HO-CHUNK NATION CODE (HCC)
TITLE 3 – HEALTH AND SAFETY CODE
SECTION 1 – SOLID WASTE AND RECYCLING ORDINANCE

ENACTED BY LEGISLATURE: JUNE 23, 2004

CITE AS: 3 HCC § 1

This Ordinance supersedes the Ho-Chunk Nation Recycling Ordinance enacted by Legislative Resolution 2/08/95B.

This Ordinance also supersedes Ho-Chunk Nation Storage and Disposal of Junk, Garbage and Other Waste Ordinance enacted as HCC 98-005 by Legislative Resolution 11/03/98E.

1. **Authority**.

a. The Preamble of the Constitution of the Ho-Chunk Nation ("Constitution") states: "We the People, pursuant to our inherent sovereignty, in order to form a more perfect government, secure our rights, advance the general welfare, safeguard our interests, sustain our culture, promote our traditions and perpetuate our existence, and secure the natural and self-evident right to govern ourselves, do ordain and establish this Constitution for the Ho-Chunk Nation."

b. Article I, Section 1 of the Constitution establishes the territory of the Ho-Chunk Nation ("Nation") as to included all lands held by the Nation or 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 issue 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.

c. Article I, Section 2 of the Constitution states that the jurisdiction of the Ho-Chunk Nation shall extend to all territory set forth in Section 1 of this Article and to any and all persons or activities therein, based upon the inherent sovereign authority of the Nation and the People or upon Federal law.

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

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(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.

g. 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.

h. Article V, Section 2(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

i. 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.

j. 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. **Purpose**. The purpose of this Ordinance is to regulate:

a. The disposal of solid wastes and implements policy for the recycling of solid wastes.

b. The keeping, storage, and maintenance of junk, junk vehicles, garbage, and other waste materials within the territory of the Ho-Chunk Nation to promote the health, safety, aesthetics, comfort, prosperity, and general welfare of the Nation and its members.

3. **Declaration of Policy**.

a. It is declared to be the policy of the Nation to regulate and control solid waste disposal through a mandatory and enforceable recycling program to protect, promote, and preserve the health and general welfare of the public.

b. It is the policy of the Nation to prohibit the keeping, storage, burying, dumping, or maintenance of any junk or garbage within the territory of the Ho-chunk Nation.

c. Whenever this Ordinance imposes greater restrictions than does existing law, the provisions of this Ordinance shall apply.

4. **Interpretation**. Where a provision of this Ordinance correlates with Wisconsin Statutes or with a standard in Wisconsin Administrative Code, and where the Ordinance provision is unclear, the provision shall be interpreted in light of the current Wisconsin law in effect, as long as consistent with Ho-Chunk Nation law.

5. **Applicability**. This Ordinance shall apply to all persons within the territory of the Ho-Chunk Nation.

6. **Departmental Responsibilities**. Each executive director of departments of the Ho-Chunk Nation will ensure compliance with this Ordinance. The Ho-Chunk Housing and Community Development Agency (HCHCDA) will ensure compliance within its respective areas of responsibility.

7. **Definitions**. For the purposes of this Ordinance, the following terms are defined.

a. "Co-Mingled" means several of the recyclable materials can be mixed in the same container.

b. "Control" means the right to exercise a directing or governing influence over a thing, place, or object.

c. "Curbside Collection" means a system for collecting recyclable materials from residential properties, including from the curb, alley, backyard or roadside, and for transporting the recyclable materials for processing and marketing.

d. "Department" means the Ho-Chunk Nation Department of Housing.

e. "Drop Off Collection" means a system for collecting recyclable materials in which the recyclable materials are taken by individuals to designated collection sites and deposited into designated containers from which the recyclable materials are transported for processing and marketing.

f. "Garbage" means any discarded material resulting from the handling, processing, storage, or consumption of food products and containers thereof.

g. "Hauler" means persons or companies hired or contracted by the Department to collect and transport garbage, refuse, and recycled materials.

h. "Junk" means any material, including but not limited to cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, appliances, or other articles in any form, which from its condition renders it practically useless for the purpose for which it was made.

