

TRIBAL CODE

CHAPTER 57

UBC/CABO ENFORCEMENT AND INSPECTOR LICENSING ORDINANCE

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CHAPTER 57

UBC/CABO ENFORCEMENT AND INSPECTOR LICENSING ORDINANCE

57.01 Purpose.

This Chapter is to protect public and employee health, safety and welfare by establishing minimum standards for the qualifications and responsibilities of persons that are required or permitted to obtain licenses and to provide for enforcement of the UBC or CABO Codes where the UBC or CABO Codes have been designated as the applicable Code.

57.02 Scope.

The Chapter applies to any person performing inspections of any construction project or existing housing with respect to which the Tribe or its TDHE has designated the UBC or the CABO Codes as the applicable Code.

57.03 Definitions.

In this Chapter:

(1) “CABO Codes” ,means the current version of the Codes of the Council of American Building Officials, as of the date of inspection.

(2) “License: means a license issued by the Tribe.

(3) “Tribe” means the Lac du Flambeau Band of Lake Superior Chippewa Indians.

(4) “Mechanical” means heating, ventilating, cooling and refrigeration systems, incinerators and miscellaneous heat-producing appliances.

(5) “Incompetence” means conduct which evidences a lack of competence or ability to discharge the duty required to protect the health, safety and welfare of the public, lack of knowledge of the fundamental principles of a particular trade or practice, or an inability to apply those principles, or failure to maintain competency in the current practices and methods applicable to the activity and the state statutes and rules governing the activity.

(6) “Misconduct” means an act performed by an individual relating to the responsibilities or duties for which the individual has been licensed, registered or certified that jeopardizes the interests of the public, including violation of federal or state laws, local ordinances or administrative rules; preparation of deficient or falsified reports; failure to submit information or reports required by law or contract when requested by the municipality or the Tribe; conduct which evidences a lack of trustworthiness; misrepresentation of qualifications such as education, experience or certification; illegal entry of premises; misuse of funds; or misrepresentation of authority.

(7) “Negligence” means the failure to exercise the degree of care and judgment to protect public health and safety normally expected of an individual performing activities within the scope of a license category.

(8) “TDHE” means the Tribe’s tribally-designated housing entity.

(9) “UBC” means the current version of the Uniform Building Code as published by the International Conference of Building Officials as of the date of inspection.

57.04 Application.

Application for a license covered under this Chapter shall consist of evidence that the applicant possesses the requirements set out in this Chapter.

57.05 License Term.

A license issued under this Chapter shall be valid for a period of three years.

57.06 General.

(1) No person may conduct the inspection of one- and 2- family dwellings for the purpose of administering and enforcing the UBC or CABO provisions of Tribal Code Chapters 52 (Electrical Code), 53 (Fire Prevention Code), 54 (Plumbing Code), 55 (Basic Housing Code), 56 (Mechanical Code), 61 (Building Code), 62 (Zoning Code) and 63 (Community Improvement Ordinance) unless the person holds a license issued by the Tribe as a:

- (a) building inspector;
- (b) electrical inspector;
- (c) mechanical inspector; or

(d) plumbing inspector.

(2) A person who holds a license as a:

(a) UBC Building inspector may inspect one- and 2-family dwelling for the purpose of administering and enforcing the UBC provisions of Chs. 55, 61, 62, and 63 of the Tribal Code.

(b) UBC Electrical inspector may inspect one- and 2-family dwellings for the purpose of administering and enforcing the UBC provisions of Ch. 52 of the Tribal Code.

(c) UBC Mechanical inspector may inspect one- and 2-family dwellings for the purpose of administering and enforcing the UBC provisions of Ch. 56 of the Tribal Code.

(d) UBC Plumbing inspector may inspect one- and 2-family dwellings for the purpose of administering and enforcing the UBC provisions of Ch. 54 of the Tribal Code.

(3) A person who holds a license as a:

(a) CABO Building inspector may inspect one- and 2-family dwelling for the purpose of administering and enforcing the CABO provisions of Chs. 55, 61, 62, and 63 of the Tribal Code.

