HO-CHUNK NATION CODE (HCC)
TITLE 5 – BUSINESS AND FINANCE CODE
SECTION 2 – BUSINESS CORPORATION ORDINANCE

ENACTED BY LEGISLATURE: OCTOBER 4, 2005

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This Ordinance supersedes the Ho-Chunk Nation Business Corporation Ordinance enacted February 20, 1996 by Legislative Resolution 2/20/96A and amended by Legislative Resolution 08/23/16J.

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1. **Authority**.

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

b. Article V, Section 2(q) of the Constitution gives the Legislature the power to issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities.

2. **Purpose**. This Ordinance is enacted to establish Ho-Chunk Nation business corporation law.

3. **Applicability**. The provisions of this Ordinance shall apply to all corporations organized hereunder or which elect to accept the provisions of this Ordinance. All pre-existing corporation ordinances or resolutions of the Ho-Chunk Legislature are hereby repealed. However, pre-existing corporations shall be deemed to be in valid existence and allowed a ninety (90) day grace period from the date of the adoption of this Ordinance to amend or to conform their articles of incorporation in order to comply with the provisions herein.

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

a. "Articles of Incorporation" means the original articles of incorporation of a corporation organized under this Ordinance, including amendments thereto.

b. "Authorized Shares" mean the shares of all classes which the corporation is authorized to issue.

c. "Board of Directors" means a person or a group of persons vested with management of the affairs of the corporation.

d. "Bylaws" mean the code of rules adopted for the regulation or management of the affairs of a corporation.

e. "Corporation" means a corporation for profit or non-profit organized under this Ordinance, inclusive of corporate structures such as Section 7871 or similar entities.

f. "Court" means the Ho-Chunk Nation Trial Court.

g. "Entity" means corporations, associations, trusts, estates, partnerships, limited liability companies, individuals, Indian tribes or Native groups, states, municipalities, the United States, and foreign governments.

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

i. "Net Assets" mean the amount by which the total assets of a corporation exceed the total debts of the corporation.

j. "On or near land held in trust for the Ho-Chunk Nation" means within the boundaries of those counties where there is land held in trust by the United States for the Ho-Chunk Nation or its members.

k. "Shareholder" means one who is holder of record of shares in a corporation.

l. "Shares" mean the units into which the ownership interests in a corporation are divided.

5. **Organization and Powers**.

a. Corporations may be organized under this Ordinance for any lawful purpose.

b. General Powers. Unless its articles of incorporation provide otherwise, every corporation shall the following powers.

(1) To exist perpetually.

(2) To sue and be sued and to complain or defend in its corporate name, except that the extent of the corporation's liability shall be limited to the assets of the corporation and shall be subject to the limitations contained in Section 13 of this Ordinance.

(3) To have a corporate seal, which may be altered at will, and to use it or a facsimile of it by impressing or affixing it or in any manner reproduce it.

(4) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with real or personal property, or any interest in property wherever located.

(5) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

(6) To purchase, receive, subscribe for, or otherwise acquires, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of and deal in and with shares or other interests in or obligations of any other entity.

(7) To make contracts and incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, and income.

(8) To lend money, invest its funds, and receive and hold real and personal property as security for repayment.

(9) To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity.

(10) To conduct its business, locate offices, and exercise the powers granted by this Ordinance within or without land held in trust for the Nation.

(11) To elect or appoint officers and agents of the corporation, define their duties and fix their compensation.

(12) To pay pensions and establish pension plans, trusts, profit sharing plans, share bonus plans, and benefit or incentive plans for any or all its current or former directors, officers, and employees.

(13) To indemnify any director or officer against their expenses incurred in connection with the defense of any action suit or proceeding in which they are a party by reason of their service with the corporation, except in cases where the director or officer is adjudged liable for negligence or misconduct in the performance of duty.

(14) To make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the Nation, for managing the business and regulating the affairs of the corporation.

(15) To make donations for the public welfare or for charitable, scientific, or educational purposes.

(16) To transact any lawful business that will aid governmental policy.

(17) To have and exercise all powers necessary or convenient to effect its purposes.

c. Applicable Law. Any Corporation established pursuant to this Ordinance shall be bound by all applicable laws of the Nation and of the federal government.