i. "Junk Vehicle" means a wrecked or disabled motor vehicle in such physical or mechanical condition as to be incapable of self-propulsion when the same is ordered to be move or, if capable of self-propulsion when ordered to be moved, cannot lawfully be operated in its then existing condition upon public roads.

j. "Motor Vehicle" includes motorcycles, cars, vans, trucks, snowmobiles, semi-trailers, buses, all-terrain vehicles, or any other vehicles customarily operated on a public road or may be required to be licensed by the State.

k. "Multiple-Family Dwelling" means a property containing five (5) or more residential units, including those, which are occupied seasonally.

l. "Nation" means the Ho-Chunk Nation.

m. “Non-Residential Facilities and Properties” means commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multiple family dwellings.

n. “Person” means any individual, association, partnership, firm, corporation, local governmental unit, state agency or authority, or federal agency.

o. “Plastic Container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

p. “Post-consumer Waste” means any solid waster other than solid waste generated in the production of goods, hazardous waste as defined in Wis. Stat. § 291.01(7), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste as defined in Wis. Stat. § 291.01(17).

q. “Recyclable Materials” mean the following.

(1) Aluminum containers.

(2) Bi-metal containers. A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(3) Corrugated paper or other container board. Corrugated paperboard used in the manufacture of shipping containers and related products. Container board includes corrugated cardboard. This does not include the single thickness “cereal box” type of paper.

(4) Foam polystyrene packaging. Packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(a) Is designed for serving food or beverages.

(b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(c) Consists of rigid materials shaped to hold and cushion the packaged material in a shipping container.

(5) Glass. Unbroken clear, brown, or green glass containers. Other colored glass, broken glass, and window glass are deemed refuse for the purposes of this Ordinance.

(6) Lead acid batteries.

(7) Magazines. Magazines and other materials printed on similar paper.

(8) Major appliances. Residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater, or stove.

(9) Newspaper or other materials printed on newsprint. Newspaper and other materials printed on newsprint.

(10) Office paper. High-grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

(11) Rigid plastic containers. Includes those made under the SPI Resin classification system, Codes #1 to #7.

(12) Steel containers.

(13) Waste oil. Any oil after use or which is contaminated through storage or handling before that oil is recycled.

(14) Waste tires. Tires are no longer suitable for its original purpose because of wear, damage, or defect.

(15) Yard waste. Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

r. "Refuse" means discarded matter resulting from commercial, industrial, residential, and community life, which is subject to decomposition not defined as sewage or garbage and includes materials and debris resulting from construction or demolition.

s. "Residual Materials" means recyclable materials collected for recycling that are damaged or contaminated during collection or processing to the point that they are no longer marketable.

t. "Reuse" means using a product more than once in its same form for the same purpose.

u. "Solid Waste" has the meaning specified in Wis. Stat. § 289.01(33).

v. "Solid Waste Facility" has the meaning specified in Wis. Stat. § 289.01(35).

w. "Solid Waste Treatment" means any method, technique, or process, which is designed to change the physical, chemical, or biological character or composition of solid waste. "Treatment" includes incineration.

x. "Waste Reduction" means decreasing the quantity of materials or products that are generated as waste.

8. **Junk Prohibited**. Junk and old, used or secondhand materials of any kind, in any amount, which is unhealthy or unsafe shall be prohibited. No person or persons, shall keep, accumulate, bury, or maintain any junk or inoperable vehicles in or about any yard, non-enclosed building, or any other place over which a person has control.

9. **Junk Vehicles Prohibited**. Junk vehicles or parts of junk vehicles may not be stored within the territory Ho-Chunk Nation, either temporarily, irregularly, or continually for more than thirty (30) days, from which the violating person is made aware of the violation. No person or persons who own or have authority to control one or more wrecked, partially dismantled, disabled motor vehicles, or parts of such vehicles shall allow such vehicle(s) or such parts to be stored out of doors.