(b) CABO Electrical inspector may inspect one- and 2-family dwellings for the purpose of administering and enforcing the CABO provisions of Ch. 52 of the Tribal Code.

(c) CABO Mechanical inspector may inspect one- and 2-family dwellings for the purpose of administering and enforcing the CABO provisions of Ch. 56 of the Tribal Code.

(d) CABO Plumbing inspector may inspect one- and 2-family dwellings for the purpose of administering and enforcing the CABO provisions of Ch. 54 of the Tribal Code.

(4) The Tribe may issue a combined-discipline license to any applicant who is eligible for more than one license.

57.07 License Requirements.

(1) The Tribe shall issue a UBC license upon satisfactory evidence that the applicant satisfies the following requirements.

(a) High school diploma or equivalent.

(b) International Council of Building Officials (“ICBO”) certification with respect to each field (building, electrical, mechanical or plumbing) for which a license is sought. For a Building Official, Class A membership in the ICBO may be accepted as an alternative to ICBO certification.

(c) Association of Construction Inspectors Certification.

(d) Housing Inspection Foundation Certification.

(2) The Tribe shall issue a CABO license upon satisfactory evidence that the applicant satisfies the following requirements.

(a) High school diploma or equivalent.

(b) Council of American Building Officials (“CABO”) certification with respect to each field (building, electrical, mechanical or plumbing) for which a license is sought. For a Building Official, Class A membership in the ICBO may be accepted as an alternative to CABO certification.

(c) Association of Construction Inspectors Certification.

(d) Housing Inspection Foundation Certification.

57.08 Trainee License.

The Tribe may issue a provisional, one-year, nonrenewable trainee license to an applicant who does not satisfy the requirements of 57.07(1) or (2) above, provided:

(1) the applicant has a minimum of five years’ experience in the construction industry in a particular field (building, electrical, mechanical or plumbing) for which a provisional license is sought;

(2) the applicant meets the requirements of 57.07(1)(a) and (b) with respect to a UBC license or 57.07(2)(a) and (b) with respect to a CABO license; and

(3) the applicant demonstrates that he or she is taking affirmative steps to satisfy the remaining requirements of 57.07(1) or 57.07(2), as appropriate, and that satisfaction of such requirements can reasonably be expected within one year.

(4) The applicant performs all inspections under the supervision of the Building Official.

57.09 Inspector Responsibilities.

A person who inspects one- and 2-family dwellings as a building inspector, electrical inspector, mechanical inspector or plumbing inspector shall:

(1) maintain a record of the inspections made relative to the date and the findings of the inspections; and

(2) provide a copy of the inspection report to the property owner or his or her agent, and the Tribe's Building Official.

57.10 Conflict of Interest.

A Building Official or an inspector must be a disinterested third party and cannot be personally or financially related to the builder, borrower or other interested party. A Building Official or inspector of properties, projects or buildings owned or operated by the Tribe or its TDHE is not disqualified under this section merely because the inspector is employed by the Tribe or the TDHE, provided he or she otherwise satisfies the requirements of this Chapter.

57.11 License Renewal.

(1) A person may apply to renew his or her license for a subsequent three-year term provided an application and evidence of all renewal qualifications are submitted to the Tribe prior to the expiration date of the license. An individual who fails to renew his or her license within six months after the expiration date of the license shall be required to comply with and complete the appropriate requirements for obtaining the license initially.

(2) The renewal of a certification as a construction inspector, electrical inspector, mechanical inspector, or plumbing inspector shall be contingent upon the inspector obtaining at least twelve (12) hours of acceptable continuing education within the previous license term.

(3) Only courses, programs and seminars approved in writing by the Tribe shall be used for credit to fulfill continuing education requirements. Requests for a

course, program or seminar to be recognized for approval shall be submitted in writing to the Tribe. Thirty minutes of attendance in an approved course, program or seminar shall be deemed equal to 0.5 hours of acceptable continuing education.

