity for some key positions are options, we believe our guidance and analysis related to emergency governance structures could be improved by broadening our interview sample to include non-emergency management government officials. These might include Tribal council members or Tribal general managers.

5.3 Future Evaluation

The utility and effectiveness of this model code would benefit from future evaluation across measures of implementation, impact, and Tribal scholarly review. Here are three evaluation types we believe could contribute.

A) Implementation Assessment

An implementation assessment would ask those who have utilized our model code to share their experience with it, including whether it was useful, what challenges they faced in using it, and how they believe it could be improved. Gaining the perspective of on-the-ground practitioners could provide a path to further refinement.

B) Impact Evaluation

Similarly, an impact evaluation would attempt to describe the relationship between emergency power codification outcomes and use of the model code. That is, did the model code allow Tribes to establish emergency powers with greater ease or what were the characteristics of resulting codes?

C) Review by Tribal Legal Scholars

This model code is situated in the complex and evolving legal relationship between Tribal Nations and governments of the United States, concerning which we do not claim to be experts. Further analysis of the relevance and effective scope of the elements we included in this model code by Tribal legal scholars could add an additional layer of expertise.

Appendices

A

Emergency Management Code Content Analysis Codebook

B

Interview Content Analysis Codebook

C

Interview Protocol

D

Emergency Management Codes Reviewed

E

Model Tribal Emergency Management Code

Appendix A: Emergency Management Code Content Analysis Codebook

Subtheme	Definition	Code name	Coding Instructions
Declaration & Termination Authority			
Who declares	Identifies which governmental actor may issue an emergency declaration.	Declaration authority	Code “1” for language identifying who may issue an emergency declaration.
Preconditions for declaration	Legal criteria required before an emergency may be declared.	Requirements for Declaration	Code “1” for language identifying criteria required to issue an emergency declaration.
Duration of declaration	Time limits on the initial emergency period.	Duration	Code “1” for language identifying how long an emergency declaration lasts.
Who terminates	Who may end, not overturn, a state of emergency.	Termination Authority	Code “1” for language identifying who may terminate an emergency declaration.
Renewal procedure	Requirements for extending an emergency declaration.	Renewal	Code “1” for language identifying requirements to extend the period of an existing emergency declaration.
Automatic expiration	Provisions that cause emergencies to end automatically.	Automatic end	Code “1” for language identifying emergency declarations ending based on a set of circumstances Code “2” for language identifying emergency declarations ending based on the expiration of a stated timeframe.
Legislative override	Legislative power to revoke or limit emergency authority.	Override	Code “1” for language allowing for a legislative or governing body to revoke or override an emergency declaration.
Changes to procedures			
Suspension of Statutes	Authority to waive or suspend legal requirements.	Suspension	Code “1” for language allowing for suspension of procedures found in other parts of legal code during a state of

			emergency.
Procurement flexibility	Emergency purchasing and contracting powers.	Procurements	Code “1” for language allowing for alternative purchasing or contracting procedures during a state of emergency.
Resource Access	Authority to access personnel, or equipment.	Resource Access	Code “1” for language allowing special access to personnel or equipment during a state of emergency.
Resource Allocation	Authority to mobilize, distribute, or reallocate resources, personnel, or equipment.	Resource Allocation	Code “1” for language describing structures of prioritizing of resource distribution.
Coordination requirements	Requirement to interact with other emergency management organizations or governmental entities.	Coordination	Code “1” for language detailing requirements of coordination and collaboration with external emergency management bodies during a state of emergency.
Monitoring & Oversight			
Reporting requirements	Required reports to governing body or public.	Reporting	Code “1” for language detailing requirements to report data or situational updates to a governing body or the public during a state of emergency.
Financial oversight	Monitoring of emergency spending.	Financial reporting	Code “1” for language detailing requirements to report financial data related to management of the emergency to a governing body during a state of emergency.
Duration limits on extraordinary powers	Time limits on specific emergency powers.	Powers durations	Code “1” for language outlining additional time limits to powers, procedures, or other extraordinary practices that have been triggered by a declaration of an emergency.
Judicial review	Court authority to review or invalidate declarations.	Court reviews	Code “1” for language outlining authority of a court or other judicial authority to review and overturn emergency declarations.
Community consultation	Requirements for consultation with affected	Community consultation	Code “1” for language describing consultation with community groups or

	communities or local organizations during emergency decision-making.		impacted populations during a state of emergency.
Communication accessibility	Requirements how information communicated to the public should be made accessible.	Communication	Code “1” for language describing how communication must be made accessible to the public during a state of emergency.

Rights, Protections, and Limitations

Protection of Civil Rights	Explicit limits on emergency powers.	Liberty Protections	Code “1” for language outlining specific protections to civil rights, which an emergency declaration may not alter.
Equitable Protections	Explicit protections or considerations for populations that may face disproportionate harm during emergencies.	Equitable Protections	Code “1” for language describing protections for populations facing disproportionate risk during a state of emergency.
Liability Protections	Immunity for officials or responders.	Liability	Code “1” for language restricting the liability of the governing body for actions taken in management of an emergency during a state of emergency. Code “2” for language restricting the liability of a person or group acting on behalf of the government in management of an emergency during a state of emergency.
Limits on Emergency Power	Statutory boundaries on emergency authority for decision making persons who are not part of the judicial or legislative body.	Emergency Power	Code “1” for language detailing limits to the emergency authority of an executive.
Changes to civil liberties	Temporary restrictions on individual rights including enforcement mechanisms used to implement emergency orders.	Liberty restrictions	Code “1” for language allowing for the restriction of individual rights during a state of emergency.

Emergency Funding and Fiscal Powers

Access to Emergency Funds	Authority to draw from special accounts.	Fund Access	Code “1” for language allowing access to special accounts during a state of emergency.
Budget Flexibility	Expansion or alteration of a budget.	Additional Funds	Code “1” for language describing automatic appropriations or budgetary expansions to specific groups during a state of emergency.
Federal Aid Coordination	Procedures for requesting federal assistance.	Federal Aid	Code “1” for language describing procedure to request federal disaster aid as a result of an emergency declaration.
Funding Conditions	Requirements that must be met to receive federal funding.	Funding Conditions	Code “1” for language describing requirements that must be met in order to access federal funding.
Funding Conditions	Requirements that must be met for emergency management practitioners to receive or access emergency management funding.	Funding Conditions	Code “1” for language describing requirements that must be met in order for emergency management practitioners to receive or access emergency management funding.
Emergency Tax or Fee Authority	Temporary measures to increase revenues.	Additional Revenue Generation	Code “1” for language describing authority to levy temporary taxes or fees to generate additional revenues in support or response to a state of emergency.

Use Cases

Geographic scope	Location a declaration of a state of emergency is applicable to.	Location	Code “1” for language describing the geographic scope of an emergency declaration.
Natural Disaster	Weather or climate.	Weather	Code “1” for language allowing an emergency to be declared as a result of weather or climate related disaster.
Public health emergencies	Disease outbreaks or contamination.	Public Health	Code “1” for language allowing an emergency to be declared as a result of a public health emergency.
Food system emergencies	Threats to or failure of food systems.	Food	Code “1” for language allowing an emergency to be declared as a result of a food system emergency.

Water system emergencies	Threats to or failure of food systems.	Water	Code “1” for language allowing an emergency to be declared as a result of a water system emergency.
Infrastructure failure	Failure or disruption of critical infrastructure systems.	Infrastructure	Code “1” for language allowing an emergency to be declared due to failure or disruption of critical infrastructure.
Security	Threats to public safety as a result of externally originating invasion.	Invasion	Code “1” for language allowing an emergency to be declared as a result of an invasion or externally originating threat.
Civil Disorder	Threats to public safety as a result of internally originating unrest.	Civil unrest	Code “1” for language allowing an emergency to be declared as a result of civil unrest or disorder.
Technological Hazard	Threats to public wellbeing or infrastructure due to Cyber/internet based attacks.	Cybersecurity	Code “1” for language allowing an emergency to be declared as a result of a cybersecurity attack or threat.
Industrial Hazard	Threats to public safety in any of the above forms as a result of commercial activity.	Industry	Code “1” for language allowing an emergency to be declared as a result of harm caused by commercial activity.
Economic Emergency	Severe economic disruption.	Economy	Code “1” for language allowing an emergency to be declared as a result of severe economic disruption.

Appendix B: Interview Content Analysis Codebook

Subtheme	Definition	Code name	Coding Instructions
Tribal Governance Structure			
Governance structure	Overall structure of emergency management within the Tribal government.	Governance structure	Code “1” for language describing how emergency management is organized within the Tribal government.
Chain of command	Hierarchy of leadership, decision-making, and reporting relationships during emergency response.	Command chain	Code “1” for language describing hierarchy of leadership, decision-making, and reporting relationships during emergency response.
Incident command use	Use of Incident Command System (ICS) or similar frameworks to organize response roles and operations.	ICS	Code “1” for language referencing use of ICS or structured response frameworks.
Continuity of Government	Who succeeds whom when someone is incapacitated during emergencies.	Decision structure	Code “1” for language describing who succeeds who when someone is incapacitated during emergencies.
Coordination structure	How individuals or roles interact with each other during emergencies.	Coordination structure	Code “1” for language describing how internal roles or departments interact during emergency response.
Advisory structure	Committees, working groups, or other advisory structures that support emergency planning or decision-making.	Advisory structure	Code “1” for language referencing committees, working groups, or other advisory structures supporting emergency management.
Department role	Roles and responsibilities of Tribal departments in emergency response.	Department role	Code “1” for language describing roles and responsibilities of Tribal departments in emergency response.
Role formalization	Whether roles and responsibilities are formally defined in	Role formalization	Code “1” for language describing whether roles are formally defined in policy/code or operate informally.

