

HO-CHUNK NATION CODE (HCC)
TITLE 8 – HOUSING, REAL ESTATE AND PROPERTY CODE
SECTION 1 – RESIDENTIAL BUILDING CODE
ENACTED BY LEGISLATURE
CITE AS: 8 HCC § 14

This Code supersedes the Ho-Chunk Nation Legislature Resolution 9/08/98B, “Residential Construction Inspection Standard Operating Procedures” adopted on 9/8/1998.

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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(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(c) of the Constitution grants the Legislature the power to constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature.
- d. 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.
- e. 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.
- f. Article V, Section 2(o) of the Constitution grants the Legislature the power to enact laws to regulate and zone any land within the jurisdiction of the Ho-Chunk Nation.
- g. 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.
- h. 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.
- i. Article VI, Section 2(b) of the Constitution grants the President the power to administer all Departments, boards, and committees created by the Legislature.

2. Purpose and Intent

The Ho-Chunk Nation Legislature hereby declares that the purpose of this Code is to protect, preserve, and promote the health and welfare of the members of the Nation through the regulation of public and private building projects, and to promote the general welfare of the Nation by legislation applicable to all buildings which: establishes standards for basic buildings and materials, specifications for buildings and materials, and determines the responsibilities of owners and builders used in the construction of structures within the boundaries of the Ho-Chunk Nation lands or on lands hereinafter acquired which are held in trust for the Ho-Chunk Nation by the United States government and to provide for the administration and enforcement of such.

This provision shall apply to new structures and to alterations and additions to existing structures within the boundaries of the Ho-Chunk Nation. The purpose of this Code is to: ensure that structures are safe, sanitary and fit for occupation and use, provide standards for the condemnation of buildings and structures unfit for human occupancy and use including the demolition of such structures under Ho-Chunk Nation law, to provide for issuance of permits and the collection of fees of such, to regulate and govern the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical conditions.

3. Jurisdiction

This Code shall be applicable to structures erected, constructed, modified, enlarged, relocated, demolished, converted, occupied, equipped, used and maintained within the boundaries of the Ho-Chunk Nation lands which are 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.

4. Adoption, Amendment, Applicability and Repeal

- a. This Code is adopted under authority of the Constitution of the Ho-Chunk Nation. This Code may be amended, or repealed by the Ho-Chunk Nation Legislature.
- b. If any provision of this *Residential Building Code* (8 HCC § X) or the application thereof to any person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable.
- c. In the event of a conflict between a provision of this Code and a provision of another code, law, policy, regulation, rule, resolution or motion, the provisions of this Code shall control. Provided that, nothing in this Code is intended to repeal or modify any existing code, law, policy, regulation, rule, resolution or motion, except that the following is hereby repealed: Ho-Chunk Nation Legislature Resolution 9/08/98B, “Residential Construction Inspection Standard Operating Procedures” *adopted on 9/8/1998*.
- d. This Code is a general act intended as a unified coverage of its subject matter and no part of it shall be deemed impliedly repealed by subsequent legislation if it can reasonably be avoided.
- e. This Code shall not be interpreted to be more lenient than the Wisconsin Department of Safety and Professional Services Uniform Dwelling Code SPS 320-325 and any conflict between those rules and regulations and this Code shall be resolved in favor of this Code.

5. Definitions

This section shall govern the definitions of words and phrases used within this Code. All words not defined herein shall be used in their ordinary and laymen’s use.