10. **Dumping Prohibited**.

a. No person or persons shall leave, bury, deposit, dispose, or dump any junk or garbage anywhere within the territory of the Ho-Chunk Nation except in a bin, container, or area specifically designated for the particular type of junk or garbage being disposed.

b. No person or persons shall leave, bury, deposit, dispose, or dump any sewage or human waste anywhere within the territory of the Nation except in an individual or community sanitary sewer treatment system constructed and operated according to Indian Health Service specifications.

11. **Prohibitions Near Water Resources**. The keeping, storage, accumulation, burying, dumping, or maintenance of any junk or garbage within 300 feet of any stream, lake, pond, or flowage is strictly prohibited.

12. **Garbage and Recyclable Material Storage**.

a. The owner or occupant of any premises, business establishment, or industry shall be responsible for the sanitary storage of all garbage accumulated on the premises, business, or industry.

b. Garbage shall be stored in durable, rust-resistant, non-absorbent, rodent-proof, and easily cleanable containers.

c. Recyclable materials may be stored in the bin designated for that purpose.

d. Unless otherwise provided for in a written rental agreement or lease, the tenant of any single unit detached residence and the landlord of any multi-unit residence shall be responsible for providing and maintaining containers for the storage of garbage and recyclable materials.

13. **Separation of Recyclable Materials**.

a. All persons subject to this Ordinance shall separate the following materials from post-consumer waste, except as provided by in paragraph b, below.

(1) Lead acid batteries.
(2) Major appliances.
(3) Waste oil.
(4) Yard waste.
(5) Aluminum containers.
(6) Bi-metal containers.
(7) Corrugated paper or other container board.
(8) Form polystyrene packaging.
(9) Glass containers.
(10) Magazines or other materials printed on similar paper.
(11) Newspaper or other materials printed on newsprint.
(12) Office paper.
(13) Rigid plastic containers made of SPI Resin classification codes #1 to #7.
(14) Steel containers.
(15) Waste tires.

b. Exemptions. The separation requirements above do not apply to the following:

(1) Those persons subject to the provisions of this Ordinance that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in paragraph a, above, from solid waste in as pure a form as is technically feasible.

(2) Solid waste which is burned as supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

(3) A recyclable material specified in paragraphs a(5) thru a(15), above, for which a variance has been granted by the Department of Natural Resources under Wis. Stat. §§ 287.07(7)(d) and 287.11(2m) or Wis. Adm. Code, NR 544.14.

c. Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with paragraph a, above, shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical

waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

14. **Management of Lead Acid Batteries, Major Appliances, Waste Oil, and Yard Waste**.

a. Lead acid batteries shall not be included with trash or disposed of on-site, but shall be returned to area battery retailers or a material recovery facility, which has self-certified under Wis. Adm. Code, NR 544.16.

b. Major Appliances.

(1) Major appliances shall be managed on-site until an appliance collection program sponsored by the Department or the contracted recycling company picks up the appliances. They can also be taken at the owner's discretion and expense to an appliance recycling center that has self-certified under Wis. Adm. Code, NR 544.16.

(2) The collection of refrigeration equipment by the Department and any contracted recycling company must comply with Wis. Stat. § 285.59 and Wis. Adm. Code, NR 488.

c. Waste oil shall not be included with trash or disposed of on-site, but shall be returned to area businesses that accept waste oil products or to waste oil-recycling facilities designed to receive and collect same.

d. Yard waste shall not be included with trash, but shall be managed on-site or at a local composting facility by each responsible unit.

15. **Delivery of Recyclable Materials**. All recyclable materials under this Ordinance shall be delivered to a materials recovery facility, which is self-certified under Wis. Adm. Code, NR 544.16.

16. **Preparation and Collection of Recyclable Materials**. Those materials specified in paragraphs 13a(5) thru (15) shall be prepared and collected as follows.

a. Curbside (On-Site) Collection.

(1) Recyclable materials shall be picked up on-site in accordance with regulations determined by the contracted hauler.

(2) Recyclable materials shall be separated and placed in containers for collection as determined by the hauler.

(3) Any recyclable materials mixed with refuse and garbage uncollected by the hauler due to its mixed content shall be removed from its place of collection and the

person placing said materials for collection shall properly separate the materials for the next collection.

b. Drop-Off Site Collection. All persons shall be required to separate, collect, and deliver all recyclable materials to the established drop-off site in accordance with regulations determined by the hauler.