6. **Incorporation**.

a. Corporate Name. The corporate name:

(1) Shall contain the word "corporation," "company," "incorporated," "limited," or an abbreviation of one these words and shall carry the by-line "A Ho-Chunk Corporation."

(2) Shall not contain any word or phrase which indicates or implies that it is organized under any purpose other than the purposes contained it its articles of incorporation.

(3) Shall not be the same as or similar to the name of any corporation organized under the laws of the Nation.

(4) Shall not contain any word or phrase which indicates or implies that it is authorized to bind or act for the Nation.

b. Incorporators. Any member of the Ho-Chunk Nation over the age of eighteen (18) may act as the incorporator of a corporation by delivering articles of incorporation to the Legislative Secretary for filing. Nothing in this Section shall limit the right of non- members of the Nation to own some or all of the shares of a Ho-Chunk Nation corporation, provided that the Ho-Chunk Nation Legislature consents by a majority vote at a duly called meeting at which quorum is present.

7. **Articles of Incorporation**.

a. The articles of incorporation shall set forth the following:

(1) The name of the Corporation.

(2) The period of existence, which may be perpetual.

(3) The purpose for which the corporation is organized, which may include the transaction of any or lawful business for which corporations may be incorporated under this Ordinance.

(4) Any provision not inconsistent with law which the incorporators elect to set forth in the Article of Incorporation for the regulation of the internal affairs of the Corporation, including any provision restricting the transfer of shares and any provision which under this Ordinance is required or permitted to be set forth in the bylaws.

(5) The address of its initial registered office and the name of its initial registered agent at such address.

(6) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors.

(7) The name and address of each incorporator.

(8) If a corporation is authorized pursuant to its articles of incorporation to create and issue shares of stock, the articles of incorporation shall also set forth the following:

(a) The number of shares which the corporation shall have authority to issue and a description of their classes if any and par value if any.

(b) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class.

(c) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences between series and a statement of the authority of the board of directors to designate such rights and preferences over time.

(d) If any preemptive right is to be granted to shareholders, the provisions therefore.

b. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Ordinance. Whenever a provision of the articles of incorporation is inconsistent with the bylaws, the articles shall be controlling.

c. If a corporation is to be owned and operated in whole or in part by the Nation, the Ho-Chunk Nation Legislature must approve the articles of incorporation by a two-thirds vote.

d. Filing of Articles of Incorporation.

(1) Duplicate originals of the articles of incorporation shall be delivered to the Legislative Secretary for the Nation. If the Secretary finds that the articles of incorporation conform to tribal law, the Secretary shall:

(a) Endorse on each duplicate originals the word "filed" and the month, day, and year of the filing thereof.

(b) Register and maintain one duplicate original in the Legislative Office.

(c) Issue a Certificate of Incorporation to which the Secretary shall affix the other duplicate original and return to the incorporators.

(2) The Legislative Secretary's issuance of a Certificate of Incorporation and registering of the same is conclusive proof that all conditions precedent to incorporation has been satisfied.

e. Effect of Issuance of Certificate of Incorporation. Unless a delayed effective date is specified, the corporate existence begins when the Certificate of Incorporation is registered.

f. Amending Articles of Incorporation.

(1) A corporation may amend its articles of incorporation by submitting executed articles of amendment with the Legislative Secretary. The articles of amendment shall be approved by the corporation's shareholders and executed by its president or vice president and its secretary. If a corporation is owned and operated in whole or in part by the Nation, the Legislature must approve the amendments by a two-thirds vote.

(2) Duplicate originals of the executed articles of amendment shall be delivered to the Legislative Secretary. If the Secretary determines that the articles of amendment conform to tribal law, the Secretary shall:

(a) Endorse on each duplicate original the word "files" and the month, day, and year of such filing thereof.

(b) Register and maintain one such duplicate original in the Legislative Office.

(c) Issue a certificate of amendment to which the Secretary shall affix the other duplicate original and return to the corporation.

(3) Upon the issuance of the certificate of amendment by the Secretary, the amendment shall become effective and is conclusive proof that all conditions precedent for amendment of the articles of incorporation have been satisfied.