(4) Continuing education credit for attendance in approved continuing education courses, programs or seminars in other than 30 minute increments shall be rounded down to the next half hour.

(5) Evidence of Compliance. Each license holder shall retain evidence of compliance with continuing education requirements through the license period for which continuing education credit was required for renewal of the license.

(a) The Tribe shall accept as evidence of compliance original or copies of documents, certified by the individuals or organizing provided the course, program or seminar, indicating attendance and completion of the continuing education credit.

(b) The Tribe may require a license holder to submit evidence of compliance for the continuing education credit which was required to renew the license.

(6) A person who holds a license as a construction inspector, electrical inspector, mechanical inspector, or plumbing inspector may apply to the Tribe for waiver of the continuing education requirements under subsection (1) on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the Tribe.

57.12 Denial, Suspension and Revocation of Licenses.

(1) The Tribe may deny, suspend or revoke a license under this Chapter if the Tribe determines for any of the following reasons that an applicant or holder of the license:

(a) Fails to meet the qualifications for the license.

(b) Has obtained the license through fraud or deceit.

(c) Has demonstrated negligence or incompetence in fulfilling the responsibilities or obligations of the license.

(d) Has violated the conflict of interest provisions of 57.10.

(e) Has demonstrated misconduct in fulfilling the responsibilities or obligations under the license.

(f) Has been arrested or convicted for a crime substantially related to the license.

(g) Has a physical or mental impairment which prevents the applicant or holder from fulfilling the responsibilities or obligations under the license.

(h) Has violated tribal, state, federal, or local laws or regulations relating to the conduct of the activities under the license.

(2) Notice of denial, suspension or revocation. A notice of denial, suspension or revocation shall be sent to the applicant or the license holder. The notice shall include all of the following:

(a) The basis for the denial, suspension or revocation, including the facts relied on by the Tribe or make its decision and a citation of applicable statutes and administrative rules establishing the legal basis for the decision; and

(b) A statement that the applicant or the license holder may file a request for an administrative hearing.

(3) Summary suspension. The Tribe may summarily suspend any license if the Tribe finds that immediate action is necessary for public health, safety or welfare. The summary suspension of a license shall remain in effect until after a final decision is issued following hearing.

(4) Hearing. The request for an administrative hearing shall be received by the office of legal counsel of the Tribe no later than 30 days following the date of mailing of the notice under par. (b), otherwise, the request for hearing shall be denied by the Tribe.

(5) Reinstatement.

(a) Suspension. A person whose license has been suspended may apply to have the license reinstated only after the time set for suspension by the Tribe or the hearing examiner has passes and by complying with the conditions set forth in the suspension order.

(b) Revocation.

1. Unless the notice of revocation specifically indicates a permanent suspension has been imposed by the Tribe, a person whose license has been revoked may, after a time period of not less than one year, apply to have the license reinstated upon satisfactory showing that the basis for the revocation no longer exists.

2. It shall be the responsibility of the person whose license has been revoked to demonstrate that the license should be reinstated.

3. Where a satisfactory showing is made, the Tribe shall reinstate the license but may impose conditions on the reinstated license to assure compliance with this Chapter.

4. The Tribe may require a person whose license has been revoked to reapply for the license by complying with all requirements for a new applicant, including payment of application fees and successful completion of an examination.

57.13 UBC/CABO Building Official.

(1) The Tribe shall appoint a UBC/CABO Building Official who shall be responsible for UBC/CABO enforcement. The Building Official shall maintain all records relating to inspections and enforcement of the UBC or CABO Code, including, by not limited to, all inspection reports, inspector licensing records, citations for violations and related correspondence.

(2) No person who is not licensed as an inspector under this Chapter is eligible for appointment as Building Official.

(3) The Building Official may perform inspections to the extent of any inspector license issued to the Building Official under this Chapter.

57.14 Enforcement of UBC/CABO.

The UBC or CABO, as appropriate, shall be enforced pursuant to Chapter 64 of the Tribal Code.