



HO-CHUNK NATION CODE (HCC)
TITLE 3 – HEALTH AND SAFETY CODE
SECTION 66 – *CIIRA RUŽEŽE* (RAZE) ORDINANCE

ENACTED BY LEGISLATURE: April 3, 2024

CITE AS: 3 HCC § 66

(1a) AUTHORITY, PURPOSE AND JURISDICTION.

(a) Authority.

1. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

2. 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.

3. Article V, Section 2(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation’s lands, interests in lands or other assets.

4. 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.

5. 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; and

6. 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.

7. 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.

8. Article VII, Section 4 of the Constitution grants the Judiciary the power to interpret and apply the Constitution and laws of the Ho-Chunk Nation.

(b) Purpose. This Ordinance is enacted to ensure the safety of the public and prevent public nuisance by determining whether a building should be razed or repaired in the following circumstances:

1. When a building is old, dilapidated, or out of repair and consequently dangerous, unsafe, unsanitary, or otherwise unfit for human habitation and unreasonable to repair.

2. When a building that, as a result of vandalism or any other reason, has deteriorated or is dilapidated or blighted to the extent that windows, doors or other openings, plumbing or heating fixtures, or facilities or appurtenances of the building are damaged, destroyed or removed so that the building offends the aesthetic character of the immediate neighborhood and produces blight or deterioration.

(c) Jurisdiction. The jurisdiction of this Ordinance shall include all lands held by the Nation or the People, or by the United States for the benefit of the Nation or the People, and any additional lands acquired by the Nation or by the United States for the benefit of the Nation or the People, including but not limited to air, water, surface, subsurface, natural resources and any interest therein, notwithstanding the issuance of any patent or right-of way in fee or otherwise, by the governments of the United States or the Ho-Chunk Nation, existing or in the future. In addition, it shall extend to any and all tribal lands as defined herein and persons or activities therein.

(1b) INSPECTION.

(a) Upon the tribal building inspector or other designated officer discovering or receiving a report of an unsafe building or a public nuisance, the tribal building inspector or other designated officer shall investigate the report.

1. The tribal building inspector or other designated officer shall inspect or have the building inspected.

2. In the event that the building is occupied, then the tribal building inspector or other designated officer shall obtain the owner's permission prior to conducting such inspection.

3. In the event the building is occupied and the owner does not grant permission for an inspection, then the tribal building inspector or other designated officer may obtain an inspection warrant from the Ho-Chunk Nation Judiciary.

a. The tribal building inspector or other designated officer must show that probable cause exists that the building is an unsafe building or a public nuisance.

b. The mere existence of a report shall not constitute probable cause; rather, other articulable facts must be presented to the court.

c. The court shall schedule hearings in relation to the granting of the inspection warrant in an expedited manner.

4. In the event of an emergency situation where a building is believed to be an imminent danger to life or limb in the community, an inspection warrant shall not be required even

if permission is not granted. The tribal building inspector or other designated officer shall be accompanied by a tribal law enforcement officer for any such emergency inspection.

5. The tribal building inspector or other designated officer shall take such other actions as necessary to reasonably investigate whether the building is unsafe or a public nuisance.

(1) PROCEDURE.

(a) Definitions. In this subsection:

1. “Building” includes any building or structure or any portion of a building or structure.

2. “Raze a building” means to demolish and remove the building and to restore the site to a dust-free and erosion-free condition.

(b) Raze order. The tribal building inspector or other designated officer may:

1. Except as provided in sub. (5), if a building is old, dilapidated, or out of repair and consequently dangerous, unsafe, unsanitary, or otherwise unfit for human habitation and unreasonable to repair, order the owner of the building to raze the building or, if the building can be made safe by reasonable repairs, order the owner to either make the building safe and sanitary or to raze the building, at the owner’s option.

2. If there has been a cessation of normal construction of a building for more than two (2) years, order the owner of the building to raze the building. The tribal building inspector or other designated officer shall determine when cessation has begun based of normal construction practices and shall consult with the owner prior to making such determination.

