

**HO-CHUNK NATION CODE (HCC)  
TITLE 8-HOUSING, REAL ESTATE AND PROPERTY CODE  
SECTION 8-LAND CONSOLIDATION CODE**

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**Chapter I**  
**General Provisions**

**1. Authority.**

a. Article V, Section 2(a) of the Constitution of the Ho-Chunk Nation ("Constitution") grants the Legislature the power to make laws, including codes, ordinances, Resolutions, and statutes.

b. Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive Branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power.

c. Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget.

d. Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.

e. Article V, Section 2(k) of the Constitution grants the Legislature the power to acquire or purchase lands for the benefit of the Nation and its members.

f. Article V, Section 2(1) of the Constitution grants the Legislature the power to enact laws to manage, lease, or permit or otherwise deal with the Nation's lands, interest in lands or other assets.

g. Article V, Section 2(m) of the Constitution grants the Legislature the power to enact laws to prevent the sale, disposition, or encumbrance of Ho-Chunk lands, or other Ho-Chunk assets.

h. Article V, Section 2(o) of the Constitution grants the Legislature the power to enact laws to regulate and zone any lands within the jurisdiction of the Ho-Chunk Nation.

i. Article V, Section 2(p) of the Constitution grants the Legislature the power to enact laws to create and regulate a system of property including but not limited to use, title, deed, estate, inheritance, transfer, conveyance, and devise.

j. Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation.

**2. Purpose.** This Code shall govern the Nation's process for acquiring fractionated homestead/allotment interest for the benefit and the continued existence of the Nation.

### **3. Scope.**

a. This Code shall apply to all fractionated interests of allotments under the jurisdiction of the Ho-Chunk Nation and its members. The Code also provides and develops a process by which the members may convey their fractionated interest directly to the Nation for the benefit and continued existence of the Nation.

b. For the purposes of this Code, Tribal Lands means all lands held in trust for the Ho-Chunk Nation and its members by the United States of America, as defined by Article I, Section 1 of the Constitution.

### **4. General.**

a. The Ho-Chunk Department of Administration shall work cooperatively in processing and submitting land consolidation information to the Land Development Team or Land Planning Commission for further recommendations to the Legislature.

b. The Department of Natural Resources and Department of Health is responsible for reviewing and researching the environmental aspects of properties which are offered to the Nation for consideration of purchasing available interest or are offered by the allottee directly to the Nation for consideration through gift, donation or direct sale.

c. The Ho-Chunk Department of Administration is responsible for the acquisition, filing and retrieval of legal records pertaining to lands owned by the Ho-Chunk Nation, including a record of all leases on the Nations properties.

**5. Duties.** The duties of the members of the Land Development Team and the Land Planning Commission are to perform due diligence, research and provide a collaborative recommendation to the Legislature.

**6. Definitions.** The following terms shall have the meaning indicated:

- a. "Allottee" means the individual owner(s) of an allotment or an allotment interest.
- b. "Allotment property" means real property held in trust by the United States of America for individual Ho-Chunk members. Original homesteads/allotments were granted by the Federal Government to Ho-Chunk Nation members through the Dawes Act (also known as the General Allotment Act) in 1887. These trust properties currently are held by the United States of America through the Bureau of Indian Affairs for the heirs of a homestead/allotment.
- c. "Designated interest" means an allotment interest which has been designated to a defined individual through a valid will or other conveyance.
- d. "Heir" means the person entitled to property or title as the legal successor.
- e. "Fractionated interests" means a trust parcel owned by more than one owner as undivided interests. This is a result of land ownership interest being divided again and again as owners of the interests die and the interests are divided according to laws of probate or intestate succession.
- f. "Heirship or Homestead property" means property granted to a head of household or individual by the Federal government. Historically, some of the Ho-Chunk Nation allotments were converted into homesteads and vice versa.
- g. "Trust property" means those properties- that are held in trust by the United States of America for the benefit of an Indian tribe or individual Indian members.
- h. "Fee or Fee simple property" means real property wholly owned and controlled by the Nation or owned by an individual and subject to state tax.
- i. "Purchase Restricted Trust property" means property held by the Bureau of Indian Affairs in trust for owners who are tribal members/heirs in which the Ho-Chunk Nation's ownership interest would be less than fifty (50) percent.
- l. "Undivided interest" means the allotment interests, which have been fractionated over the years and have not been subdivided through apportionment. Undivided interest can be characterized as co-owners sharing an entire tract collectively and who do not receive individual parcels within the tract for themselves.
- m. "Transferee" means the individual allotment owner who is making the transfer to the Nation.