	policy/code or operate informally.		
Tribal Emergency Powers			
Preconditions for Declaration	Reasons, conditions or situations that lead to the declaration of an emergency.	Declaration triggers	Code “1” for language describing purpose, function, conditions or situations that lead to an emergency declaration.
Declaration effects	What authorities, actions, or changes occur after an emergency is declared.	Declaration effects	Code “1” for language describing what authorities, actions, or changes occur after an emergency is declared.
Declaration structure	How emergency declarations are structured (e.g. duration, renewal, termination).	Declaration structure	Code “1” for language describing how emergency declarations are structured (e.g. duration, renewal, termination).
Declaration authority	Authority to declare a state of emergency.	Declaration authority	Code “1” for language identifying who has authority to declare an emergency.
Declaration review authority	Authority to review or invalidate state of emergency declarations.	Declaration review	Code “1” for language describing authority to review or invalidate an emergency declaration.
Termination authority	Who may end, not overturn, a state of emergency.	Termination Authority	Code “1” for language identifying who has authority to end a state of emergency.
Management authority	Who may make or coordinate decisions or delegations in the event of an emergency.	Management authority	Code “1” for language identifying who may make or coordinate decisions or delegations in the event of an emergency.
Operational authority	Authority to take direct actions during emergencies.	Operational authority	Code “1” for language describing authority to take direct emergency actions.
Resource access authority	Authority to access resources, personnel, or equipment.	Resource access	Code “1” for language describing authority to access personnel, equipment, or facilities.
Resource allocation authority	Authority to mobilize, distribute, or reallocate	Resource allocation	Code “1” for language describing authority to distribute or prioritize resources.

	resources, personnel, or equipment.		
Community consultation	Requirements for consultation with affected communities or local organizations during emergency decision-making.	Community consultation	Code “1” for language describing consultation with community groups or impacted populations during a state of emergency.
Equitable Protections	Explicit protections or considerations for populations that may face disproportionate harm during emergencies.	Equitable Protections	Code “1” for language describing protections for populations facing disproportionate risk during a state of emergency.
Powers evaluation	Reflections on how emergency powers and authority are exercised.	Coordination evaluation	Code “1” for language describing reflections on how emergency powers and authority are exercised.
Jurisdiction & Coordination			
Sovereignty protection	Efforts to maintain and assert Tribal authority and self-determination during emergency response.	Sovereignty protection	Code “1” for language describing efforts to maintain or assert Tribal authority and self-determination.
Jurisdictional authority	Scope and limits of Tribal authority over lands, people, enterprise, and actions.	Jurisdictional authority	Code “1” for language describing the scope or limits of Tribal authority over lands, people, enterprise, and actions.
Government-to-government relations	Formal relationships between Tribal governments and federal, state, or local governments.	Government relations	Code “1” for language describing formal relationships between Tribal governments and federal, state, or local governments.
Federal funding conditions	Requirements that must be met to receive federal funding.	Federal funding	Code “1” for language describing requirements that must be met in order to access federal funding.
Federal coordination	Coordination with federal governments and agencies.	Federal coordination	Code “1” for language describing coordination with federal agencies.
State coordination	Coordination with state governments and agencies.	State coordination	Code “1” for language describing coordination with state agencies.

Local coordination	Coordination with county or municipal governments and agencies.	Local coordination	Code “1” for language describing coordination with county or municipal agencies.
Internal coordination	Coordination among Tribal departments and internal entities.	Internal coordination	Code “1” for language describing coordination among Tribal departments or internal entities.
Mutual aid agreements	Formal or informal agreements to share resources or support with other jurisdictions.	Mutual aid agreements	Code “1” for language describing formal or informal agreements to share resources across jurisdictions.
Coordination evaluation	Reflections on how emergency management is coordinated externally and internally.	Coordination evaluation	Code “1” for language describing reflections on external and internal coordination.

Emergency Management Implementation

Staffing capacity	Availability and adequacy of personnel for emergency management.	Staffing capacity	Code “1” for language describing availability or limitations of personnel.
Training capacity	Availability and adequacy of emergency response training.	Training capacity	Code “1” for language describing availability or adequacy of training.
Resource capacity	Availability and adequacy of equipment, infrastructure, or other resources for emergency response.	Resource capacity	Code “1” for language describing availability or limitations of equipment or infrastructure.
Internal funding conditions	Requirements that must be met for emergency management practitioners to receive or access emergency management funding.	Internal funding	Code “1” for language describing requirements that must be met in order for emergency management practitioners to receive or access emergency management funding.
Administrative burden	Administrative or bureaucratic challenges that affect emergency response.	Administrative burden	Code “1” for language describing administrative or bureaucratic challenges.
Emergency experience	Experience responding to emergency events.	Emergency experience	Code “1” for language describing experience responding to actual

			emergency events.
Emergency plans	Use and role of formal emergency plans.	Emergency plans	Code “1” for language referencing use and role of formal emergency plans.
Preparedness activities	Planning and preparedness efforts taken before emergencies.	Preparedness activities	Code “1” for language describing planning or preparedness efforts before emergencies.
Government reporting requirements	Required reports to governing body.	Government reporting	Code “1” for language detailing requirements to report data or situational updates to a governing body during a state of emergency.
Public reporting requirements	Required reports to the public.	Public reporting	Code “1” for language detailing requirements to report data or situational updates to the public during a state of emergency.
Public communication	Mode of communicating emergency, evacuation and rescue plans to Tribal communities.	Public communication	Code “1” for language describing communication with Tribal community members during emergencies.
Communication accessibility	Requirements on how information communicated to the public should be made accessible.	Communication accessibility	Code “1” for language describing how communication must be made accessible to the public during a state of emergency.
Implementation code gap	Differences between how emergency management is described in formal code or plans and how it is implemented.	Implementation gap	Code “1” for language describing differences between written code/plans and implemented practice.
Implementation evaluation	Reflections on how emergency management plans and code are implemented.	Implementation evaluation	Code “1” for language describing reflections on plan/code implementation.
Model Emergency Code Recommendations			
Emergency code relevance	Whether a model emergency code is seen as useful or applicable.	Relevance	Code “1” for language describing whether a model emergency code would be useful.

Emergency code design priorities	Key features or elements that should be included in a model emergency code.	Design priorities	Code “1” for language identifying key features that should be included in a model code.
Adaptability needs	Need for the code to be flexible and adaptable to different Tribal contexts.	Adaptability needs	Code “1” for language describing the need for flexibility across different Tribal contexts.
Accessibility needs	Need for the code to be understandable and usable for emergency management.	Accessibility needs	Code “1” for language describing the need for clarity and usability.
Best practices	Practices identified as effective regarding emergency management powers.	Best practices	Code “1” for language identifying effective emergency management powers.
Lessons learned	Insights gained from past emergency powers experiences.	Lessons learned	Code “1” for language describing insights from past emergency powers experiences.
Direct recommendations	Suggestions for improving emergency powers or code design.	Direct recommendations	Code “1” for language providing explicit suggestions for improving emergency powers or code design.
Future needs	Anticipated needs for future emergency management.	Future needs	Code “1” for language identifying anticipated future challenges or needs.

Appendix C: Interview Protocol

Interview Questions (45 minutes)

Intro script:

Hi, thank you so much for taking the time to meet with us today. Let's start with some quick introductions. My name is _____ (pronouns), and this is my colleague _____ (pronouns). We are part of a team working with the University of Washington's Center for Disaster Resilient Communities, in partnership with the Cowlitz Indian Tribe. Would you mind sharing your name and, if you'd like, pronouns, as well as where you work?

Before we begin, we'd like to go over a bit of the background and purpose of this study and go over some important information about your participation and your rights.

Our goal is to develop a template for Tribes that could codify Tribal powers to more fully exercise sovereignty and protect peoples, lands, property, and values during natural disasters or complex emergencies. We recognize that Tribes have long exercised authority and governance in times of crisis. Through these conversations, we hope to better understand how a model emergency code might work with current Tribal powers, as well as the plans, priorities, and processes that guide this work.

What you share today will help inform a model Tribal Emergency Code and white paper that reflect Tribal perspectives, lived experience, and the broader systems and relationships that go into emergency management in practice. We plan to develop a model template that is adaptable across the diversity of Tribal systems and governance contexts.

This interview will last up to 45 minutes. Any information shared today will only be used for the purposes of this study and accessible only to our study team through a secure shared drive. We will remove identifying details prior to analysis. Only synthesized, de-identified findings will appear in final materials. Once the project is complete, all identifiable information will be deleted.

Your participation is completely voluntary. You may decline to answer any question, pause the interview, or end the interview at any time, for any reason.

Are you comfortable with proceeding with this interview?

-verbal consent

We have a couple additional questions about recording and transcription. Both are optional, and we can continue without either.

To support accuracy, we would like to record this interview. The recording will only be used for the purposes of this study and to help us refer back to your responses during transcription, and prior to analysis. Once transcription is complete, the recordings will be permanently deleted and destroyed. You may ask to pause or stop the recording at any time. If you prefer audio only, you are welcome to turn your camera off.

Are you comfortable with this interview being recorded?

-verbal consent

-hit record

(if yes) To aid us in transcription, we would also like to use Zoom transcription to offer an initial transcription of the interview. Our team will review and edit the transcript for accuracy. The transcript will be used solely for this study and to support our analysis. All identifiable information will be de-identified and codified prior to analysis, and the transcript file will be permanently deleted once the project is complete. You may decline transcription or withdraw consent for transcription at any time.

Are you comfortable with your interview being transcribed using this platform?

-verbal consent

-hit transcribe

Do you have any questions about the study, how this information will be used, or your participation in this?

-time for questions

If questions come up later, please feel free to let us know at any point during the interview, or you can send us an email after the interview is over.

During this interview, _____ will be facilitating the conversation, and _____ will be taking notes of your responses.

