



**HO-CHUNK NATION CODE (HCC)
TITLE 3 – HEALTH AND SAFETY CODE
SECTION 22 – LOITERING AND
PROWLING ORDINANCE**

ENACTED BY LEGISLATURE: August 22, 2017

CITE AS: 3 HCC § 22

1. Authority.

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

(b) Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation.

(c) Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation.

2. Loitering or Prowling.

(a) No person shall loiter or prowl anywhere on lands within the jurisdiction of the Ho-Chunk Nation, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted are the following:

(i) That the person takes flight upon appearance of a police officer; or

(ii) That person refuses to identify himself; or

(iii) That person manifestly endeavors to conceal him or herself or any object.

(b) Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer, prior to any arrest for an offense under this Subsection, shall afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting that person to identify him or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this Subsection if:

(i) The police or peace officer did not comply with the preceding sentence, or

(ii) It appears at trial that the explanation given by the person was true, if believed by the police or peace officer at the time, would have dispelled the alarm.

3. Penalties.

(a) This ordinance shall be enforced by the Ho-Chunk Nation Police Department and the Ho-Chunk Nation Department of Justice and shall be subject to 2 HCC §14 Ho-Chunk Nation Statute of Limitations and Commencement of Claims Act.

(b) Whoever has been found to violate any provision of this ordinance shall be made to forfeit \$300 plus costs of prosecution for each offence and cost of restitution.

Legislative History:

- 05/23/17 Legislature places the draft Loitering and Prowling Ordinance out for 45 day public comment through Resolution 05-23-17M.
- 08/22/17 Legislature enacts the Loitering and Prowling Ordinance (3 HCC § 17) through Resolution 08-22-17F.
- 01/08/24 Pursuant to the Legislative Organization Act, 2 HCC § 11.46c, technical corrections, including numbering for any laws may be made without full Legislative approval, provided the Vice President and Legislative Counsel shall indicate their approval in writing. During the last major website overhaul, some of the Nation's laws were not transferred properly, leading to an errant renumbering of some of the Nation's laws. When the Woxete kii Face Covering Ordinance was enacted via quick passage on August 4, 2020, it was errantly numbered 3 HCC § 17, and has been on the website as such since then. The Loitering and Prowling Ordinance was never revoked, but was never placed back on the website during the website overhaul and lost its Section number within Title 3, the Health and Safety Code, due to this technical numbering error. As such, the Loitering and Prowling Ordinance will now be numbered 3 HCC § 22.