



HO-CHUNK NATION LEGISLATURE
Governing Body of the Ho-Chunk Nation

45-Day Public Review

HO-CHUNK NATION LEGISLATURE

**AUTHORIZATION TO PLACE THE
DOMESTICATED ANIMAL CONTROL ORDINANCE (3 HCC § 5)
OUT FOR FORTY-FIVE DAY PUBLIC COMMENT**

RESOLUTION 05-08-18 J

- WHEREAS,** on November 1, 1994, the Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation (“Constitution”), formerly known as the Wisconsin Winnebago Nation; and
- WHEREAS,** the Ho-Chunk Nation (“Nation”) is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Ho-Chunk Nation Legislature (“Legislature”) the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** 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; and
- WHEREAS,** 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; and
- WHEREAS,** 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; and
- WHEREAS,** 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; and
- WHEREAS,** the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which was last amended on June 23, 2015; and
- WHEREAS,** the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and

Executive Offices

W9814 Airport Road P.O. Box 667 Black River Falls, WI 54615
(715) 284-9343 Fax (715) 284-3172 (800) 294-9343


WHEREAS, Section 44, subparagraph d (1) (a) of the *Legislative Organization Act* provides that the Public Review period for consideration of proposed laws or amendments will typically be forty-five (45) days; and

WHEREAS, the *Domesticated Animal Control Ordinance* (3 HCC § 5) is in need on updating and the Legislature wishes to place proposed amendments out for forty-five (45) day public comment;

NOW, THEREFORE, BE IT RESOLVED, that the Legislature, pursuant to its Constitutional authority, hereby places the attached proposed amendments to the *Domesticated Animal Control Ordinance* (3 HCC § 5) out for forty-five (45) day public comment, to run from the date the proposed ordinance is posted on the Nation's website.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of 13 members of whom 11 constituting a quorum were present at a meeting duly called and convened and held that on the 8th day of May, 2018, adopted the foregoing resolution at said meeting by an affirmative vote of 11 members, 0 opposed, and 0 abstaining, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.



Andrea Estebo, Tribal Secretary

05.08.2018
Date

**HO-CHUNK NATION CODE (HCC)
TITLE 3 – HEALTH AND SAFETY CODE
SECTION 5 – DOMESTICATED ANIMAL CONTROL ORDINANCE**

ENACTED BY LEGISLATURE: JULY 20, 2004

LAST AMENDED AND RESTATED: MAY 17, 2005

CITE AS: 3 HCC § 5

*This Ordinance supersedes the Animal Control Ordinance 99-001 Dog Control
enacted by Legislative Resolution 01/12/99D.*

TABLE OF CONTENTS

1. Authority.....	1
2. Applicability.....	2
3. Purpose.....	2
4. Definitions.....	2
5. Non-Domesticated Animal/Exotic Pets.....	3
6. Vaccination.....	3
7. Identification.....	3
8. Keeping of Dogs and Cats.....	3
9. Stray Dogs.....	3
10. Running at Large.....	4
11. Seizure.....	4
12. Animal Confinement.....	4
13. Disturbances.....	4
14. Vicious Dogs.....	4
15. Abandonment.....	4
16. Enforcement and Penalty.....	4

1. Authority.

a. Article V, Section 2(a) of the 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(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.

Ho-Chunk Nation Legislature
Domesticated Animal Control Ordinance

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

e. 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.

f. 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. **Applicability.** This Ordinance applies to all residential lands of the Ho-Chunk Nation, except for property that is primarily devoted to farm animals or agriculture.

3. **Purpose.** This Ordinance establishes policy and procedures for the control of dogs and cats on lands under the jurisdiction of the Ho-Chunk Nation, except as noted in Section 2, to protect the health and safety of the public.

4. **Definitions.** Terms used in this Ordinance have the following meaning.

a. "Animal" means an animal of any kind, domestic or non-domestic.

b. "Animal Control Authority" means the Ho-Chunk Nation Police Department, the local county or municipal animal control or animal shelter agency or any other official, person, or organization designated by the Ho-Chunk Nation Legislature to perform the functions of this Ordinance.

c. "Dog" means any male or female animal of the dog kind, whole or neutered.

d. "Domesticated Animal" means all cats and ~~dogs~~, male and female, spayed or unsprayed of any age.

e. "Farm Animal" means those animals commonly associated with a farm or performing work in an agricultural setting. This includes horses, cattle, sheep, poultry, fowl, swine, goats, bees and other animals associated with a farm, ranch or stable.

f. "Non-Domesticated Animal/Exotic Pet" means those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people.

g. "Owner" means any person, entity, organization, or department possessing, harboring, keeping, or having an interest in, or having control or custody of an animal.

h. "Proper Enclosure" means, while on the owner's property, a dog shall be securely confined indoors or in a securely enclosed and locked pen suitable to prevent the entry of young children and designed to prevent the animal from escaping.

Ho-Chunk Nation Legislature
Domesticated Animal Control Ordinance

i. "Running at Large" means any dog found on public property or on the property of any person other than the person owning or keeping the dog unless the dog is accompanied by a person exercising control over the dog within the jurisdiction of the Ho-Chunk Nation.

j. "Stray Dog" means a dog with no owner's identification upon it and whose owner cannot be ascertained upon reasonable inquiry.

k. "Vicious Dog" means a dog that when unprovoked does any of the following:

(1) Inflicts bites on a person or a domesticated animal either on public or private property.