17. **Multiple-Family and Rental Single-Family Dwellings**. All multiple-family and rental single-family dwelling units shall use the recycling plan that is developed for the community of their location. The Department and HCHCDA shall be responsible for the following.

a. Provide adequate and appropriate containers for each of the recyclable materials listed in paragraphs 13a(5) thru (15). This requirement does not apply to the owners or designated agents of multi-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in Wis. Stat. § 287.07(3) and (4) from solid waste in as a pure form as is technically feasible.

b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program and the tenants responsibility to separate recyclable materials from the waste stream.

c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

d. Permit no recyclable materials to be accumulated outside of the specified containers.

e. Notify tenants of following:

(1) Reasons for reducing and recycling solid waste.

(2) Materials to be separated and collected.

(3) Preparation of materials to meet processing requirements.

(4) Collection methods or sites.

(5) Collection locations and hours of operation.

(6) The name, address, and phone number of a contact person at the housing authority.

18. **Non-Residential Facilities and Properties.**

a. Non-residential facilities, offices, enterprises, and properties within the territory of the Ho-Chunk Nation shall do all of the following to recycle the materials specified in paragraphs 13a(5) thru (15).

(1) Provide adequate, separate containers for the recyclable materials.

(2) Notify in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.

(3) Provide for the collection of the materials separated from the solid waste by the users, tenants, and occupants and the delivery of the materials to a recycling facility.

(4) Notify users, tenants, and occupants of the following.

(a) Reasons for reducing and recycling solid waste.

(b) Materials to be separated and collected.

(c) Preparation of materials to meet processing requirements.

(d) Collection methods or sites.

(e) Collection locations and hours of operation.

(f) The name, address, and phone number of a contact person.

(5) Provide a designated area for the separation, temporary storage, and collection of solid waste and recyclables either within or adjacent to any new building or any building that is remodeled or expanded by 50% or more in floor area.

b. The requirements specified in paragraphs a(1) thru (4) above, do not apply to the owners or designated agents on non-residential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by Wisconsin Department of Natural Resources that recovers for recycling the materials specified in paragraphs 13a(5) thru (15) from solid waste in as pure a form as is technically feasible.

19. **Prohibitions on Disposal of Recyclable Materials Separated for Recycling**. No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in paragraphs 13a(5) thru (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

20. **Prohibition on Scavenging**. No person, except as authorized by the owner thereof, may enter the container of another and take possession of any recyclable materials.

21. **Facility Purchasing Requirements**. All Ho-Chunk businesses and departments shall attempt to use and purchase recycled products whenever possible. Each business and department shall also be required to increase the number of recycled products purchased each year.

a. The following products shall contain the minimum amount of post-consumer waste (recycled content) according to the following chart for them to be considered a recycled product. Questions concerning these products should be addressed to the Office of Environmental Health, Department of Health and Social Services.

Item	Post-Consumer Waste Content (%)
Paper Products	
Reprographic	30
Offset	30
Tablet	30
Forms Bond	30
Envelope	
-Wove	30
-Kraft, White & Colored	10-20
-Kraft, Unbleached	10
Cotton Fiber	30
Text and Cover	30
Supercalendered	10
Machine Finished Groundwood	10
Papeteries	30
Check Safety	10
Coated	10
Carbonless	30
File Folders	30
Dyed Filing Products	20
Index and Card Stock	20
Pressboard	20
Tags and Tickets	20
Newsprint	20-85
Bathroom Tissue	20-60
Paper Towels	40-60
Paper Napkins	30-60
Facial Tissue	10-15
General-Purpose Industrial Wipers	40
Corrugated Containers	
-(<300 psi)	25-50
-(300 psi)	25-30
Solid Fiber Boxes	40
Folding Cartons	40-80
Industrial Paperboard	45-100
Padded Mailers	5-15
Carrierboard	10-15
Brown Papers	5-20
Tray Liners	50-75
Other Products	
Recycling Containers & Waste Receptacles	
-Plastic	20-100
-Steel	16
-Paper	
-Corrugated	25-50
-Solid Fiber Boxes	40
-Industrial Paperboard	40-80
Binders	
-Plastic-Covered	25-50
-Paper-Covered	75-100
-Pressboard	20
-Solid Plastic	
-HDPE	90
-PE	30-50
-PET	100
-Misc. Plastics	80
Trash Bags (plastic)	10-100
Toner Cartridges	Return Toner cartridges for remanufacturing and reuse or purchase a remanufactured or recycled-content replacement cartridge.
Printer Ribbons	Procure printer ribbon reinking or reloading services or procure reinked or reloaded printer ribbons.
Plastic Envelopes	25
Plastic Clipboards	
-HDPE	90