- a. “Accessory Building” means a detached building, not used as a dwelling unit but is incidental to that of the main building and which is located on the same lot. Accessory building does not mean farm building. Accessory building shall include all detached buildings that have electricity and/or plumbing.
- b. “Alley” means a public thoroughfare, which affords a secondary means of access to abutting property and is generally less than twenty feet (20') wide.
- c. “Applicant” means the person(s) applying for the building permit. This could be the contractor, or the homeowner, if they have a Dwelling Contractor Qualifier (DCQ) and Dwelling Contractor Certification (DCC).
- d. “Approved” shall mean designed, constructed and installed in accordance with the provisions of this Code and any regulations or provisions promulgated in pursuance thereof or hereinafter adopted by the Legislature.
- e. “Building” means:
 - (1) Noun. Means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one or more person(s).
 - (2) Verb. Any enlargement, alteration, movement or demolition of any building or structure, any new heating plan, or any material alteration in any existing heating plan, bathroom or elevator.
- f. “Building permit” means the Ho-Chunk Nation building permit, which includes construction, electrical, HVAC, plumbing, remodeling, additions, renovations, residing, reroofing, mobile home installations and erosion control.
- g. “Department” means the Ho-Chunk Nation Department of Labor. f
- h. “Nation” shall mean Ho-Chunk Nation.
- i. “Owner” means the following, , but not limited to, the Ho-Chunk Nation, any individual Ho-Chunk Tribal member, any person, firm, partnership, , the State of Wisconsin, any county or municipality, any sewer district, drainage district, or any Tribal corporation or Tribal organization having an interest in property of any kind, including the representative, officer, agent or other person having the ownership, control, custody or management of any building.
- j. “Permanent Improvements” means buildings, other structures, and associated infrastructure attached to the land

- k. “Residential Construction Inspector” means an employee of the Ho-Chunk Nation Department of Labor that is a registered UDC inspection agent, or a registered UDC inspection agent retained by the Department of Labor.
- l. “Structure” means anything constructed, the use of which requires location on the ground or attachment to something having a permanent location on the ground.

6. Standards

- a. *Incorporation of Provisions by Reference.* Subject to modifications specified in this Code, this Code incorporates by reference the standards as set forth in the following Wisconsin Administrative Codes: Chapters SPS 305, 316, 318, and, 320 through 325. These standards shall apply until amended and then shall apply as amended.
- b. Approved Modular Homes and products: The Nation incorporates and adopts any Modular Homes and building products approved by the State of Wisconsin, and shall not independently approve any Modular Homes or products.
- c. As it relates to SPS 320, the Nation does not incorporate sections 320.06 through 320.065 and 320.12 through 320.22. In the rest of SPS 320, references to “State” or “Municipality” shall be given no force or effect and where possible be interpreted to mean “Nation” or “Department.”
- d. Despite the language in SPS 320.09(9), it is the intent of the Legislature that all persons applying for a building permit to do work shall have the Dwelling Contractor Qualifier and Dwelling Contractor credentials. This requirement is intended to prevent the owner of a dwelling who will reside in the dwelling from obtaining a permit without either having the credentials or contracting with a contractor who has the credentials.

7. Administration and Inspections

- a. *Duties.* The Residential Construction Inspector shall enforce all Federal and Nation laws and lawful orders relating to the construction, alteration, repair, removal, location, occupancy, safety and use of buildings and permanent building equipment.
- b. *Records.* The Residential Construction Inspector shall keep records of the following matters and shall make annual reports to the Land Development Team, (LDT) on such records:
 - (1) all applications for building permits; regularly numbering each permit in the order of its issue;

- (2) the number, description and size of every building erected during each term of office, indicating the materials used and the cost of each building, and the aggregate cost of all buildings of the various classes;
- (3) all inspections made and all removals and condemnations of buildings; and
- (4) all fees, showing the dates of receipt and delivery to the Department.

c. *Powers.*

(1) *Inspection.* The Residential Construction Inspector may at all reasonable times for any proper purpose enter upon any public or private premises and make inspections thereof and may require the permit for any building, electrical, heating or plumbing work, or the required license therefor, to be produced for inspection.

(2) *Emergency Powers.* The Residential Construction Inspector shall have such emergency powers as are necessary to fulfill the purpose and intent of this Code; that is, to promote the public health, safety and welfare.

8. Building Permits

a. *Building Permit Required.* No person shall erect or construct any building or structure, or shall add to, enlarge, move, improve, alter, convert, extend or demolish any building or structure or cause the same to be done, or shall commence any work covered by this Code on any structure without first obtaining a building permit therefor from the Residential Construction Inspector; provided that, the Residential Construction Inspector may authorize minor repairs not involving structural alterations without requiring a building permit to be issued.

b. *Application.* An application for a building permit shall be filed with the Residential Construction Inspector on a blank form to be furnished for that purpose. Such application shall include:

(1) a description of the land upon which the proposed building or work is to be done, either by:

i. lot, or

ii. block, or

iii. tract, or

iv. similar general description which will readily identify and definitely locate the proposed building or work;