8. **Organization of Corporation**.

a. After the articles of incorporation have been registered by the Legislative Secretary, the initial Directors shall hold an organization meeting. The meeting shall be called by its incorporator(s) or a majority of the named directors. The purpose of the meeting is to complete the corporation's organization by selecting officers of the board of directors, appointing officers of the corporation, adopting bylaws, and carrying on any business brought before the meeting.

b. Bylaws.

(1) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

(2) The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or to adopt new bylaws, subject to repeal or change by action of the shareholders, shall be vested in the board of directors.

9. **Registered Office and Agent**. Each corporation organized pursuant to this Ordinance shall maintain on or near land held in trust for the Nation or its members a registered and a registered agent. The office may be, but need not be, the same as its place of business.

a. Change of Registered Office and Agent. A corporation may change its registered agent by delivering a statement in writing of such change to the Legislative Secretary.

b. Service on Corporation. A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation. If the corporation fails to appoint or maintain an agent, then service may be made upon the Legislative Secretary who shall record receipt of service and forward it by registered mail to the last address of record of the corporation's principal office. The Secretary's record of service and mailing to the corporation shall be evidence of service.

c. Records.

(1) Each corporation shall keep at its registered office a record giving the name and addresses of those entitled to vote, correct and complete books and records of account, and correct minutes of all proceedings of shareholders, directors, and committees. Copies of minutes shall be filed with the Legislative Secretary.

(2) All relevant records may be inspected by shareholders, their agents or attorneys for any purpose at any reasonable time.

(3) Any corporation receiving grants, contracts, use of tribal property, or other benefits derived through or by the Nation shall file with the Legislative Secretary, quarterly financial statements and narratives of their actions and accomplishments of stated objectives and goals.

(4) The Legislature reserves the right to inspect a corporation's books and records of accounts and reserves the right to perform audits to ensure compliance with applicable law. The Nation's Department of Justice may conduct such inspections and audits to ensure compliance with applicable law.

10. **Shares, Earnings and Ownership**.

a. Corporations Owned and Operated by the Nation.

(1) In the event the Nation owns and operates a corporation, in whole or in part, the Nation's share of the corporation's net earnings may be transferred to the Nation. The net earnings shall be the sum remaining after provisions have been made for payment of all debts, operating expenses, payment of amortized indebtedness, depreciation, contingencies and such costs as are necessary for managing and conducting business of the corporation.

(2) Corporations wholly owned and operated by the Nation shall not be required to issue shares for the purposes of delineating ownership in the corporation.

(3) The Ho-Chunk Nation Legislature shall exercise the powers authorized for shareholders under this Ordinance for corporations that it owns and operates, in whole or in part, whether or not shares are authorized.

b. Authorized Shares.

(1) Each corporation shall have the power to create and issue the number of shares stated in its articles of incorporation. Shares may be divided into one or more classes, any or all of which may consist of shares with or without par value, and with the designation, preferences, limitations, and relative rights stated in the articles of incorporation. The articles of incorporation may limit or deny voting rights or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this Ordinance.

(2) Without limiting the authority herein contained, a corporation whose articles of incorporation permit may issue shares of preferred or special classes that:

(a) Subject to the right of the corporation to redeem the shares at the price fixed by the articles of incorporation.

(b) Entitle the holders to cumulative, non-cumulative, or partially cumulative dividends.

(c) Have preference over any other class of shares as to the payment of dividends.

(d) Have preference in the assets of the corporation over any other class of shares upon the liquidation of the corporation.

(e) Convertible into shares of any other class or series, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation. Shares without par value shall not be converted into shares with par value unless that part of the stated capital of the corporation represented by such values without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted or the amount of any such deficiency is transferred from surplus to stated capital.

c. Payment For Shares. Consideration for the issuance of shares may be paid, in whole or in part, in cash, in other property, tangible or intangible, or in labor or services actually performed for the corporation. Neither promissory notes nor future services shall constitute payment.

d. Certificates Representing Shares. The shares of a corporation shall be represented by certificates signed by the President or the Vice President and the Secretary of the corporation.