Questions:

Italicized = filler or “no/unsure” questions

1. What is your job position or role within the Tribe, how long have you been in the role, and how are you involved with emergency planning and response within the community?
 - a. *When an emergency happens, what part do you usually play?*
 - b. *Who do you typically coordinate with?*

2. To your knowledge, has your Tribal government ever declared an emergency?
 - a. **(if yes)**
 - i. *What was the situation?*
 - ii. *How did leadership respond?*
 - iii. *What worked well?*
 - iv. *What felt challenging?*
 - b. **(if no / unsure)**
 - i. *Even if you're not sure about a formal declaration, do you remember any events where leadership activated a coordinated response?*
 1. *How did leadership handle that situation?*
 2. *What worked well?*
 3. *What felt challenging?*
3. To your knowledge, has your community ever worked with FEMA or the state emergency management department to respond to an emergency or disaster?
 - a. **(if yes)**
 - i. *What was that experience like?*
 - ii. *How did coordination work?*
 - iii. *Did sovereignty considerations come up?*
 - iv. *To your knowledge, has the Tribe ever sought Public Assistance from FEMA?*
 1. **(if no / unsure)**
 - a. *Why might that be?*
 - b. *As far as you know, what discussions have there been around federal funding during emergencies?*
 - b. **(if no / unsure)**
 - i. *Why might that be?*
 - ii. *As far as you know, how does the Tribe decide if / when to seek outside assistance?*
 - iii. *Who would usually manage those partnerships?*
4. Are you familiar with whether there is a Tribal code currently in place for emergency response?
 - a. **(if yes)**
 - i. *Please describe the code.*
 - ii. *Is it something that is actively used?*
 - iii. *What has worked well?*
 - iv. *What needs to be improved?*
 - b. **(if no / unsure)**
 - i. *Even if not written into code, what processes are currently in place for emergency response?*
 - ii. *What guides these processes?*

5. Who has authority to make emergency response decisions on behalf of the Tribe?
 - a. *Who implements these decisions in the event of an emergency?*
 - b. *Is this arrangement established in Tribal code, or is it informal?*
 - i. *To your knowledge, how clear do people feel about this?*
 - c. **(if unsure)**
 - i. *When something urgent happens, who do people naturally look to within your Tribal community?*
6. Would a model emergency-powers code intended for Tribal use potentially be relevant to your community?
 - a. **(if yes)**
 - i. *What considerations would you want this model code to address?*
 - ii. *How might it work with the structures your Tribe currently has in place?*
 - iii. *How might it work with the emergencies your Tribal community faces?*
 - iv. *What values should be reflected?*
 - b. **(if no / unsure)**
 - i. *What hesitations do you currently have with an emergency-powers code in your Tribal community?*
 - ii. *What emergency-powers processes might be most relevant, if not code?*

Wrap up script:

Thank you so much for sharing your time and experience with us today. We really appreciate your openness and all the care you put into this work.

Before we wrap up, is there anything you would like to add that we didn't get a chance to talk about today?

-room for questions from participants

As we wrap up this interview, we'd like to check in about next steps.

Would you be interested in receiving any further communication from us? This would include a follow up email, and, if you're interested, a transcript of this recording. You're welcome to review the transcript and suggest edits or clarifications, but there's no obligation to do so.

-yes or no

(if no) You are welcome to change your preference at any point before the transcript is destroyed after analysis.

We'd also like to ask whether you would be interested in receiving a copy of the final outcome of this project, including the draft model code, once it's completed.

-yes or no

(if no) You are welcome to change your preference at any point in the future, just let us know via email.

Thank you again for taking the time to walk us through your experience and perspective today. If any follow up thoughts come to you after today, please feel free to reach out. We're grateful for your contributions and for the work you do in your community.

Appendix D: Emergency Management Codes Reviewed

1. Burns Paiute Tribe Emergency Management Code
2. City of Ridgefield Emergency Management Code
3. City of Spokane Emergency Management Code
4. City of Vancouver Emergency Management Code
5. City of Yakima Emergency Management Code
6. Clark County Emergency Management Code
7. Ho-Chunk Nation Emergency Preparedness and Disaster Planning Code
8. King County Emergency Management and Emergency Powers Codes
9. Kitsap County Emergency Management and Emergency Powers Codes
10. Oneida Nation Health and Public Safety Code
11. Pierce County Emergency Management Code
12. Snohomish County Emergency Management Code
13. Snoqualmie Tribe Emergency Management Response Act
14. The Cherokee of the Eastern Band of the Cherokee Nation Emergency Management Code
15. Town of Friday Harbor Emergency Management Services Code

Appendix E: Model Tribal Emergency Management Code

Model Tribal Emergency Management Code

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EVANS SCHOOL
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I. Implementation Guide for Developing an Emergency Management Code

I.A Purpose of this Guide

The goal of this guide is to support Tribal Nations in reviewing, discussing, and adapting the model Tribal emergency management code. Through conversations, Tribes can determine what language, authorities, powers, systems, structures, and approaches are most appropriate for their specific priorities and contexts. Outcomes of these discussions may then be used to adapt the code in a way that feels aligned and relevant to your Tribe.

The intent of this facilitation guide is to build clearer and more aligned development and implementation processes for the adapted emergency management code.

I.A.1 Emergency Management Code versus Emergency Plan

An emergency management code and emergency plan can be seen as serving related but different purposes. The following definitions offer one of the many angles in distinguishing between an emergency management code and an emergency plan:

Emergency Management Code = Authority

The law that gives the authority, powers, roles, and protections needed during emergencies.
The Code protects sovereignty.

Emergency Plan = Action

The playbook that explains how to respond operationally.
The Plan protects people.

Throughout your code development process, you can refer back to these concepts to help frame discussions around emergency governance (codes) versus emergency operations (plans).

I.B Implementation Process

This implementation process is intended to be flexible and adaptable. Different Tribes may prefer one or a combination of different processes; for example, formal working groups, planning meetings, iterative legal review, department review, public comment, third party consultation, informal discussions, or other systems. While each Tribal Nation may approach this process differently, the following steps offer a possible structure for reviewing and adapting the model code.

I.B.1 Identify & Establish Code Development Participants

Before drafting an emergency management code, it may be helpful to identify who should be involved in reviewing and adapting the code. For example, consider those who are involved in implementing or operationalizing the code, protecting Tribal sovereignty, overseeing

emergency finances or resources, coordinating with governments or partners during emergencies, communicating with the public during emergencies, making decisions during emergencies, representing relevant community perspectives, directly affected by emergency governance processes, or providing legal, political, or technical expertise.

Depending on the Tribe's governance structure and priorities, this may include Tribal Council, other Tribal leadership, emergency management staff, emergency operations staff, department representatives, legal counsel, code committees, Elders, cultural leaders, community representatives, or other participants identified by the Tribe.

Once code development participants are identified, decide how these participants will engage with the process. There are a few questions that might be worth asking at this point. These may include, but are not limited to, how many participants will be engaging in what ways, what monetary or non-monetary compensation during the code development process might look like, ways to increase access to participation (e.g. childcare, transportation, hybrid option), whether certain participants individually or collectively fill specific roles in the development process, who would be responsible for leading the implementation process, what steps need to be taken in the code development process, and what the timeline of those steps might look like.

I.B.2 Review Existing Documents and Frameworks

This step offers the option of reviewing your Tribe's relevant existing laws, policies, codes, plans, procedures, and agreements. These may be formally documented or embodied in existing processes and practices. For example, consider the extent to which your Tribe needs or wants to align the emergency management code with existing laws or practices. Some of these considerations might influence the structure and content of your emergency management code.

Depending on your Tribe's existing documents and frameworks, as well as any preferences in which documents to reference when developing this emergency management code, this may include Tribal constitutions, delegation of authority procedures, procurement policies, intergovernmental agreements, mutual aid agreements, communication procedures, public health codes, emergency ordinances or resolutions, emergency operations plans (EOPs), hazard mitigation plans (HMPs), or other documents and frameworks identified by the Tribe.

The goals of this review are to identify existing authorities already established elsewhere, existing terminology that should remain consistent, procedures that may already support emergency governance, potential conflicts or overlaps, potential gaps, and relevant areas where additional clarification may be helpful.

I.B.3 Review Existing Governance Structures and Authorities

This step offers the option of reviewing existing emergency governance structures and powers within which your Tribe operates during both routine governance and emergency situations. Existing written authorities may not always fully reflect how governance structures and authorities are carried out, so it is up to your code development participants to decide which pathways are most in line with the goals of the adapted emergency management code. Consider

ways in which your current governance structures and authorities might shape how you navigate and adapt the emergency management code.

Depending on the Tribe's governance contexts, this may include existing authority structures, roles and responsibilities (declaration, management, operational, etc.), emergency decision making processes, checks and balances, departmental or role responsibilities, or procedural safeguards.

This review intends to help identify areas where authority might be unclear and any possible gaps in points of governance.

I.B.4 Review the Model Tribal Emergency Management Code

After all other preparation steps outlined by the code development participants have been completed, we recommend reviewing the model emergency management code individually or together. The model code can be reviewed section-by-section, in chunks, or all at once to compare different example approaches. This would be done in tandem with reviewing and engaging with annotations and background information. It may be helpful to print the code out as a physical document or share it digitally so that code development participants may take notes on each section.

I.B.5 Discuss Possible Adaptations

Once the model emergency has been reviewed, and if there are no other actions that need to be taken, use the prompts in section I.C to facilitate discussions around ways the model code may be adapted to better align with the Tribe in question. These conversations are intended to support reflection and collaborative decision making and can be used as a guide to support conversations and reflection to align with Tribal priorities. We recommend this be done with as many code development participants present as possible.

I.B.6 Consider Community and Leadership Review

If possible and in alignment with structures, individuals such as Elders, community members, Tribal leadership, business owners, and Tribal agency staff can be consulted to identify key concerns, priorities, and needs. This can be done through meetings and discussions for suggestions and use feedback to shape the structure of code to align with your Tribe.

I.B.7 Consider Future Updates and Maintenance

Depending on changing priorities, community needs, and any other factors, future updates and maintenance may or should be made periodically to improve and address lessons learned and evolving context.

I.C Possible Adaptations

The following are suggested elements of the model Tribal emergency management code that may be discussed when reviewing possible adaptations. These are merely suggestions and may not include a full list of topics, and not all of the elements may need to be discussed. In essence, this section is not a comprehensive guide and thus, can be modified to fit the systems and context of your Tribe.