(2) Chases or approaches a person upon the street, sidewalks, or in any public place in a menacing manner, and any dog with a known propensity, tendency, or disposition to attack without provocation, to cause injury, or to otherwise threaten the public safety.

5. **Non-Domesticated Animal/Exotic Pets.** The keeping of non-domesticated animals, except for farm animals on agricultural land, or exotic pets is strictly prohibited on Nation land except as may be authorized by the Legislature.

6. **Vaccination.** All dogs and cats over four (4) months of age owned by an individual(s) residing on Ho-Chunk Nation owned land must be vaccinated for rabies. Free vaccination clinics will be held in yearly intervals in each community.

7. **Identification.** All dogs and cats over four (4) months of age that are owned by an individual(s) residing on tribally owned land must wear a collar with an owner identification number on an attached tag. Such tags will be issued without charge at the time of the initial vaccination. Subsequent yearly licenses will be issued for the fee of \$1.00. The Nation's Department of Health and Social Services shall keep a registry of all dogs and cats licensed.

8. **Keeping of Dogs and Cats.**

a. The keeping of more than two (2) dogs in a single or multiple dwelling unit, except by special permit of the Department of Housing, shall be deemed a public nuisance and unlawful, subject to enforcement and penalty under the Ho-Chunk Nation *Public Nuisance Act* (3 HCC § 2). The owner of a dog(s) must be able to properly care for and control such dogs.

b. The keeping of cats shall be limited per household within reason to be able to properly care for and control such cats.

9. **Stray Dogs.** All dogs owned by individuals residing on tribally owned land must be confined within a fence or restrained by a chain or leash if the dog cannot be trained to remain on the owner's property willingly. Any stray animals will be reported to the local county or township animal control authority and will be subject to the local ordinances regarding stray dogs. According to local/township ordinance, unclaimed dogs will be destroyed in a humane manner after a customary period of confinement.

Ho-Chunk Nation Legislature
Domesticated Animal Control Ordinance

10. **Running at Large.** No owner of any dog or cat shall allow the dog or cat to run at large within the jurisdiction of the Ho-Chunk Nation.

11. **Seizure.** Any dog or cat found running at large in violation of this Ordinance shall be subject to seizure by the Animal Control Authority.

12. **Animal Confinement.** Any dog or cat which bites an individual must be immediately confined by the owner until release is authorized by the Ho-Chunk Nation Department of Health and Social Services. Those dogs and cats not confined by the owner shall be placed in the local county animal shelter and the owner will be assessed a daily fee for the animal's care.

13. **Disturbances.** No person shall own, keep, or harbor any dog within the jurisdiction of the Ho-Chunk Nation which by loud, continual, or frequent howling, yelping, or barking creates an unreasonable annoyance, disturbance, or danger to the health, welfare, or repose of any person. Such disturbances shall be deemed a public nuisance and unlawful, subject to enforcement and penalty under the Ho-Chunk Nation *Public Nuisance Act* (3 HCC § 2).

14. **Vicious Dogs.**

a. No owner shall have a vicious dog within the jurisdiction of the Ho-Chunk Nation unless the dog is muzzled and restrained under the control of a responsible person or confined in a proper enclosure as defined in paragraph 4h.

b. Seizure of Vicious Dogs. If a vicious dog is discovered running at large and cannot be safely seized, the dog shall be destroyed by the Animal Control Authority. Any vicious dog is subject to immediate seizure and destruction for any of the following reasons:

(1) The dog is not validly licensed.

(2) The dog is not maintained in a proper enclosure.

(3) The dog is outside of the dwelling of the owner or outside of a proper enclosure and not under the physical restraint of a responsible person.

15. **Abandonment.** It shall be unlawful to abandon any dog or cat within the jurisdiction of the Ho-Chunk Nation or for any owner of a dog or cat to neglect to furnish adequate food, care or shelter for the animal.

16. **Enforcement and Penalty.**

a. It shall be unlawful to do any act prohibited under this Ordinance or fail to do any act required under this Ordinance.

b. Persons cited under this Ordinance shall appear before the Ho-Chunk Nation Trial Court. Upon a plea or a finding by the Trial Court of culpability, a person cited under this Ordinance

Ho-Chunk Nation Legislature
Domesticated Animal Control Ordinance

shall be subject to ~~the following a-monetary forfeiture of not less than \$25.00 nor more than \$500.00~~ or the forfeiture of any animal seized, or both, as provided under this Ordinance.

- ~~i. Running at Large Offense: \$200 for first offense with an additional forfeiture of \$50 for each subsequent offense which shall be calculated cumulatively.~~
- ~~b-ii. Vicious Dog Offense: \$300 for first offense with an additional forfeiture of \$50 for each subsequent offense which shall be calculated cumulatively.~~

c. Persons cited under the *Public Nuisance Act* (3 HCC § 2) shall be subject to its enforcement and penalty provisions.

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Legislative History:

- 01/12/99 Enacted as Animal Control Ordinance – 99-001 Dog Control by Legislative Resolution 01/12/99D.
- 04/07/04 Legislature places draft Animal Control Ordinance out for 45-Day Public Review.
- 07/20/04 Domesticated Animal Control Ordinance (3 HCC § 5) enacted by Legislature Resolution 07/20/04A.
- 05/17/05 Amended and restated by Legislative Resolution 05/17/05A, amending Section 11.