11. **Board of Directors and Officers**.

a. Board of Directors.

(1) The business and affairs of the corporation shall be managed by a board of directors, subject to any limitations set forth in the articles of incorporation. The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a member of the Ho-Chunk Nation unless the articles of incorporation or bylaws so prescribe.

(2) If a corporation is wholly or partially owned and operated by the Nation, at least one director shall be a member of the Ho-Chunk Legislature.

(3) Corporations wholly or partially owned and operated by the Ho-Chunk Legislature and any corporation receiving grants, program contracts, use of tribal property, or other benefits derived through or by the Nation, shall have no more than two

(2) Members of the same immediate family on the board of directors. Immediate family shall include grandparents, parents, children, brothers and sisters, and grandchildren of the family.

b. Number and Election.

(1) A board of directors must consist of one or more individuals with the number established in the articles of incorporation or bylaws.

(2) If a corporation is to be wholly owned and operated by the Nation, the articles of incorporation or bylaws may provide that the Nation's Legislature may elect the directors. If the corporation is partially owned and operated by the Nation, the articles of incorporation or bylaws may provide the Legislature may vote the Nation's shares to elect the directors.

(3) If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of directors by the holders of authorized classes of shares.

(4) Initial directors shall be named in the articles of incorporation and thereafter directors shall be elected at the annual shareholders' meeting.

c. Terms. The terms of the initial directors expire at the first shareholders' meeting at which directors are elected. The terms of all subsequent directors expire at the next annual meeting following their election unless the articles of incorporation or bylaws provide for staggered terms. Directors appointed to fill a vacancy shall serve until the next shareholders' meeting at which directors are elected. Despite expiration of a director's term, a director continues to serve until the successor is elected and qualifies or until the board size is decreased.

d. Resignation. A director may resign at any time by delivering written notice to the board of directors or its chairman.

e. Removal.

(1) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only with cause.

(2) The Nation's Legislature may remove, with or without cause, any director it has elected by a two-thirds vote for removal unless the articles of incorporation provide that its directors may be removed only with cause.

(3) If a director is elected by a class of shareholders, the shareholders of that voting group may participate in the vote to remove the director.

(4) A director may be removed only at a meeting called for the purpose of removing the director(s) and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

f. Vacancies. Unless the articles of incorporation provide otherwise, a vacancy on the board may be filled by the board of directors, though less than a quorum.

g. Compensation. Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

h. Meetings.

(1) The board of directors may hold regular or special meetings and need not meet on or near land held in trust by the United States for the Nation.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board may permit any or all directors to conduct or participate in a meeting through the use of any means of communication by which all directors may simultaneously hear each other during the meeting. A director so participating is deemed present.

(3) Notice.

(a) Unless the articles of incorporation or bylaws providing otherwise, regular meetings of the board may be held without notice of the date, time, place, or purpose of the meeting.

(b) Unless the articles of incorporation or bylaws provide for a different period, special meetings of the board must be preceded by at least two (2) days' notice of the date, time, and place of the meeting.

(c) Waiver. A director may waive any required notice, and a director's attendance at participation in a meeting waives any required notice unless the director objects at the meeting's beginning and does not vote thereafter on actions at the meeting.

(4) Quorum and Voting.

(a) Unless the articles of incorporation or bylaws provide otherwise, a quorum consists of a majority of the number of directors, provided that in no event shall a quorum consist of fewer than one-third the number of directors. If at least one member of the Nation's Legislature is a director, a quorum shall also consist of the member of the Legislature.

(b) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number.

(c) Unless the articles of incorporation or bylaws provide otherwise, action by the board of directors may be taken without a meeting if all members take the action. Such action must be evidenced in writing, signed by each director, and included in the minutes or filed with the corporate records.

(5) Conflicts of Interest. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct interest. A conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any of the following is true.

(a) The material facts of the transaction and the director's interest were disclosed or known to a majority of the board of directors or a committee of the board of directors, excluding the interested director or directors, and a majority of the board of directors or committee authorized, approved, or ratified the transaction.

(b) The material facts of the transaction and the director's interests were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction.

(c) The transaction was fair to the corporation.