I.C.1 Sovereignty

This model code should reinforce Tribal sovereignty. Tribes may choose to adopt, reject, redefine, or expand emergency governance approaches to be more aligned with their desires for this code.

Questions to consider:

- Does the code reflect authority's existing function within the Tribe?
- Are there provisions that unintentionally mirror local, state, or federal U.S. systems that may not align with governance in your Tribe?
- Are there governance practices or cultural considerations reflected where appropriate?
- Does the code support self determination during emergencies?
- Does this code and the language align with current/ existing EOPs cultural?

I.C.2 Purpose & Definitions

The model code should consider questions relating to how a Tribe wants to use the code and the definitions that align with existing systems.

Questions to consider:

- What types of emergency and disaster should be addressed?
What role should community values and sovereignty and cultural considerations play in the code?
- What key terms should be clearly defined to avoid confusion?
- Are definitions aligned with existing Tribal codes and systems?

I.C.3 Continuity of Government

The model code should consider questions relating to how governance should resume, should someone with authority be incapacitated in any way.

Questions to consider:

- What leadership positions and other functions should be considered essential during emergencies?
- What should government structure and leadership look like in a prolonged emergency?

- What succession plans should be put in place if Tribal leadership becomes indisposed?

I.C.4 Department of Emergency Management

The model code should consider questions with regards to the ways authority influences emergency management operations.

- Who has the authority to declare or terminate an emergency?
- What checks and balances should apply to emergency powers?
- In what situations may emergency powers be expanded or restricted?

I.C.5 Governance Structures

The model code should align with existing governance structures and systems.

Questions to consider:

- How does your government typically make decisions?
- What roles do Tribal Council, executive leadership, emergency management staff, legal counsel, advisory boards, and other departments already hold?
- Does the code clearly reflect existing authority structures?
- Are there gaps or ambiguities that the code could help clarify?

I.C.6 Roles and Responsibilities

The model code should clearly consider questions relating to the roles and responsibilities.

Questions to consider:

- How should authority be distributed across leadership, councils, departments, or agencies?
 - What roles or departments would hold which emergency authorities?
- Who has executive decision making authority?
- Who has the authority to make an emergency declaration?
- What measures or mechanisms should be used to guide decision making?
 - What limitations or expansions can be made to role responsibilities during emergencies?
- What roles and responsibilities would be deemed essential services/work?

I.C.7 Coordination

The model code should consider questions regarding internal and external coordination between authorities.

Questions to consider:

- Who has authority to communicate or coordinate with internal agencies (fire, police, health, enterprises)?
- Who has authority to communicate or coordinate with federal, state, and local external authorities?
 - How to coordinate with an external government without waiving/compromising sovereignty?
- Who has authority to access or allocate resources?
- Who has authority to access or allocate finances?

I.C.8 Declaration of Emergencies

The model code should consider questions regarding authority and structures of emergency declarations.

Questions to consider:

- Who has the authority to make a declaration?
- How long should an emergency declaration remain and what mechanism should be put in place to extend or end a declaration?
- What actions will constitute a violation of the emergency code and what mechanism should be put in place to enforce orders?
 - Who will be responsible?
 - What penalties should?
- Under what circumstance may rights and freedoms be temporarily suspended?

I.C.9 Authorized Emergency Orders

The model code should consider questions relating to authorized emergency orders

Questions to consider:

- Who has authority to declare, amend or extend emergency orders?
- How can emergency orders respect civil liberties while protecting public safety?
- How can transparency and accountability be maintained during emergencies?
- Who is subject to violations?
- What would a violation incur?

I.C.10 Adaptability

Because emergencies rarely unfold predictably, the code should provide enough clarity to support coordinated authority and also allow for flexibility in the event of changing situations.

Questions to consider:

- What process will allow temporary adjustment to procedures and roles during an emergency?
- What mechanism should be put in place for reallocating resources during emergencies?

- How often should the code be reviewed and updated to reflect changes in community priorities?

I.C.11 Communication

The model code should consider the ways authorities communicate with members of the public.

Questions to consider:

- What system and platform should be used to notify your community of emergencies, evacuation and public safety. (virtual and physical communication).
- What languages should the emergency communication material be translated into?
- What accommodations will support individuals with disabilities and other vulnerable populations.
- What mechanism should be put in place to document damages, losses and recovery.

II. Interacting with this Model Code

The purpose of this document is to provide a well-researched, easy to use document that includes example language, background information, and clearly marked decision points that practitioners may use to implement an emergency management code for their Tribes.

This document is formatted in four parts:

(1) General description of the section (in text block)

(2) Example language for drafting your emergency (black text)

(3) Annotations that provide more background on each section of text (blue text)

(4) (ALL CAPITALIZED LETTERS IN PARENTHESES) refer to terms the drafter must identify for their context.

Please note: When drafting an emergency management code it is essential that terms are used consistently. Judicial interpretation often understands if different terms are used, no matter how similar, they must mean different things. Define these terms in the definition section and look for (CAPITALIZATION) for guidance on where to input them.

Each section of this code includes example language that has been drafted based on analysis of emergency management codes used by Tribal, municipal, and county level governments in combination with insights gathered from interviews with Tribal emergency management practitioners across the Pacific Northwest.

These sections and examples are annotated to provide analysis that a practitioner can use to inform their own drafting process by highlighting which elements are necessary and where practitioners must decide what is best for their context.

Annotations will help practitioners answer the following:

- Is this language ubiquitous amongst emergency management codes?
- Is it necessary to include this section/specific language?
- How does this example compare to other example languages?
 - Is decision making authority more or less consolidated?
 - Does this language include sufficient checks & balances?
- How does this example compare to what other Tribes have done?
- How does this example compare to what cities & counties have done?

When drafting an emergency management code it is essential that terms are used consistently. Judicial interpretation often understands different terms, no matter how similar, mean different things. Our model code regularly identifies instances where a defined term must be input. These defined terms should be agreed upon and input to the definitions section.

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MODEL TRIBAL
EMERGENCY
MANAGEMENT CODE

1. Purpose and Definitions

A purpose statement generally states the intended function of the section of code, while also grounding these functions in the proper authority. Examples 1 & 2 differ in how explicitly they state the source of Tribal authority, and in how specific the purpose of the chapter is. Example 1 provides a strong connection between the purpose of the emergency management code and the right of the Tribe to establish laws for that purpose. It also describes its purpose quite generally. Example 2 does not specify the authority of the Tribe to make laws, which is likely established elsewhere in the Tribe's code or constitution. Instead, the purpose statement lists the functions and purposes that will be covered in the emergency management code.

In reading these examples, consider how your Tribe understands the source of its right to self-governance and whether it is codified in just one place of the Tribe's legal text or precedes every chapter of Tribal law.

- If it is established elsewhere, it is a best practice to cite that authority.
- If authority is not explicitly established elsewhere, consider using a statement like Example 1, Paragraph 1.
- If authority is established before every chapter of your Tribe's legal text, use that phrasing and connect the purpose of this chapter to that stated authority.

1.1 Purpose Statement Example 1

The aboriginal and inherent sovereign power to govern the (INSERT TRIBE NAME) is vested in the (INSERT TRIBE NAME) Tribal Council. The (INSERT TRIBE NAME) has the authority to safeguard and promote the peace, safety, morale, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe and by providing for the enactment and enforcement of laws of the Tribe. This authority includes the ability to adopt laws or resolutions regulating the procedure of Tribal agencies and the conduct of Tribal officials. (INSERT CITATION OF TRIBE'S CONSTITUTION).

The purpose of this Chapter is to facilitate quick and effective government response during emergencies to protect life, property, continuity of government, and provide for the preparation and implementation of a comprehensive Tribal Emergency Management Plan to mitigate, prepare for, respond to, and recover from injury and damage to persons or property resulting from emergencies or disasters.

1.1.1 Annotation

Paragraph 1 of Example 1 states that the authority to govern the Tribe is the responsibility and mandate of the Tribal Council. Paragraph 1 goes on to state that the Tribal Council has the authority to enact and enforce laws that provide for and protect the safety and welfare of Tribal members by regulating the behavior of ALL persons that are subject to the jurisdiction of the Tribe. Including but not limited to Tribal members, government staff, and those residing on

Tribal lands. After identifying the authority of the Tribe in Paragraph 1, Paragraph 2 states that the purpose for the chapter is the preparation and implementation of the Tribe's emergency management plan. The purpose of the plan is identified as the management of and response to emergencies as they affect the wellbeing of persons and property.

1.2 Purpose Statement Example 2

The purposes of this Chapter are to provide for the preparation and carrying out of plans for emergency services in the event of an emergency or disaster, for the coordination of the emergency services of this Tribe with and rendering of mutual aid between the Tribe and other governments pursuant to applicable compacts or agreements, for the exercise of emergency powers by the (INSERT HEAD EXECUTIVE), for the establishment of the department of emergency management, to ensure the most effective coordination and preparation of the area's workforce, resources and facilities, and for the continuity of Tribal government.

1.2.1 Annotation

Example 2 is structured as a list of purposes for the emergency management code. Similar to Example 1 one such purpose is the preparation and implementation of an emergency management plan. Example 2, also describes the purpose of the emergency management code as being to clarify and establish:

- (a) The coordination and planning of mutual aid between the Tribe and other governments;
- (b) The emergency powers of the Tribal executive;
- (c) The establishment of a department of emergency management;
- (d) Planning how resources and facilities may be used; and
- (e) A continuity of Tribal government plan.

Each of these listed purposes are standard functions of an emergency management code, this model code will provide example language for each of these processes and provisions if you wish to include them.

1.3 Definitions

An emergency management code and the use of this model code, will require regular reference to the terms, positions, and practices defined in this section. While additional terms may be added or altered based on the unique circumstances of an individual Tribe's legal code, a strong emergency management code may be lacking without consideration and inclusion of the following definitions.