(br) Notice of unfitness for occupancy or use; penalty.

1. If a building subject to an order under par. (b) is unsanitary and unfit for human habitation, occupancy, or use and is not in danger of structural collapse, the tribal building inspector or other designated officer shall post a placard on the premises containing the following notice: “This Building May Not Be Used For Human Habitation, Occupancy or Use.” The building inspector or other designated officer shall prohibit the use of the building for human habitation, occupancy, or use until necessary repairs have been made.

2. Any person who rents, leases, or occupies a building condemned for human habitation, occupancy or use under sub. 1. shall be fined not less than \$50 for each week of the violation.

(c) Reasonableness of repair; presumption. Except as provided in subs. (3) and (5), if the tribal building inspector or other designated officer determines the cost of repairs of a building described in par. (b) 1. would exceed 50 percent of the insured value of the building, divided by the ratio of the insured value to the recommended value as last published by the State of Wisconsin

Department of Revenue for the municipality within which the building is located, the repairs are presumed unreasonable for purposes of par. (b) 1. If there is no insurance on the building, then the appraised value of the building will be used to make the determination. The appraisal shall be conducted by a 3rd party appraiser of the Nation or at the owners expense if they so choose their own appraiser.

(d) Service of order. An order under par. (b) shall be served on the owner of record of the building subject to the order or on the owner's agent if the agent is in charge of the building in the same manner as a summons is served in the Ho-Chunk Nation Judiciary. An order under par. (b) shall be served on the holder of an encumbrance of record by 1st class mail at the holder's last-known address and by publication. If the owner and the owner's agent cannot be found or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it before the time limited in the order begins to run. The time limited in the order begins to run from the date of service on the owner or owner's agent or, if the owner and agent cannot be found, from the date that the order was posted on the building.

(e) Effect of recording order. If a raze order issued under par. (b) is recorded with the Nation's Register of Deeds, the order is considered to have been served, as of the date the raze order is recorded, on any person claiming an interest in the building or the real estate as a result of a conveyance from the owner of record unless the conveyance was recorded before the recording of the raze order.

(f) Failure to comply with the order; razing building. An order under par. (b) shall specify the time within which the owner of the building is required to comply with the order and shall specify repairs, if any. If the owner fails or refuses to comply within the time prescribed, the tribal building inspector or other designated officer may proceed to raze the building through any available public agency or by contract or arrangement with private persons, or to secure the building and, if necessary, the property on which the building is located if unfit for human habitation, occupancy, or use. The cost of razing or securing the building may be charged in full or in part against the owner(s) or owner's estate if the owner is deceased, as a debt to the Nation.

(g) Court order to comply. The Nation, through the Department of Justice and in coordination with the tribal building inspector or other designated officer, may commence and prosecute an action through the Ho-Chunk Nation Judiciary for an order of the court requiring the owner to comply with an order to raze a building issued under this subsection if the owner fails or refuses to do so within the time prescribed in the order, or for an order of the court requiring any person occupying a building whose occupancy has been prohibited under this subsection to vacate the premises, or any combination of the court orders. A hearing on actions under this paragraph shall be given preference.

(h) Restraining order. A person affected by an order issued under par. (b) may within thirty (30) days apply to the Ho-Chunk Nation Judiciary for an order restraining the building inspector or other designated officer from razing the building or forever be barred. The hearing shall be held within 15 business days and shall be given preference. A temporary restraining order shall be issued until the court can hold a hearing and determine whether the raze order is reasonable. The

court shall determine whether the raze order is reasonable. If the order is reasonable, the court shall not issue a restraining order. If the order is unreasonable, the court shall issue the restraining order or modify it as the circumstances require. If the court finds that the order is unreasonable, the building inspector or other designated officer shall issue no other order under this subsection regarding the same building until its condition is substantially changed. The remedies provided in this paragraph are exclusive remedies, and anyone affected by an order issued under par. (b) is not entitled to recover any damages for the razing of the building.