- (2) the use or occupancy of all parts of the building;
 - (3) such other pertinent information as may be required by the Residential Construction Inspector.
- c. *Information to Accompany Application.* The application for a building permit shall be accompanied by the following information, as necessary or required:
 - (1) A site plan in accordance with Wisconsin Administrative Codes: Chapter SPS 320.09 (5) (a).
 - (2) A Floor plan in accordance with Wisconsin Administrative Codes: Chapter SPS 320.09 (5) (b).
 - (3) Elevations in accordance with Wisconsin Administrative Codes: Chapter SPS 320.09 (5) (c).
 - (4) Required Data: Computations, stress diagrams and other data necessary to show the correctness of the plans, as in accordance with Wisconsin Administrative Codes: Chapter SPS 320.09 (6), shall accompany the plans and specifications when required by the Residential Construction Inspector.
- d. *Filing May Be Waived.* The application and the filing of plans may be waived at the discretion of the Residential Construction Inspector, provided the cost of such work does not exceed three thousand dollars (\$3,000).
- e. *Conditions of Approval of Application.*
 - (a) Sanitary Sewers. Where sanitary sewers are not installed or immediately available, no building permit shall be issued by the Residential Construction Inspector until proper plans and approvals are obtained from the appropriate parties.
 - (b) Right to Inspect. As a condition of granting a building permit, the Residential Construction Inspector or any Inspector may enter any premises for which such permit was issued, to inspect such premises for compliance with all statutory and Code regulations concerning the construction, repair, use and location of such building, at any reasonable time during the course of the work and until final inspection and approval thereof have been given.
- f. *Specifications Shall Be in Detail.* All specifications in which vague and/or generalized expressions are used, such as stating that work shall be done “in accordance with the Ho-Chunk Nation Building Code” or “to the satisfaction of the Residential Construction

Inspector of the Ho-Chunk Nation” shall be deemed imperfect and incomplete; and every reference to the Building Code shall be to the section or subsection applicable.

- (1) When a Permit Shall be Issued. If the application, plans and specifications conform to the requirements of this Code and to all other laws or Codes applicable thereto, the Residential Construction Inspector shall, upon receipt of the required fee, issue a building permit for such work in the name of the owner and shall sign, date and endorse in writing or by rubber stamp both sets of plans and specifications as “conditionally approved.”
- (2) Possession of Plans and Specifications. One (1) such approved set of plans and specifications shall be retained by the Residential Construction Inspector and one (1) shall be returned to the applicant, which set shall be kept at the site of such work at all times until the work authorized thereby is approved. Plans and specifications shall not be altered without written permission from the Residential Construction Inspector.
- (3) Evidence of Permit. With every permit issued, the Residential Construction Inspector shall issue to the applicant an appropriate card properly filled out evidencing issuance of the permit. The permit holder shall place such card in a conspicuous place on the site of such authorized work, the card to be unobstructed from the public view and available for inspectors to mark.
- (4) Lapse. The Permit shall expire 24 months after issuance if the dwelling exterior has not been completed.
- (5) Revocation.
 - i If the Residential Construction Inspector finds at any time a lack of compliance with the Codes, laws, orders, plans and specifications herein, the building permit shall be revoked.
 - a. Means of Revocation. Revocation shall occur by means of written notice served on the general contractor, or on the person in charge of that phase of work in which the error or violation has occurred, and upon the owner.
 - b. Service. Such service shall be either personal or by mailing a copy of such notice to the known address of such person, and there shall likewise be posted a copy of such notice at the work site.
 - ii When any permit is revoked, no person shall do any further work upon such building until the non-compliance is cured to the satisfaction of the Residential Construction Inspector.

a. *Exception.* The Residential Construction Inspector may authorize the completion of work as reasonably necessary to protect:

1. work already completed on the job;
2. existing property;
3. adjoining property; and/or
4. the health, safety or welfare of the general public.

(6) **Violations and Errors Not Excused By Issuance.** The issuance of a permit or the approval of plans and specifications shall neither be deemed nor construed to be permission for or approval of any violation of any provision of this Code. No permit shall presume to give authority to violate, or to fail to comply with, the provisions of this Code, although any permit shall be valid insofar as the work or use which it authorizes is lawful. If, subsequent to the issuance of a permit, errors are discovered in the application, plans, specifications or execution of work, that would cause work to be in violation of this Code or of any other Tribal law, the Residential Construction Inspector may require the correction of such errors and may rescind the permit and prevent building operations from being further carried on thereunder.