In reading through these definitions and examples, make note of whether your Tribe’s code has existing definitions that match the function of the terms we’ve provided. If so, consider using those definitions. If a definition provided in this document does not fully capture how your Tribe understands a concept, consider adjusting it to do so in a way that preserves the essential concept identified below.

1.3.1

“Tribal Lands” means all lands over which the Tribe exercises ownership or jurisdiction, including but not limited to its Reservation, other lands held in trust for the Tribe by the United States, and all Tribal land that constitutes “Indian Country” as defined by 18 U.S.C. § 1151, including but not limited to lands owned in fee by the Tribe wherever located.

1.3.1(a) Annotation

Emergency management codes, and this model code, describe the geographic area to which the code applies using the term “Tribal lands.” This example definition accounts for the multiple kinds of land that a tribe has jurisdiction over including Reservation land, trust lands held by the U.S. for the Tribe, fee land, and “Indian country” as defined in the US Constitution. The essential legal concept of this term is the identification of land where the Tribe holds lawmaking and law-enforcing jurisdiction.

1.3.2

“Emergency Management” means the preparation and coordination of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters and emergency situations.

1.3.2(a) Annotation

The Term “Emergency Management” is a broad and open ended term that encompasses all practices, other than those of the military, that prevent or minimize harm caused by a disaster or emergency. Meaning will be attached to this term throughout the code by describing specific actions that allow for an emergency to be managed. The essential concept of this term is a broad description of the kinds of management functions a Tribe has in an emergency situation. It is defined here as coordination and preparation for emergency situations with the intention of minimizing injury and damage.

1.3.3

“Emergency” or “disaster” means a situation or incident that poses an immediate risk to health, life, safety, property, or environment which requires urgent intervention to prevent further illness, injury, death, or worsening of this situation, including, but not limited to, cyberattack, , active threat, hazardous material incident, extraordinary fire, flood, storm, pandemic, lahar, tsunami, and earthquake.

1.3.3(a) Annotation

The goal of this term is to identify what situations constitute a disaster or emergency for your Tribe. Our review of example codes found that despite significant variation in how this term is defined, disparate definitions still allowed for broad application/triggering of the emergency management code (i.e. declaring an emergency and allowing for the use of authorized emergency orders). It is recommended that your definition includes an open ended term like “including, but not limited to” but also identifies specific situations where emergency powers are anticipated to be useful.

1.3.4

“Emergency Manager” means the Director of the Emergency Management Department.

1.3.4(a) Annotation

OR if your Tribe does not have an emergency manager position or department of emergency management, and is not being established through this chapter, identify who will carry out the duties of emergency management enumerated in the Duties of Emergency Management section. Our analysis found that in Tribal governments without formal emergency managers, these duties are often performed by a public safety officer or head of Tribal police.

1.3.5

“Head Executive” or “Head Executives” means the person(s) designated by the Tribe in conformity with Tribal law and this chapter as the head (s) of the Tribal government (INSERT CITATION OF TRIBAL CODE OR CONSTITUTION IF POSSIBLE).

1.3.5(a) Annotation

The Head Executive in Tribal government is most often the Tribal Chairperson. The essential concept of this term is to identify the head of government.

1.3.6

“Tribe” or “Nation” means the (INSERT NAME OF TRIBAL GOVERNMENT)

1.3.6(a) Annotation

It is a best practice to define the entity referred to by the abbreviated term of Tribe or Nation if this shortened term is used elsewhere in the chapter.

2. Continuity of Government

Including a continuity section ensures that the government can continue to function despite an established role's incapacitation during an emergency. For example, if a decision-making or emergency management executive is unable to carry out the responsibilities of their role because they were injured during the emergency situation, this section will clarify who is next in line to carry out these responsibilities.

The examples provided in this section both describe what role is authorized to take up the responsibilities of a position should that position be incapacitated but they differ in how oversight for this process is detailed. Example 1. Provides a chain of continuity for the head executive position. It can be duplicated for other positions related to emergency management or emergency governance. Example 2. Provides descriptions of continuity for multiple positions including the governing body itself, while also identifying continuities for Head Executive positions. Example 2. Also defines in more detail how long these interim functions shall last or how replacements shall be agreed upon/elected.

- While reading through these examples consider the decision making and management structure of your Tribe.
- Identify which decision making and managing roles are absolutely necessary for your Tribe to function during an emergency.
- It is best practice to identify a chain of continuity for these necessary roles.
- Where an example calls for you to identify a role to replace someone incapacitated in an acting capacity, consider choosing a role that shares a similar level of expertise or operational knowledge with the role they would temporarily be assuming.

2.1 Continuity of Government Example 1

In the event the (INSERT HEAD EXECUTIVE) is unavailable to exercise the powers and discharge the duties of the office, the (INSERT TITLE OF PERSON) *e.g. Vice Chairperson*, followed by the (INSERT TITLE OF PERSON), followed by the (INSERT TITLE OF PERSON) shall act as the interim (INSERT HEAD EXECUTIVE) subject to Tribal Council confirmation, modification, or rejection as soon as practicable. Such board confirmation, modification, or rejection shall be by a majority of the board then present and voting.

2.1.1 Annotation

Example 1 illustrates a simple approach to clarifying a chain of continuity for the Head Executive of the Tribe, oftentimes the Tribal chairperson. This example states that if the Head Executive is unavailable to exercise the responsibilities of their role then, in the identified order, the identified roles will serve as the acting head executive. This same language can be used to clarify lines of continuity for other emergency management or decision-making roles identified by your Tribe as necessary for governance during an emergency. Oversight for this acting position is described as a function of Tribal Council. This language does not specify how long

the acting official will hold the responsibilities of the position or if it is triggered only in an emergency. In this way it is broadly applicable, but also offers less checks and balances.

2.2 Continuity of Government Example 2

(a) In this section, the term "unavailable" means either that an office is vacant or that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office following a declaration of existing emergency by the (INSERT TRIBE NAME).

(b) In the event of an emergency or disaster, the continued operation of the (INSERT TRIBE NAME) government shall be assured as follows:

(i) If the emergency or disaster renders one or more members of the Tribal council incapacitated, unavailable, or otherwise unable to discharge their duties, then those members who are available for duty shall have full authority to act in all matters as the Tribal council. In the event no member of the Tribal council is available for duty, then (INSERT WHO) *ex. Other elected positions or heads of Tribal agencies/departments* as are available for duty shall jointly act as the Tribal council and shall possess by majority vote the full authority of the Tribal council until such time as one or more members of the Tribal council are available for duty.

(ii) If the (INSERT HEAD EXECUTIVE) is unavailable, the powers and duties of the office shall be discharged by the following officers in the following order:

(A) (INSERT TITLE OF PERSON); *ex. Vice Chairperson*

(B) (INSERT TITLE OF PERSON). *ex. Department Director*

(iii) Elected Tribal officials, other than the executive and members of the Tribal council, are authorized and directed to designate one or more temporary interim successors to the office of such official in the event the officer is unavailable for duty during an emergency or disaster.

(iv) The (INSERT HEAD EXECUTIVE) shall, subject to such rules as the executive may adopt, authorize each appointed Tribal officer to designate one or more temporary acting successors of such officer in the event the officer is unavailable for duty during an emergency or disaster.

(v) Any person succeeding an elected or appointed official pursuant to this section shall discharge the duties of that office until such time as the elected or appointed officer is available for duty or a regular successor is elected or appointed in the manner ordinarily applicable to the office.

(c) Any Tribal officer succeeding to an office on a temporary interim basis pursuant to this section shall discharge the duties of that office only until such time as the elected or appointed officer is available for duty or a regular successor is elected or appointed in the manner ordinarily applicable to the office.

2.2.1 Annotation

Example 2 not only provides chains of continuity for Tribal Council and Head Executive positions, but also requires a wide variety of positions to identify interim successors. Oversight for this example is formulated by clarifying when this succession is necessary, how long the successor may operate in their role, and how permanent replacements may be identified.

Example 2 subsection (a) clarifies that a position is considered unavailable, and therefore triggers the need for a successor if that person is absent or unable to perform their duty for any reason but only during a state of emergency.

Example 2 line (b)(i) describes how the Tribal Council will operate should any Councilmembers be unavailable during an emergency. Line (b)(ii) then describes a chain of continuity for the Head Executive of the Tribe. Line (b)(iii) authorizes and requires all non-Council or Head Executive elected positions to identify acting successors should they be unavailable during an emergency. Line (b)(iv) requires the Head Executive to authorize these elected officials to designate their interim successor. Line (b)(v) states that the roles succeeding elected/appointed officials shall conduct the functions of their position ONLY until the person they succeeded is available again, or until that position is appointed/elected through the normal procedure for that office.

Subsection (c) operates in the same manner as line (a)(v) but is applicable to temporary interim successors.

3. Department of Emergency Management

This section establishes the organizational framework, mission, and operational responsibilities of the Tribal Department of Emergency Management. It defines how the Department is structured within Tribal government, identifies the Emergency Manager and Assistant Emergency Manager as the officials responsible for the administration and operations of the Department. By outlining the Department’s purpose and functions, this section articulates the core mission of Tribal emergency management and affirms the Department’s role in intergovernmental and interagency coordination.

This section also specifies the duties and responsibilities of the Emergency Manager, ensuring that the position has clear operational authority to plan, coordinate, and implement emergency management programs, maintain liaison with external partners, manage resources, and educate the community. Finally, it delineates the Manager’s powers upon the declaration of an emergency, providing the legal foundation for rapid mobilization of personnel, acquisition of resources, and execution of emergency powers consistent with Tribal sovereignty.

3.1 Organization and Appointments

(a) The Tribe hereby creates a Department of Emergency Management within the Tribal Administration of the Tribal Government under the direction of the Tribal Council, to be structured and staffed as follows:

(i) The Department head of the Tribal Emergency Management Department shall be known as the Emergency Manager (“Manager”), and such assistants and other employees as are deemed necessary by the Manager for the proper functioning of the agency will be hired through the Tribe’s normal hiring process.

(ii) Volunteer personnel and inter-Tribal agencies offering service to and accepted by the Tribe.