(i) Removal of personal property. The tribal building inspector or other designated officer shall provide written notice served as provided in par. (d) to the owner and/or occupants of a building subject to an order under par. (b) of a date and time to retrieve any personal property in a safe manner. If a building subject to an order under par. (b) contains personal property or fixtures which will unreasonably interfere with the razing or repair of the building, or if the razing makes necessary the removal, sale, or destruction of the personal property or fixtures, the building inspector or other designated officer may order in writing the removal of the personal property or fixtures by a date certain. The order shall be served as provided in par. (d). If the personal property or fixtures are not removed by the time specified, the inspector may store, sell or, if it has no appreciable value, destroy the personal property or fixture. If the property is stored the amount paid for storage is a lien against the property and against the real estate and to the extent that the amount is not reimbursed from funds withheld from an insurance settlement, may be assessed and collected as debt to the Nation against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored, the owner of the property, if known, shall be notified of the place of storage and if the owner does not claim the property, it may be sold at the expiration of 6 months after it has been stored. The handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be as specified in par. (j) and a report to the Ho-Chunk Nation Judiciary as specified in par. (j). A person affected by any order under this paragraph may appeal as provided in par. (h).

(j) Sale of salvage. If an order to raze a building has been issued, the tribal building inspector or other designated officer under the contract or arrangement to raze the building may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of the sale, after deducting the expenses of razing the building, shall be promptly remitted to the Ho-Chunk Nation Judiciary with a report of the sale or transaction, including the items of expense and the amounts deducted, for the use of any person entitled to the net proceeds, subject to the order of the court. The report shall state if no surplus remains to be turned over to the court.

(k) Public nuisance procedure. A building which is determined under par. (b) 1. to be old, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to repair may be proceeded against as a public nuisance.

(2) RAZING BUILDING THAT IS A PUBLIC NUISANCE; IN REM PROCEDURE.

(a) Definitions. In this subsection:

1. "Building" means a building, dwelling, or structure.

2. “Public nuisance” means a building that, as a result of vandalism or any other reason, has deteriorated or is dilapidated or blighted to the extent that windows, doors or other openings, plumbing or heating fixtures, or facilities or appurtenances of the building are damaged, destroyed or removed so that the building offends the aesthetic character of the immediate neighborhood and produces blight or deterioration.

3. “Raze a building” means to demolish and remove the building and to restore the site to a dust-free and erosion-free condition.

(b) Notification of nuisance. If the owner of a building within tribal jurisdiction permits the building to become a public nuisance, the tribal building inspector or other designated officer shall issue a written notice of the defect that makes the building a public nuisance. The written notice shall be served on the owner of the building as provided under sub. (1) (d) and shall direct the owner to remedy the defect within 30 days following service.

(c) Failure to remedy; court order to remedy or raze.

1. If an owner fails to remedy or improve the defect per the written notice under par. (b) within the 30-day period specified in the written notice, the tribal building inspector or other designated officer shall apply to the Ho-Chunk Nation Judiciary, the jurisdiction in which the building is located, for an order determining that the building constitutes a public nuisance. As a part of the application for the order from the Ho-Chunk Nation Judiciary, the tribal building inspector or other designated officer shall file a verified petition, which recites the giving of written notice, the defect in the building, the owner’s failure to comply with the notice and other pertinent facts. A copy of the petition shall be served upon the owner of record or the owner’s agent if an agent is in charge of the building and upon the holder of any encumbrance of record under sub. (1) (d). The owner shall reply to the petition within 20 days following service upon the owner. Upon application by the tribal building inspector or other designated officer, the Ho-Chunk Nation Judiciary shall promptly set the petition for hearing. Testimony shall be taken by the Ho-Chunk Nation Judiciary concerning the petition’s allegations and denials contained in the verified answer. If the Ho-Chunk Nation Judiciary after hearing the evidence on the petition and answer determines that the building constitutes a public nuisance, the court shall promptly issue an order directing the owner of the building to remedy the defect and to make such repairs and alterations as may be required. The court shall set a reasonable period of time in which the defect shall be remedied and the repairs or alterations completed. A copy of the order shall be served upon the owner as provided in sub. (1) (d). The order of the Ho-Chunk Nation Judiciary shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, the court will appoint a receiver or authorize the tribal building inspector or other designated officer to proceed to raze the building under par. (d).