-PS	50
-Misc. Plastics	15

Plastic File Folders - HDPE	90
Plastic Clip Portfolios - HDPE	90

b. If a product is not on the above list then whenever possible a product with any amount of recycled content should be purchased.

22. **Product Reduction Requirements.** A second component of the recycling process is to reduce the amount of products purchased. This will reduce the amount of waste that needs to be recycled. This can be done by reducing the need to purchase products and by making better use of what is purchased.

a. Energy Efficiency.

(1) It shall become a standard practice to use high efficiency light bulbs whenever possible in the design of new facilities and in replacement situations. Contracts for the design of new buildings shall include high efficiency electrical products.

(2) Energy audits shall be conducted on all properties owned by the Nation with the intent to reduce heating, cooling and electrical requirements. The incorporation of this audit shall be done as replacement is required or as financial justification can be made.

(3) Fleet vehicles shall be purchased or leased with the highest fuel economy standards possible for the primary purpose of the vehicle. The use of ethanol shall be promoted whenever possible in the Nation's vehicles.

b. Paper Reduction Policy.

(1) All copying of documents shall be done using both sides of the paper whenever possible to reduce the amount of paper needed.

(2) Use electronic mail whenever possible.

(3) Use electronic filing whenever possible.

(4) Review the distribution list of all documents to verify the need to issue copies.

23. **Fees**. The departments of the Nation are authorized to establish a fee schedule that best serves the needs of the Nation and its members.

24. **Enforcement.**

a. Violations. The Office of Environmental Health shall conduct inspections related to this Ordinance, investigate alleged violations of this Ordinance, and issue citations

under this Ordinance. No person may refuse access to any authorized enforcement officer with appropriate credentials who requests access for the purpose of inspection.

b. Citations.

(1) A written warning may be issued and shall serve as notice of non-compliance.

(2) If the written warning has been complied with within thirty (30) days, then no citation shall be issued.

(3) If the written warning has not been complied with within thirty (30) days, the Office of Environmental Health shall issue a citation.

(4) Once a citation is issued, the Nation shall:

(a) clean-up and remove garbage and junk;

(b) seek prosecution of citation; and

(c) seek costs of clean-up.

c. The Department of Justice shall file the citation, which will serve as a complaint in the Nation's Trial Court.

d. The Trial Court may find a person guilty of violation of this Ordinance and impose penalties and costs associated with enforcement.

25. **Reference to Other Laws**. No reference to any laws other than the laws of the Nation shall be construed as an adoption, recognition, grant or cession of jurisdiction to any other political or governmental entity.

26. **Severability and Non-Liability**. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The Nation declares there is no liability on the part of the Nation, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Ordinance. The Nation, by adoption of this Ordinance, does not waive the sovereign immunity of the Ho-Chunk Nation in any respect.

Legislative History:

2/8/95	Ho-Chunk Nation Recycling Ordinance enacted by Legislative Resolution 2/08/95B.
11/3/98	Storage and Disposal of Junk, Garbage and Other Wastes enacted as HCC 98-005 by Legislative Resolution 11/03/98E.
4/7/04	Legislature places draft ordinance out for 45-Day Public Review.

6/23/04 Legislature enacts the Solid Waste and Recycling Ordinance as 3 HCC § 1 by Legislative Resolution 6/23/04B superseding the Ho-Chunk Nation Recycling Ordinance and the Disposal of Junk, Garbage and Other Wastes Ordinance.