(b) The Manager shall recommend, to the (INSERT HEAD EXECUTIVE) for approval, an Assistant Emergency Manager to perform the emergency duties of the Emergency Manager in the event of his or her absence or inability to act.

3.1.1 Annotation

This organizational structure is consistent with some of the Tribal emergency management codes we reviewed for our analysis, particularly the language permitting the involvement of volunteers within the Department. Across Tribal, county, and municipal codes, provisions addressing this subject typically begin by defining the placement of the Emergency Management Department within government and identifying the Emergency Manager as the administrative lead (although various titles are used). Establishing the Department under the direction of the Tribal Council grounds emergency management authority in Tribal law and

ensures that the Department's activities are aligned with the Tribe's sovereign governance structure. However, if establishing an Emergency Management Department does not align with your Tribe's governmental structure, this section can be adjusted to simply identify the person(s) who will act as the Tribe's Emergency Manager.

The inclusion of all Tribal departments, boards, committees, and councils reflects a whole-of-government approach that mirrors best practices in National Incident Management System/Incident Command System (NIMS/ICS) and is widely used in county and state codes to ensure cross-departmental coordination during emergencies. The appointment of an assistant or deputy Emergency Manager is a widely adopted safeguard that ensures continuity of operations and prevents gaps in authority if the Manager is unavailable. This section also strikes a balanced level of consolidation by clearly identifying the Emergency Manager as the head of the Department but preserving checks and balances. Extraordinary authorities are reserved for later sections and all authority is exercised under oversight by the Tribe's head executive. This structure is similar to the approaches used in both Tribal and county codes that were reviewed, which separate organizational structure from emergency powers.

3.2 Purpose and Functions

The Department of Emergency Management shall implement policies, procedures, and programs to:

- (a) Prepare for and carry out emergency services in the event of an emergency or disaster.
- (b) Coordinate Tribal emergency services with federal, state, local, and other Tribal governments, as well as affected private persons, corporations, and organizations.
- (c) Ensure the operational readiness of the Tribal Emergency Operations Center, including development of the policies and procedures governing its activation and use.
- (d) Maintain and update the (INSERT TRIBE NAME) Comprehensive Emergency Response Plan(s).
- (e) Support the Tribe's adoption and implementation of nationally recognized emergency management systems, such as the National Incident Management System/Incident Command System (NIMS/ICS), and standards where appropriate.

3.2.1 Annotation

An outline of the Department's purpose and functions is a standard feature of emergency management codes across Tribal Nations, counties, and municipalities. This section defines what the Department exists to do, distinct from the operational duties assigned to the Emergency Manager in the next section. The functions listed here reflect best practices in emergency management: preparedness, response, intergovernmental coordination, maintenance of emergency plans, and support for nationally recognized systems. These elements were common in Tribal and county codes reviewed for our analysis. The language here, as well as in reviewed

codes, is neither overly broad nor overly prescriptive. It provides a clear mandate without consolidating excessive authority in a single department. If your Tribe does not have a Tribal Emergency Operations Center, the provision outlined in line 3.2(c) can be adjusted to meet the Tribe's structure, or left out of this section.

3.3 Duties and Responsibilities

The Manager shall be responsible for the planning, coordination, and operation of the Emergency Management activities within the jurisdiction of (INSERT TRIBE NAME). The Manager shall liaison with state and federal authorities and the authorities of nearby political subdivisions so as to ensure the effective operations of the Emergency Response Plan(s) and the Department. The Manager's duties shall include, but are not limited to, the following:

- (a) Coordinating the recruitment of volunteer personnel and inter-Tribal agencies to augment the personnel and facilities of the Tribe for Emergency Management purposes.
- (b) Development and coordination of plans for the immediate use of all facilities, equipment, manpower (including the reassignment of all government personnel) and other resources of the Tribe for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring governmental services and public utilities for the public health, safety, and welfare.
- (c) Negotiating agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for the Emergency Management purposes, including the designation of suitable buildings as public shelters, subject to approval by (INSERT HEAD EXECUTIVE) or Tribal Council.
- (d) Through public informational programs, educating Tribal members as to actions necessary and required for the protection of their persons and property in case of emergency as defined herein, either impending or present.
- (e) Drafting and/or submitting recommendations for mutual aid agreements with other Tribal, local, state, and federal governments, for approval by the (INSERT HEAD EXECUTIVE).
- (f) Perform such other duties as may be necessary to further the purposes of this Chapter.

3.3.1 Annotation

The delineation of the Emergency Manager's duties and responsibilities is a standard and essential component of emergency management codes across Tribal, county, and municipal jurisdictions. This section operationalizes the broader mission and functions outlined in Section 3.2 by specifying the concrete tasks the Manager must perform to ensure preparedness, coordination, and effective response. The duties listed are consistent with most emergency management codes reviewed for analysis across all jurisdictions. The language here provides a comprehensive, but not exhaustive, set of responsibilities to ensure the Manager has sufficient

authority to carry out essential emergency management functions, while maintaining appropriate checks and balances through oversight from the head executive.

Together these functions allow for a high level of maneuverability in the Tribe's response to dynamic situations. The power of this example is checked by the Head Executive (typically the Tribal Chairperson). It is not recommended that it is checked by the Tribal Council, as this may hinder the pace of response thereby reducing the effectiveness of this section. This structure supports continuity of operations, aligns with nationally recognized emergency management standards, and ensures the Manager's authority is both clear and accountable within the Tribe's sovereign governance framework.

3.4 Actions Upon Declaration of Emergency

Upon issuance of an emergency or disaster proclamation, as per Section 4 of this chapter, or upon a federal or state declaration affecting Tribal jurisdiction, the Manager is empowered to:

- (a) Enter into agreements on behalf of the Tribe to obtain vital resources for an agreed-upon value based on the fair market value thereof, subject to the approval of the Emergency Management purchasing agent identified in the Emergency Response Plan. If a person or business subject to the Tribe's jurisdiction refuses to provide the resource(s) required, the Manager may commandeer resources for public use and bind the Nation for the fair market value thereof.
- (b) Mobilize Tribal personnel, equipment, and resources as reasonably necessary to respond to the emergency.
- (c) Execute all of the ordinary powers of the Manager, all of the special powers conferred by this law or by resolution adopted pursuant hereto, and all powers conferred on the Manager by any agreement approved by the (INSERT HEAD EXECUTIVE) or Tribal Council.
- (d) If applicable, coordinate with federal, state, local, and other Tribal agencies to obtain additional resources.
- (e) When a required competency or skill for a disaster function is not available within the government, the Manager shall seek assistance from persons outside of Tribal Government, subject to approval by the (INSERT HEAD EXECUTIVE). Such services from these persons may be accepted on a volunteer or contracted basis.

3.4.1 Annotation

The emergency powers outlined in this section are common among the emergency management codes of Tribal Nations, counties, and states. These powers ensure that the Emergency Manager can act quickly and decisively during crises. The authority to mobilize personnel and obtain or, if necessary, commandeer resources is consistent with the county and municipal codes we reviewed, as well as the Oneida Nation code, yet is balanced by

fair-market-value requirement and oversight from a designated purchasing agent. This allows the Emergency Manager to utilize emergency procurement procedures outlined in Section 5.2. Line 3.4(e) further strengthens operational flexibility by allowing the Manager to seek specialized skills or expertise not available within Tribal government, including on a volunteer basis, which is an approach commonly found in emergency management frameworks to ensure critical function can be staffed during complex or resource-intensive emergencies. This structure supports effective emergency response while preserving accountability and alignment with the Tribe's governance system.

3.5 Accepting Aid & Gifts

To accept and receive on behalf of the Tribe, with the consent of the (INSERT HEAD EXECUTIVE), offers of services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management from other Tribes, the federal government, state government, county government, or municipal governments.

3.5.1 Annotation

This section allows for the Emergency Manager to accept services, equipment, supplies, materials, or funds by way of gift, grant, or loan from other governments. It requires the consent of the Head Executive to accept any of these resources. This language is consistent with what is found in codes across all jurisdictions.

4. Declaration of Emergency

This section establishes the legal framework through which the Tribe formally declares, manages, renews, and terminates a state of emergency. It identifies the head executive, or designee as per Section 2 of this Code, as the officials empowered to issue a public declaration with the full force of Tribal law, and it outlines the conditions under which such a declaration may be made. By defining preconditions for issuing a declaration, this section ensures that emergency powers are activated only when necessary and in a manner consistent with Tribal sovereignty.

This section also sets forth the required elements of a declaration, including the nature of the emergency, the affected areas, the emergency orders being issued, and the effective date. It provides the opportunity to establish a default duration for declarations, provides clear authority and criteria for terminations, and outlines the process for renewal when emergency conditions persist.

4.1 Authority to Declare an Emergency

(a) The (INSERT HEAD EXECUTIVE), or designee, is hereby authorized, and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order to more effectively protect the lives and property within the jurisdiction of (INSERT TRIBE NAME).

(b) If neither the (INSERT HEAD EXECUTIVE), nor the designee is available, the authority to declare an emergency shall pass to the next duly designated Tribal Council official as outlined in Section 2 of this Chapter.

(c) A declaration issued under this section shall have the full force and effect of Tribal law and shall activate the emergency powers and authorities set forth in this Chapter.

4.1.1 Annotation

The designation of the Head Executive as the official empowered to declare a state of emergency is a foundational feature of emergency management codes across Tribal Nations, counties, and municipalities. This structure is necessary because it places the authority to activate extraordinary emergency powers in the hands of the Tribe's highest elected or executive official, ensuring both legitimacy and clear lines of command during crises. The inclusion of a succession clause, referencing the Continuity of Government section, is also a consistent feature across jurisdictions and ensures that emergency authority is never left vacant.

4.2 Preconditions and Requirements for Issuing a Declaration

(a) An emergency shall be declared wherever during times of public crises, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities

are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) The declaration shall:

- (i) Identify the nature of the emergency (type of incident).
- (ii) Define the geographic area or governmental functions affected.
- (iii) Provide an estimated population of the Tribal government's damaged area(s).
- (iv) Specify any emergency orders being issued.
- (v) State the effective date of the declaration.
- (vi) Provide a short description of impacts of the emergency on affected areas and population.