2. In an action under this subsection, the Ho-Chunk Nation Judiciary before which the action is commenced, shall exercise jurisdiction in rem or quasi in rem over the property that is the subject of the action. The owner of record of the property, if known, and all other persons of record holding or claiming any interest in the property shall be made parties defendant, and service of process may be made upon them.

3. It is not a defense to an action under this subsection that the owner of record of the property is a different person or entity than the owner of record of the property on or after the date the action was commenced if a lis pendens was recorded before the change of ownership.

(d) Failure to comply with court order. If the order of the Ho-Chunk Nation Judiciary under par. (c) is not complied with within the time fixed by the court under par. (c), the court shall authorize the tribal building inspector or other designated officer to raze the building or shall appoint a disinterested person to act as receiver of the property to do either of the following within a reasonable period of time set by the court:

1. Remedy the defect and make any repairs and alterations necessary to meet the standards required by the building code or any health order. With the approval of the Ho-Chunk Nation Judiciary, a receiver appointed under this subsection, may borrow money against and mortgage the property held in receivership as security in any amount necessary to remedy the defect and make the repairs and alterations. For the expenses incurred to remedy the defect and make the repairs and alterations necessary under this subsection, the receiver has a lien upon the property. At the request of and with the owner's approval, the receiver may sell the property at a price equal to at least the appraised value of the property plus the cost of any repairs made under this subsection. The selling owner is liable for those costs.

2. Secure and sell the building to a buyer who demonstrates to the Ho-Chunk Nation Judiciary an ability and intent to rehabilitate the building and to have the building reoccupied in a legal manner.

(e) Receiver; order to raze.

1. A receiver appointed under par. (d) shall collect all rents and profits accruing from the property held in receivership and pay management costs, including all general and special real estate taxes or assessments and interest payments on mortgages on the property. A receiver under par. (d) shall apply moneys received from the sale of property held in receivership to pay all debts due on the property in the order set by law and shall pay any balance to the selling owner if the court approves.

2. The Ho-Chunk Nation Judiciary shall set the fees and bond of a receiver appointed under par. (d) and may discharge the receiver as the court considers appropriate.

3. Nothing in this subsection relieves the owner of property for which a receiver has been appointed under par. (d) from any civil or criminal responsibility or liability except that the receiver has civil and criminal responsibility and liability for all matters and acts directly under the receiver's authority or performed at their discretion.

4. If a defect is not remedied and repairs and alterations are not made within the time limit set by the Ho-Chunk Nation Judiciary under par. (d), the court shall order the tribal building inspector or other designated officer to raze the building.

5. All costs and disbursements to raze a building under this subsection shall be as provided under sub. (1) (f).

(5) RAZING CERTAIN INSURED DWELLINGS.

(a) Definitions. In this subsection:

1. “Cost of repairs” includes the estimated cost of repairs that are necessary to comply with applicable building codes, or other ordinances or regulations, governing the repair or renovation of a dwelling.

2. “Covered damage” means damage that is covered by an insurance policy.

3. “Insured dwelling” means real property that is covered under an insurance policy and that is owned, occupied, and used primarily as a dwelling by the insured.

(b) Insurer certification.