(6) Loans to Directors. A corporation may not lend money to nor guarantee the obligation of a director of the corporation unless the loan or guarantee benefits the corporation and either the shareholders or the board of directors approves the loan or guarantee.

(7) Officers.

(a) The board of directors shall elect a chairman and a secretary.

(b) The officers of the corporation shall consist of a president, vice president, secretary, treasurer, and such other officers which are described in the bylaws or are appointed by the board of directors in accordance with the bylaws. The bylaws or the board of directors shall delegate to one of the officers responsibility for preparing minutes of the directors and shareholder meetings and for authenticating records of the corporation.

(c) Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors. The same person may simultaneously hold more than one office in the corporation.

(d) Resignation and Removal. Any officer may resign at any time by delivering notice to the corporation. A board of directors may remove any officer at any time with or without cause.

(e) Contract Rights. The appointment of an officer does not itself create contract rights nor does the resignation or removal of an officer affect the contract rights, if any, of the officer or corporation.

(8) General Standards for Directors and Officers.

(a) Directors and officers shall discharge their duties in good faith with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner they reasonably believe to be in the best interests of the corporation.

(b) In discharging their duties, directors and officers are entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one or more of the following.

1 One or more officers or employees of the corporation whom they reasonably believe to be reliable and competent in the matters presented.

2 Legal counsel, public accountants, or other persons as to matters they reasonably believe are within the person's professional or expert competence.

3 A committee of the board of directors if they reasonably believe the committee merits confidence.

(c) Directors and officers are not liable for any action taken in their corporate capacity, or any failure to take any action, if they performed their duties of office in compliance with this Section.

(9) Committees.

(a) The board of directors may create one or more committees and appoint members of the board of directors to serve on them. Each committee must have two or more directors who serve at the pleasure of the board of directors.

(b) Each committee, to the extent provided by the board of directors or in the articles of incorporation or in the bylaws, may exercise the authority of the board of directors.

12. **Shareholders**.

a. Meetings.

(1) A corporation shall hold a meeting of shareholders annually in accordance with the bylaws. Annual meetings need not be held on or near lands held in trust by the United States for the Ho-Chunk Nation. The failure to hold an annual meeting does not affect the validity of any corporate action.

(2) A corporation may hold a special meeting of shareholders at the call of its board of directors or at the request of ten percent (10%) of the shareholders entitled to vote.

(3) Unless the articles of incorporation or bylaws provide otherwise, action required to be taken at a shareholders meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote. Such action must be evidenced in writing, signed by each shareholder and delivered to the corporation for inclusion in the minutes and records.

(4) If a corporation is wholly owned and operated by the Ho-Chunk Nation, the Ho-Chunk Legislature shall conduct the annual meetings. If a corporation is partially owned and operated by the Ho-Chunk Nation, the Ho-Chunk Legislature shall vote the Nation's shares at the annual meeting.

b. Notice of Shareholders Meetings. A corporation shall notify shareholders of the date, time and place of each annual or special shareholders meeting at least ten (10) days before the meeting. A shareholder may waive notice and a shareholder may be deemed to have waived notice if the shareholder attends the meeting unless the shareholder objects at the beginning of the meeting.

c. Voting Entitlement of Shares.

(1) Unless the articles of incorporation provide otherwise, each outstanding share is entitled to one vote on each matter voted on at a shareholders meeting. A shareholder may vote a share in person or by proxy provided that shareholder has appointed a proxy by signing an appointment and filed the appointment with the corporation.

(2) If a corporation is owned and operated in part by the Ho-Chunk Nation, the Ho-Chunk Legislature shall vote the Nation's shares. If a corporation is wholly owned and operated by the Ho-Chunk Nation, the Ho-Chunk Legislature shall exercise the powers authorized for shareholders.

d. Voting Trusts and Agreements.

(1) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the trust's provisions and transferring the shares to the trustee. When a voting trust agreement is signed, the trustee shall deliver to the corporation the names and address of all owners of beneficial interests in the trust, together with the number and class of shares transferred to the trust.

(2) Two or more shareholders may also provide for the manner in which they will vote their shares by signing an agreement for that purpose.