## **Chapter II**

### **Direct Transfer of Fractionated Interests to the Nation**

#### **7. Initial Contact.**

Any owner of heirship property or fractionated interests seeking to transfer property to the Nation by sale, gift, or by other means, shall contact the Department of Administration.

#### **8. Review and Recommendation Process.**

a. The Department of Administration shall submit the request to the Land Development Team or Land Planning Commission.

b. The Land Development Team or Land Planning Commission shall conduct all necessary reviews and inspections of the property prior to submitting their recommendation to the Legislature.

#### **9. Final Approval.**

a. The Legislature shall have final authority to approve all transfers by allottees or interest holders Ho-Chunk members of fractionated interests to the Nation.

b. The Legislature shall purchase fractionated interests or heirship property through passage by a written Resolution; a copy of the Resolution shall be sent to the Department of Administration.

#### **10. Publication.**

If the fractionated interest or heirship property is transferred to the Nation by sale, the Department of Administration shall provide a copy of the Resolution for publication in the Nation's official newspaper (currently the *Hocak-Worak*).

#### **11. Recording of Interests.**

a. Any approved direct transfer to the Nation by sale, gift, or other means, of an existing fractionated interest shall be recorded with the Bureau of Indian Affairs. A copy shall be filed with the Department of Administration, which will include the legal documents providing for such transfer of interest (including but not limited to the deed and the contract for sale) and the Resolution accepting such transfer.

b. The legal documents filed with the Department of Administration could include, but is not limited to, a deed to the Nation, which reserves a life estate interest in favor of the transferee.

**12. Allottee to Allottee transfer.**

a. If the allottee, owner of a fractionated allotment interest, is seeking a transfer by sale, gift or other means to a family member, while both parties are living, the allottee shall be referred to the Bureau of Indian Affairs for assistance with the transfer of the interest.

b. If the allottee requests assistance, the Department of Administration may function as a liaison between the Ho-Chunk member and the Bureau of Indian Affairs.

**Chapter III  
Jurisdiction and Consultation Process for Development on Allotted Lands**

**13. Jurisdiction.**

a. The Ho-Chunk Nation's jurisdiction shall extend over all Ho-Chunk lands and territories as defined in the Constitution, including all allotments, fractionated interest, heirship properties, and any undivided interests, unless Federal law limits such jurisdiction.

b. All allotment or heirship property owners shall be subject to Ho-Chunk Nation laws and court orders.

**Chapter IV  
Recording Process for the Nation's Allotment Interest**

**14. Recording.**

a. The Department of Administration shall work cooperatively with the Bureau of Indian Affairs to obtain information regarding all existing allotment interests and any changes to ownership of the allotted lands.

b. All heirship/allotment or fractionated interests owned by the Nation shall be recorded with the Bureau of Indian Affairs and a copy shall be filed with the Department of Administration.

c. The Department of Administration shall create a filing process to maintain all legal documents regarding all allotted, fractionated, or heirship property interests owned by the Nation.

d. The Department of Administration shall coordinate with the Bureau of Indian Affairs regarding the transfer of the designated property to the Nation.

**15. Fiduciary.**

The Bureau of Indian Affairs is the trustee for the Nation's lands, and as such maintains a fiduciary responsibility to the land owner and to the Nation.

**16. Severability.**

If any part or parts, or application of any part of this Act is held invalid, such holding shall not affect the validity of the remaining parts of this Act.

**17. Sovereign Immunity.**

No section, clause, sentence or provision of this Chapter shall be construed as a waiver of the Nation's sovereign immunity.

**18. Effective Date.**

This Code shall take effect immediately upon passage of the Resolution of approval and adoption.

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**Legislative History:**

- 05.21.09 Introduction to the Development Committee; Representative Lawrence Walker noted as Legislative Sponsor and referred to full Legislature for 45 day comment period.
- 06.10.09 Legislature approved for 45 public comment period.
- 09.22.09 Legislature approves the code by resolution 9-22-09C.
- 09.26.23 Legislature adopts Resolution 09.26.23A Placing out for 45 public comment period.
- 11.21.23 Legislature adopts the Code with amendments via Resolution 11.21.23K.