1. No later than 14 days after real property has incurred damage, an insurer may provide a written certification through 1st class mail or electronic communication to the tribal building inspector or other designated officer stating all of the following:

a. That the insurer reasonably believes the real property may qualify as an insured dwelling.

b. That the property owner or an insured has filed a claim for covered damage with the insurer or the insurer has reason to believe the property owner or an insured will file a claim for covered damage with the insurer.

c. That the insurer reasonably believes the claim may qualify as covered damage.

d. The date of damage to the insured dwelling, the insurance policy limits of the insured dwelling, the insurer’s designated representative for the filed or anticipated claim, and the designated representative’s mailing address, electronic mail address, and phone number.

2. A certification under this paragraph does not waive or limit any rights of the insurer under an insurance policy.

3. At any point prior to submitting a certification under sub. 1., an insurer may notify the tribal building inspector or other designated officer that the insurer has determined the insured dwelling to be wholly destroyed. If at any point after submitting a certification under sub. 1. the insurer determines that the insured dwelling is wholly destroyed, the insurer shall notify the tribal building inspector or other designated officer of that determination.

(c) Assessment. The tribal building inspector or other designated officer may not issue a raze order under sub. (1) (b) for an insured dwelling for which an insurer has provided a certification under par. (b) unless the tribal building inspector or other designated officer does all of the following:

1. Provides notice of intent to issue a raze order to the owner of record of the insured dwelling, the holder of any encumbrance on the insured dwelling, and the insurer of the insured dwelling. The notice shall include a statement that materials may be submitted to the tribal building inspector or other designated officer under sub. 2. Notice under this subsection shall be served in the manner provided under sub. (1) (d).

2. Accepts and considers materials that are submitted by any person entitled to notice under sub. 1., that assist in establishing the extent of the damage or the reasonable cost of repairs to the insured dwelling, and that are received within 30 days after provision of the notice under sub. 1. Materials that may be accepted and considered under this subsection are limited to damage estimates, evaluations of the cost of repairs, and the results of inspections of the property. When considering the materials submitted under this subsection, the tribal building inspector or other designated officer shall consider the qualifications, expertise, and experience of the person that submitted the materials.

3. Conducts an on-site inspection of the insured dwelling to assess the extent of the damage.

4. Determines the estimated cost of repairs for the insured dwelling.

5. Determines that repair of the insured dwelling is not reasonable.

(d) Cost of repair. The tribal building inspector or other designated officer shall base its determination of the estimated cost of repairs for the insured dwelling under par. (c) 4. on the materials accepted under par. (c) 2. and similar materials produced by the tribal building inspector or other designated officer.

(e) Reasonableness of repair. If the tribal building inspector or other designated officer determines that the estimated cost of repairs of an insured dwelling does not exceed 50 percent of the insurance policy limits of the insured dwelling, the repairs are presumed reasonable.

(f) Repair orders. Nothing in this subsection shall preclude the tribal building inspector or other designated officer from ordering the owner of an insured dwelling to make the building safe and sanitary under sub. (1) (b).

(g) Application. This subsection does not apply to any of the following:

1. The tribal building inspector or other designated officer has determined that a dwelling to be in imminent danger of structural collapse and for which the property owner has failed to appropriately secure and limit access.

2. An insured dwelling that is the subject of a notification provided to the tribal building inspector or other designated officer by an insurer pursuant to par. (b) 3.

(6) VALIDITY. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other parts of this Ordinance, which can be given effect without such invalid part or parts.

(7) SOVEREIGN IMMUNITY. No section, clause, sentence or provision of this Ordinance shall be construed as a waiver of the Nation's sovereign immunity.

Legislative History:

- 01.03.24 Legislature authorizes to place the proposed *Ciira Ruzeze (Raze) Ordinance* out for 45 Day Public Comment, via resolution 01.03.24I.
- 01.04.24 *Ciira Ruzeze Ordinance* is placed on the Nation's Website with Expiration Date of 02.17.24.
- 04.03.24 Legislature adopts resolution 04.03.24A Enactment of *Ciira Ruzeze (Raze) Ordinance*.