13. **Liability**.

a. A holder of shares of a corporation shall be under no obligation to the corporation or its creditors with respect to the shares other than the obligation to pay to the corporation the full consideration for which the shares were issued.

b. The Ho-Chunk Nation shall be under no obligation to a corporation or the creditors of any corporation which the Nation incorporates, owns or operates, in whole or in part, and the Nation shall not be deemed to have waived any of the Nation's privileges or immunities if the Nation incorporates, owns or operates a corporation, in whole or in part.

14. **Challenges to Corporate Actions**.

a. Except as provided in paragraph b, below, the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

b. A corporation's power to act may be challenged in a proceeding before the Ho- Chunk Trial Court by any of the following:

(1) Ten percent (10%) of the shareholders or a director against the corporation to enjoin the act.

(2) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation to enjoin the act.

(3) The Ho-Chunk Trial Court, as provided in this Ordinance, to dissolve the corporation or to enjoin the corporation from performing unauthorized acts.

15. **Voluntary Dissolution of Corporation**.

a. Voluntary Dissolution by Incorporators. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators at any time in the following manner.

(1) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by them, and shall set forth:

(a) The name of the corporation.

(b) The date of issuance of its certificate of incorporation.

(c) That none of its shares has been issued.

(d) That the corporation has not commenced business.

(e) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(f) That no debts of the corporation remain unpaid.

(g) That a majority of the incorporators elect that the corporation be dissolved.

(2) Duplicate originals of the articles of dissolution shall be delivered to the Legislative Secretary. If the Secretary finds that the articles of dissolution conform to law, the Secretary shall:

(a) Endorse on each of such duplicate originals the word "filed" and the month, day and year of the filing thereof.

(b) File one of such duplicate originals in the Legislative Office.

(c) Issue a certificate of dissolution to which the Secretary shall affix the other duplicate original.

(3) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Legislative Secretary, shall be returned to the incorporators or their representative. Upon the issuance of such certificate of dissolution by the Secretary, the existence of the corporation shall cease.

b. Voluntary Dissolution by Consent of Shareholders.

(1) A corporation may be voluntarily dissolved by the written consent of all of its shareholders. If a Corporation is partially owned and operated by the Ho-Chunk Nation, the Ho-Chunk Legislature shall consent for its shares. If the corporation is wholly owned and operated by the Ho-Chunk Nation, the Legislature shall consent to dissolve the corporation.

(2) Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

(a) The name of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the written consent signed by all shareholders of the corporation, or a certified copy of the resolution adopted by the Ho-Chunk Legislature.

(e) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorney's thereunto duly authorized.

c. Voluntary Dissolution by Act of Corporation. A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of the dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. If a corporation is partially owned and operated by the Ho-Chunk Nation, the Ho-Chunk Legislature shall consent for its shares. If the corporation is wholly owned and operated by the Ho-Chunk Nation, the Legislature shall consent to dissolve the corporation.

(2) Written notice shall be given to each shareholder entitled to vote in the manner provided in this Ordinance for the giving of notice of meetings of shareholders, and shall state that the purpose of the meeting is to consider dissolving the corporation.

(3) At the meeting, shareholders entitled to vote shall vote on a resolution to dissolve the corporation. The resolution shall be adopted upon receiving the majority vote of the shareholders entitled to vote.

(4) Upon the adoption of the resolution, a statement of intent to dissolve shall be executed in duplicate by the corporation by its president or a vice president and by its secretary and verified by one of the officers signing such statement, and shall set forth:

(a) The names of the corporation.

(b) The names and respective addresses of its officers.

(c) The names and respective addresses of its directors.

(d) A copy of the resolution adopted by the shareholders or the Ho-Chunk Legislature authorizing the dissolution of the corporation.

(e) The number of shares outstanding, and classes if any.

(f)The number of shares voted for and against the resolution, and their class, if any.

d. Filing of Statement of Intent to Dissolve. Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or the Ho-Chunk Legislature or by act of the corporation, shall be delivered to the Legislative Secretary. If the Legislative Secretary finds that such statement conforms to law, the Secretary shall:

(1) Endorse on each of such duplicate originals the word "filed" and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in the Legislative Office.