(c) The declaration shall be filed with the Tribal Secretary and transmitted to the Tribal Council as soon as practicable.

4.2.1 Annotation

Clear preconditions for issuing an emergency declaration are a common feature of emergency management codes, though the level of detail varies significantly across Tribal, county, and municipal jurisdictions. The language in 4.2(a) provides clearer and more pointed preconditions than many emergency management codes that list too few or no incident examples, while remaining broad enough to encompass unforeseen or unlisted threats.

Subsection 4.2(b) is not something that we found in reviewing other emergency management codes, but offers guidance for what to include in your locally-drafted emergency declaration. These provisions are intended to include information that is required when completing FEMA Form 010-0-13, Request for Presidential Disaster Declaration Major Disaster or Emergency. Having this information provided at the start can help expedite the request for federal assistance, if necessary. Prior to drafting your emergency management code, it is important to identify specific elements your Tribe wants to be included in the formal declaration.

4.3 Duration of the Declaration

A declaration of emergency shall remain in effect for thirty (30) days from the date of issuance unless:

- (a) Renewed pursuant to Section 4.6, or,
- (b) Terminated earlier pursuant to Sections 4.4 or 4.5.

4.3.1 Annotation

Language outlining time limits to emergency declarations did not appear in any of the emergency management codes we reviewed for analysis. This section is suggested as an additional check on emergency powers. The time period of thirty days is also a suggestion. Prior to drafting your code, establish an agreed-upon timeframe for revisiting Tribally-declared emergencies.

4.4 Authority to Terminate a Declaration

(a) The Tribal Chair/head executive or other official who issued the declaration, as applicable, may terminate the state of emergency when they determine that conditions warrant termination as outlined in Section 4.5.

(b) The Tribal Council, by majority vote, may terminate the declaration at any time as outlined in Section 4.5.

(c) Termination shall be effective upon:

(i) a written proclamation;

(ii) a filing with the Tribal Secretary; and

(iii) a notice of the proclamation to the Tribal Emergency Management Department.

4.4.1 Annotation

The authority to terminate a declaration of emergency is a standard component of emergency management codes and is essential for maintaining appropriate checks and balances on executive power. This section reflects a common practice across all jurisdictions by allowing both the official who issued the declaration, and the Tribal Council, to end the state of emergency when conditions warrant. Providing dual pathways for termination ensures that emergency powers do not remain in effect longer than necessary and prevents over-reliance on a single decision-maker, which strengthens accountability and aligns with Tribal governance. This language preserves the efficiency of executive action while ensuring that the Tribal Council retains ultimate oversight authority.

4.5 Terminating a Declaration

A declaration may be terminated when the Tribal Chair/head executive or the Tribal Council determines that:

(a) the conditions giving rise to the emergency have been sufficiently addressed;

(b) the threat to life, property, cultural resources, or governmental operations has abated;
or

(c) continued activation of emergency powers is no longer necessary for the protection of the Tribe or its members.

4.5.1 Annotation

This section provides clear, objective criteria for ending a state of emergency, ensuring that emergency powers remain active only as long as the underlying conditions justify their use. Unlike some codes that rely on executive discretion, these standards create a consistent basis for determining when threats have abated and normal governance can resume.

4.6 Authority to Renew a Declaration

(a) The Tribal Council may renew a declaration of emergency for additional periods not to exceed thirty (30) days per renewal.

(b) Renewal shall require:

(i) A written finding that emergency conditions continue to exist; or

(ii) A resolution adopted in an open meeting or emergency session.

(c) Renewals may be issued consecutively for as long as emergency conditions persist.

4.6.1 Annotation

The authority to renew a declaration of emergency is a common feature in emergency management codes, even though many jurisdictions provide only minimal guidance on how renewals should occur. By requiring the Tribal Council, and not the Executive, to approve each renewal, this section establishes a clear check on executive authority and ensures that extraordinary powers remain active only when emergency conditions persist. The thirty-day renewal period is a suggestion and, if included, should be consistent with the time period outlined in Section 4.3. This structure is more transparent and accountable than codes that allow open-ended declaration or rely solely on executive discretion, and it aligns with Tribal sovereignty by placing ongoing oversight in the hands of the Tribe's legislative body.

4.7 Authority to Override or Void a Declaration

(a) The Tribal Council may override, amend, or void any emergency declaration issued under this section.

(b) An override may occur when the Council finds that:

(i) The declaration is no longer necessary in accordance with Section 4.5; or

- (ii) The declaration conflicts with the Tribe’s laws, rights, or interests.

4.7.1 Annotation

This section establishes a clear legislative safeguard by allowing the Tribal Council to override or void an emergency declaration when it is no longer necessary or when the declaration conflicts with the Tribe’s laws, rights, or interests. This authority ensures that emergency powers remain accountable to the governing body and can be corrected if they are misapplied or no longer justified.

4.8 Public Notice

The (INSERT HEAD EXECUTIVE), or designee, shall take reasonable steps to give notice to all Tribal and non-Tribal members within the jurisdiction of (INSERT TRIBE) of any declaration of emergency or emergency order issued pursuant to the authority of this chapter. The (INSERT HEAD EXECUTIVE), or designee, shall send reports of the substance of the proclamation to the mass communications media which serves the affected area.

4.8.1 Annotation

Including a paragraph for requiring public notice is a common feature of emergency management codes across all jurisdictions. This ensures transparency and timely communication during emergencies. While the language provided establishes a baseline obligation to notify the community and media, the specific methods for disseminating information should be discussed prior to drafting the code in order to provide the most effective means of communicating with all Tribal and non-Tribal members within the jurisdiction of the Tribe.

5. Authorized Emergency Orders

This section enumerates the actions that can only be taken after a state of emergency is declared. These extraordinary actions include alternative procedures for procurement and use of resources, temporary restriction of personal liberties, procedures for commandeering private property, and interacting with aid.

As you read through the example language provided, think about processes and procedures your Tribe that would be impossible to follow or impractically slow when responding to an emergency.

(a) If the pace of a normal procedure may result in a loss of life or property during an emergency, consider including an alternative procedure in this section.

(b) Consider listing those actions that may restrict the autonomy of persons in your Tribe’s jurisdiction but that would be necessary in an emergency situation to preserve life or property. Stay-at-home orders during the COVID-19 pandemic and evacuation orders during flooding are two examples.

(c) Think of your Authorized Emergency Orders section as a list. You don’t have to use all of the listed examples, but whatever list of orders you compile for your code must begin with language stating when those orders are authorized and who may issue them. The paragraph beginning Section 5.1 does this, and you can list your chosen orders after that paragraph.

(d) It is common across Tribal, municipal, and county examples of authorized emergency order sections to include a “catch-all” order that allows for orders beyond those listed to be issued. While this broadens the power of a government, potentially at the risk of the persons it holds jurisdiction over, this prohibits a government from having to anticipate every kind of order or action it may need in emergency management. For these reasons it is considered a best practice to include a “catch-all.”

5.1 Authorized Emergency Orders

This paragraph should precede listed orders Upon the declaration of a state of emergency, and during the existence of such state of emergency, the (INSERT HEAD EXECUTIVE) may make and proclaim any or all of the following orders and delegate enforcement authority thereof to Tribal law enforcement officers and Tribal emergency personnel. Emergency orders must be presented as soon as practicable to the Tribal Council for confirmation, modification, or rejection. Orders become void upon rejection. Emergency orders shall be considered in full force and effect until modified or rejected by the Tribal Council.

(a) An order imposing a general curfew applicable to all or a subset of Tribal Lands and during such hours as the declaring party deems necessary.

- (b) An order requiring any and all business establishments or other places of public assembly to close and remain closed until further order.
- (c) An order requiring the closure of any and all bars, taverns, liquor stores or other business establishments where alcoholic beverages are sold or otherwise dispensed; provided, that with respect to those business establishments which are not primarily devoted to the sale of alcoholic beverages and in which such alcoholic beverages may be removed or made secure from possible seizure by the public, the portions thereof utilized for the sale of items other than alcoholic beverages may, in the discretion of the (INSERT HEAD EXECUTIVE) or their alternate, be allowed to remain open.
- (d) An order requiring the discontinuance of the sale, distribution or giving away of alcoholic beverages in any or all parts of Tribal lands.
- (e) An order discontinuing the sale or other distribution of gasoline or other flammable liquids or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle and used as the source of fuel for such vehicle.
- (f) An order closing to the public any or all public places including streets, alleys, public ways, schools, parks, beaches, amusement areas and public buildings.
- (g) An order directing the use of all public and private health, medical, and convalescent facilities and equipment to provide emergency health and medical care for ill or injured persons.
- (h) An order authorizing, in cooperation with utility management and appropriate state and federal authorities, the shutting off, restoration, and operation of utility services in accordance with priorities established for combating an emergency or disaster.
- (i) An order providing for the evacuation and reception of the population of Tribal lands or any part thereof; and
- (j) Such other orders as are imminently necessary for the protection of life and property; provided, however, that any such orders shall, be presented as soon as practicable to the Tribal Council for confirmation, modification or rejection. Orders which are rejected shall be void. Emergency orders shall be considered in full force and effect until modified or rejected by the Tribal Council.

5.1.1(a) Annotation

Regardless of what specific orders your Tribe chooses to utilize from this list or from Section 5.2, the paragraph marked “*This paragraph should precede listed orders*” should precede listed orders. This paragraph specifies that during a declared emergency, the head executive may utilize any of the following actions. Under this section any order utilized will be in full effect unless acted on by the Tribal council. This retroactive approval strategy is necessary for speedy emergency management while simultaneously providing an opportunity to check these unitary decisions.