(7) **Permit to Start Construction of Footings and Foundations.**

- i Construction may begin on footings and foundations prior to the issuance of the Building Permit, if a Footings and Foundation permit to start construction is obtained.
- ii Upon submittal of the application for a Permit, a plot plan, complete footing and foundation information including exterior grading, and a fee, the Residential Construction Inspector may issue a permit to start construction of the footings and foundation.
- iii Issuance of a permit to start construction shall not influence the approval or denial of the final building Permit.

9. Fees and Insurance Requirements

- a. *Fees.* All inspection fees, permit fees and any other fees related to the administration of this Code shall be established from time to time by the Department, subject to approval by the Legislature.
- b. Wherever a party is required under this Code to carry liability insurance, that amount shall be established from time to time by the Department, subject to approval by the Legislature.

- c. All persons proposing projects subject to this Code shall pay, at the time the permit is issued, a fee assessed for purposes of deferring the inspection costs, administrative costs, and enforcement costs associated with the proposed project.

10. Inspections

- a. The Owner or General Contractor shall request inspections from the Residential Construction Inspector.
- b. Inspection Types. Inspections, in accordance with Wisconsin Administrative Codes: Chapter SPS 320.10, shall be performed to determine if work complies with the Code.
- c. Construction may not proceed beyond the point of inspection until the inspection has been completed.

11. Contractors' License

Any person who enters into a written or oral contract with a consumer to construct, remodel or repair any building for which a building permit is required shall be a licensed contractor in accordance with Wisconsin Administrative Code.

12. Lot Corners

- a. *To Be Monumented.* Prior to issuance of a building permit, all lot corners of the property upon which any building or structure is to be located shall be monumented by a registered land surveyor. These monuments shall be marked by wooden guard stakes.
- b. *Monuments to Be Maintained.* The lot corner monuments and guard stakes shall be maintained and kept readily visible until the footings have been inspected and approved by the Residential Construction Inspector.

13. Appeals, Violations, and Penalties.

- a. Appeals of actions of Residential Construction Inspector.
 - (1). An individual may appeal actions of the Residential Construction Inspector, including denials of Permits, inspection findings, or a stop work order to the Executive Director of Labor within 10 days of the action.
 - (2). Such appeals shall be on forms developed by the Department of Labor for such purposes, and shall set out in specificity and in full detail the action upon which a determination is desired, every reason the action is unreasonable, and every issue to be considered. The individual shall be deemed to have finally waived all

objections to any irregularities and illegalities in the action upon which a review is sought other than those set forth in the petition.

- (3). Upon receipt of such request, if the issues raised in such request have theretofore been adequately considered, the Department shall determine the same by confirming without hearing it's determination of the Residential Construction Inspector, or if such hearing is necessary to determine the issues raised, the Department shall order a hearing thereon and consider and determine the matter or matters in question at such times as shall be prescribed. Notice of the time and place of such hearing shall be given to the individual and to such other persons as the Department may find directly interested in such decision.
- (4). Upon such investigation and hearing, if it shall be found that the action complained of is unjust or unreasonable the Department shall substitute therefor such other order or action as shall be just and reasonable.
- (5). Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the order of the Department, the Department shall grant such time as may be reasonably necessary for such compliance.

b. Appeals of Decisions of the Department to Court.

- (1). No action, proceeding or suit to set aside, vacate or amend any order of the Department or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have applied to the Department for a hearing thereon as provided for above, and in the petition therefor shall have raised every issue raised in such action.
- (2). A substantial compliance with the requirements of this Code shall be sufficient to give effect to the orders of the Department, and no order may be declared inoperative, illegal or void for any omission of a technical nature with respect to the requirements of this Code.

c. Penalties and violations.

- (1). Violations. No person shall construct or alter any dwelling in violation of any of the provisions of this Code.
 - (a). When violations occur, the Department, through the Department of Justice, may bring legal action to enjoin any violations.
 - (b). The Court shall award to the Department litigation costs, including filing fees and reasonable attorney fees, if it issues an injunction.

(2).Penalties. Whoever violates this Code shall forfeit to the Nation not less than \$25 and no more than \$500 for each violation. Each day that a violation continues, after notice, shall constitute a separate offense.