(3) Return the other duplicate original to the corporation or its representative.

e. Effect of Statement of Intent to Dissolve. Upon the filing with the Legislative Secretary the statement of intent to dissolve, the corporation shall cease to carry on its business, except insofar as may be necessary for the winding up thereof. Its corporate existence shall continue until a certificate of dissolution has been issued by the Legislative Secretary.

f. Procedure After Filing of Statement of Intent to Dissolve. After filing with the Legislative Secretary the statement of intent to dissolve, the corporation shall:

(1) Immediately cause notice to be mailed to each known creditor of the corporation.

(2) Proceed to collect its assets, convey, and dispose of its properties as are not to be distributed to its shareholders or the Nation as provided in this Ordinance.

g. Distribution of Assets. The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefore.

(2) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements.

(3) Remaining assets shall be distributed, either in cash or in kind, among its shareholders according to their respective rights and interests, unless the corporation is owned and operated, in whole or in part, by the Ho-Chunk Nation. In that event, the remainder of its assets shall be conveyed to the Ho-Chunk Legislature according to its respective rights and interest. The Legislature shall hold them or their proceeds in trust for two (2) years or until the resolution of any legal action involving them. Under no circumstances shall the Ho-Chunk Legislature assume any liability not covered by the assets so held. Upon the trust's expiration, the Ho-Chunk Legislature may distribute the assets in accordance with federal and tribal law.

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distribution rights of shareholders or provide for distribution to others.

h. Plan of Distribution.

(1) A plan providing for the distribution of assets may be adopted by a corporation in the process of dissolution for the purpose of authorizing any transfer or conveyance of assets in the following manner:

(a) Where a corporation has issued shares of stock, the board of directors shall adopt a resolution recommending a plan of distribution and directing that the plan be submitted to a vote at a meeting of shareholders. Written notice setting forth the proposed plan of distribution shall be given to each shareholder entitled to vote as provided in this Ordinance. The plan of distribution shall be adopted upon receiving at least two-thirds of the votes entitled to be cast. If any of the shares are held by the Ho- Chunk Nation, the Ho-Chunk Legislature shall vote the Nation's shares.

(b) Where a corporation is wholly owned and operated by the Ho-Chunk Nation, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office and must be approved by a two- thirds vote of the Ho-Chunk Legislature.

(2) Any plan of distribution adopted according to paragraph (a) or (b), above, shall reflect the rights and preference of all outstanding shares.

i. Articles of Dissolution. When all debts, liabilities and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders or the Ho-Chunk Nation, articles of dissolution shall be executed in duplicate by the corporation by its president or a vice president and by its secretary and verified by one of the officers signing such statement, which statement shall set forth:

(1) The name of the corporation.

(2) That all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefore.

(3) That all remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(4) That there are not suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction or any judgment, order or decree which may be entered against it in any pending suit.

j. Filing Articles of Dissolution.

(1) Duplicate originals of such articles of dissolution shall be delivered to the Legislative Secretary. If the Secretary finds that such articles of dissolution conform to tribal law, the Secretary shall:

(a) Endorse on each of such duplicate originals the word "filed" and the month, day and year of the filing thereof.

(b) Maintain one of such duplicate originals in the Legislative Office.

(c) Issue a certificate of dissolution to which the Secretary shall affix the other duplicate original.

(2) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers.

16. **Involuntary Dissolution and Liquidation**.

a. Involuntary Dissolution. A corporation may be dissolved involuntarily by the Ho- Chunk Trial Court as provided in this Section.

(1) The Court may order the corporation to appear before it and show cause as to why it should not be dissolved when one or more of the following is established.

(a) The corporation procured its articles of incorporation through fraud.

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law.

(c) The corporation has failed for thirty days to appoint and maintain a registered agent on or land held in trust for the Ho-Chunk Nation.

(d) The corporation has failed for thirty (30) days after change of its registered officer or registered agent to file with the Legislative Secretary a statement of such change.

(e) The corporation is found by the Court to be in violation of this Ordinance or any other law of the Nation.