- (a) Subsection 5.1.a allows for a curfew to be implemented.
- (b) Subsection 5.1.b allows for businesses and spaces typically open to the public, but privately owned, to be closed.
- (c) Subsection 5.1.c is common only to municipal & county examples, however of these example this language was practically ubiquitous. For this model, it has been adapted for a Tribal government context. It allows for the specific closure of all businesses which primarily sell alcohol, and the discontinuance of sale of alcohol in businesses where this is not the primary good for sale.
- (d) Subsection 5.1.d is also common only to municipal and county code examples, and again was adapted for Tribal government use if so chosen. It allows for the discontinuance of sale of alcohol without also requiring the closure of businesses where these sales take place.
- (e) Subsection 5.1.e discontinues the sale of flammable products including gasoline in containers that are not gas tanks affixed to cars.
- (f) Subsection 5.1.f allows for the closure of public spaces.
- (g) Subsection 5.1.g allows for medical spaces and equipment to be used in the care of injured or ill persons.
- (h) Subsection 5.1.h allows for the shutting off of utilities so long as this is done in coordination with the utility provider.
- (i) Subsection 5.1.i allows for the evacuation and reception of persons from and to any part of Tribal lands.
- (j) Subsection 5.1.j is a “catch-all” that allows for other non-specified orders to be issued so long as they are for the protection of life and property. These orders must be presented to the Tribal Council for approval, but they will be valid until action is taken by the council.

5.2 Emergency Procurements, Resources, & Aid

An Authorized Emergency Orders section often describes alternative/special procurement procedures. These examples would be listed as sections to Section 5.1. Two examples are provided. They differ primarily in the oversight required with Example 1. allowing broader purchasing authority than Example 2.

In reading through these examples consider how your Tribe has responded to emergency situations previously and ask the following questions:

- (a) Did procurement procedures impede response?

(b) Would it make sense for your management structure to have access to a defined dollar amount upon declaration, or would retroactive approval of procurements allow for better response?

(c) What authority should your Tribal Council have in approving emergency procurements?

5.2.1 Procurements Example 1

Upon declaration of an emergency, and during the existence of such emergency, the (INSERT HEAD EXECUTIVE) or alternates as defined in Section 2.1 (*reference your continuity of government section*) or the (INSERT EMERGENCY MANAGER TERM FROM DEFINITIONS SECTION) (INSERT ANY OTHER ROLES HERE) is authorized to make emergency procurements where following regular procurement procedures would cause delay that would put the Tribe at risk of a substantial loss or damage to property, bodily injury, or loss of life.

5.2.1(a) Annotation

Procurements Example 1 states that during an emergency, if procurement procedures are too slow to match the need for resources that are determined to be necessary to save/protect people or property, then a defined set of people may make procurements that do not have to follow the normal approval procedure. This example does not define a maximum dollar amount, nor does it require retroactive approval. This example gives this authority to the Head Executive (typically the Tribal Chairperson) and the Emergency Manager. Space is provided in this example to list any other role that you would like to have this authority.

5.2.2 Procurements Example 2

Upon declaration of an emergency, and during the existence of such emergency, the (INSERT Head Executive TERM FROM DEFINITIONS SECTION) or alternates as defined in Section 2.1 (*reference your continuity of government section*), the Manager, and the (INSERT ANY OTHER ROLES HERE) are authorized to approve contracts and incur obligations up to \$(INSERT DOLLAR AMOUNT) in order to facilitate the procurement of life-saving resources without regard to time-consuming procedures otherwise prescribed by law (INSERT TRIBAL CODE CITATION OF NORMAL PROCUREMENT PROCEDURES IF AVAILABLE)(except mandatory constitutional requirements); provided, that in the immediate aftermath of an emergency or disaster, these contracts and obligations are presented to the Tribal Council.

5.2.2(a) Annotation

Similar to Example 1, this example describes which roles have the authority to make emergency procurements. Example 2 has a higher degree of oversight/limitations for use than Example 1. Example 2 also differs in that procurements, contracts, and obligations under this section can only be incurred up to a specified dollar amount. Defining an allowable amount provides further protection against misuse of this authority. Example 2 requires that all of these

actions be presented to the Tribal Council at the earliest practicable time. Lastly, space is provided in this example for you to include any roles that should have this authority.

5.3 Commanding Service & Equipment

An Authorized Emergency Orders section often includes instruments for utilization of public & private resources for purposes of emergency management. While both examples allow for this, Example 2 also allows for the service of registered volunteer workers to be commanded. Both examples provide civil protections to these actions in the form of compensatory requirements and liability protections when property and personnel are commandeered. In reading through these examples consider your Tribe's interaction with registered emergency worker programs at a Tribal, local, state, and federal level. The national mutual aid agreement, the Emergency Management Agreement Compact (EMAC) is accessible to Tribes through state Intergovernmental Agreements.

- If non-Tribal or Tribal registered emergency workers programs are available and used by your Tribe, consider including language like Example 2.b.

5.3.1 Example 1

Under this section, the (INSERT HEAD EXECUTIVE) is authorized to commandeer nongovernmental resources to support the response to a declared emergency and may enter into agreements with other public and private entities for the use of resources. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to an agreed-upon value based on the fair market value thereof.

5.3.1(a) Annotation

Example 1 broadly and simply states that a specified role or roles may use private or public resources to support government response efforts in an emergency. This example requires the Tribe to compensate those who have had their property commandeered at an agreed upon rate based on fair market value. Of the emergency management codes reviewed and analyzed, this example language is more general than most, and was found in primarily municipal and county codes. Because the language of this section is so broad, identifying the jurisdiction or area for which this power applies may protect its use from judicial challenges. It is included in this model to exemplify compensatory language.

5.3.2 Example 2

Under this section, upon declaration of an emergency, and during the existence of such emergency, the (INSERT HEAD EXECUTIVE) may make and proclaim any or all of the following orders. Emergency orders must be presented as soon as practicable to the Tribal Council for confirmation, modification, or rejection. Orders become void upon rejection. Emergency orders shall be considered in full force and effect until modified or rejected by the Tribal Council.

(a) An order to utilize existing services and facilities to the maximum extent practicable, and to command the equipment of as many citizens as considered necessary in the light of the emergency declared. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to the fair market value thereof.

(b) An order to command the service of as many registered emergency workers as considered necessary in the light of the emergency proclaimed; provided that registered emergency workers so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided to registered emergency workers in Section 6.1 (*reference to liability section*).

5.3.2(a) Annotation

Similar to Example 1, this example allows for public and private resources to be utilized in service of emergency management. Example 2 differs in that it also allows for registered emergency workers to be commanded. Commandeered personnel are entitled to specific benefits, privileges & immunities. These are the privileges & immunities from liability described in section 6.1. If your Tribe does not have or interact with registered emergency workers programs line (b) is not applicable.

5.4 Conflicting Ordinances, Orders, Rules and Regulations Suspended

At all times when the orders, rules, and regulations made and promulgated pursuant to this chapter are in effect, those orders shall supersede all previously existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent with therewith.

5.4.1 Annotation

This provision reflects a common feature of emergency management codes amongst all jurisdictions, which is to ensure emergency orders temporarily supersede any Tribal ordinance or regulation that is inconsistent with the orders authorized in this chapter. This prevents legal ambiguity during emergency response operations and ensures emergency measures can be implemented quickly and effectively until normal governance resumes.

5.5 Violations

(a) It shall be a criminal offense for any person to violate any of the provisions of this chapter or orders issued pursuant to the authority contained herein, or to willfully obstruct, hinder, or delay any member of the Emergency Management organization as herein defined, in the enforcement of the provisions of this chapter or any plan issued hereunder.

(b) Violators subject to the criminal jurisdiction of the (INSERT TRIBE) shall be punished by (INSERT RECONCILIATORY ACTION) *ex. Government personnel face termination, elected officials face being unseated, imprisonment of up to X amount of*

days, and a fine up to X \$amount. Violators not subject to jurisdiction of the (INSERT TRIBE) Court shall be prosecuted in the (INSERT STATE) courts under applicable law.

5.5.1 Annotation

A penalty section is found in most emergency management codes across all jurisdictions. This section states how violations of the emergency orders/powers afforded to an executive under the declaration are to be punished. This applies to the public and Tribal government personnel, as well as anyone committing the crime within the jurisdiction of the Tribe. The language provided in 5.5(b) creates an opportunity to insert actual penalties. These penalties should be drafted in consideration of the criminal code of your Tribe.

6. Additional Necessary Elements

The following sections are ubiquitous amongst emergency management codes and primarily serve structural purposes rather than substantive emergency management purposes. They are highly recommended for an emergency management code to operate effectively. These sections will likely exist as structural elements in other chapters of your Tribal code. If examples of these elements exist in your code it is best practice to replicate that language here.

6.1 Liability Clause

(a) Nothing contained in this chapter is intended or shall be construed to create or form the basis of any liability on the part of the Tribe or its officers, registered emergency workers, employees, or agents for any injury or damage resulting from any action or inaction on the part of the Tribe related in any manner to the enforcement of this chapter by its officers, registered emergency workers, employees, or agents.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation, grants the Tribe the right to inspect, designate, and use the whole or any part of such real estate, or premises, for the purpose of sheltering persons during an actual, impending, or practice emergency situation shall not be civilly liable for the death of, or injury to, any person, or about such real estate, or premises, under such license, privilege, or other permission; or for loss of, or damage to, the property of such person.

6.1.1 Annotation

A liability clause is found at the end of most emergency management codes. This provision clarifies that nothing in the chapter waives the Tribe's sovereign immunity or creates a basis for civil liability, ensuring that enforcement activities by Tribal officials cannot be misinterpreted as giving rise to new legal claims. This example also affords these protections to those acting on behalf of, or in cooperation with the Tribe in service of emergency management.

6.2 Severability Clause

The provisions of this chapter are severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held invalid or unconstitutional or if the application of this chapter to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause, or phrases of this chapter.

6.2.1 Annotation

A severability clause is added to the end of the entire chapter and provides that if a specific section is determined through judicial review to be unconstitutional or otherwise invalid, the remainder of the chapter remains in effect.