(2) Dissolution under this Section shall be initiated and prosecuted by the Ho- Chunk Nation Attorney General or Legislative Counsel in consultation with the Department of Justice.

b. Jurisdiction of Ho-Chunk Trial Court to Liquidate Assets and Affairs of Corporation. The Ho-Chunk Trial Court shall have full jurisdiction to liquidate the assets and affairs of a corporation:

(1) Upon petition to the Legislature of ten percent (10%) of the shareholders or by resolution of the Legislature if the corporation is wholly or partially owned and operated by the Ho-Chunk, if the petition or resolution establishes one or more of the following.

(a) That the directors are deadlocked in the management of the corporate affairs and shareholders are unable to break the deadlock, and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

(b) That the acts of the directors of those in control of the corporation are illegal, oppressive, or fraudulent.

(c) That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors.

(d) That the corporate assets are being misapplied or wasted.

(e) That the corporation has consistently failed to use accepted accounting practices in the maintenance of its books and records.

(f) That the corporation does or omits any act which amounts to a surrender of its corporate rights, privileges, or franchises.

(2) Upon petition to the Court of a creditor, if the petition establishes one or more of the following.

(a) The claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is establishes that the corporation is insolvent.

(b) The corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(3) Upon application by a corporation which has filed a statement of intent to dissolve.

c. Procedure in Involuntary Dissolution and Liquidation by the Ho-Chunk Trial Court.

(1) Where there are grounds for issuing an order to show cause why a corporation shall not be dissolved or when the Court receives a petition for liquidation or the Legislature adopts a petition for liquidation, the Court shall send an order to appear and show cause why the corporation should not be dissolved or liquidated to the president and secretary of the corporation. The hearing shall be scheduled by the Court no less than 30 days from the date of said order.

(2) If the Court finds that the officers of the corporation have shown sufficient cause why the corporation should not be dissolved or liquidated, the decision of the Court shall be final.

(3) If the officers of the corporation fail to appear as ordered, or if, in the opinion of the Court, the officers have failed to show sufficient cause why the corporation should not be dissolved or liquidated, the Court may revoke the corporation's certificate of incorporation.

(4) If the Court revokes the corporation's certificate, it shall assume trusteeship over the corporation's assets and liquidate its assets in accordance with this Section.

(5) If prior to the revocation of the corporation's certificate, the corporation cures all defaults complained of and pays all penalties and costs, the action shall abate.

d. Liquidation of Corporation by the Ho-Chunk Trial Court. If the Court revokes a corporation's certificate of incorporation, it shall proceed to liquidate the assets and business of a corporation as follows:

(1) The Court shall have power to issue injunctions, and to appoint a liquidating receiver with any powers and duties the Trial court may direct. The Court may also take any other actions necessary to preserve the corporate assets wherever situated, and carry on the business of the corporation until final dissolution.

(2) The liquidating receiver shall give notice to all parties in interest and creditors and allow each a proper hearing with sworn statements.

(3) The liquidating receiver shall then collect the assets of the corporation, and shall have authority to sell, convey and dispose of the assets of the corporation wherever situated, either at public or private sale.

(4) The assets of the corporation or the proceeds resulting from a sale, conveyance or other disposition thereof shall be applied to the expenses of the liquidation and to the payment of the liabilities and obligations of the corporation according to this Ordinance. Any remaining assets or proceeds shall be distributed according to this Ordinance.

(5) The Court shall have power to allow compensation to the receiver and any attorneys in the proceeding out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(6) A receiver of a corporation appointed under the provisions of this Section shall have authority to sue and defend in all courts in his own name as receiver of such corporation.

e. Order of Dissolution.

(1) The Court shall issue an order dissolving the corporation, when:

(a) The costs and expense of the liquidation have been satisfied.

(b) All debts, obligations and liabilities of the corporation have been paid and discharged.

(c) All of its remaining property and assets have been distributed. In case the corporation's property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, but all the property and assets have been applied so far as they will go to their payment, the Court shall issue an order dissolving the corporation.

(2) Upon of an order, the existence of the corporation shall cease.

f. Filing of Order of Dissolution. When the Court issues an order dissolving a corporation, it shall file a certified copy of the resolution with the Legislative Secretary.

17. **Post Dissolution**.

a. Deposit with the Ho-Chunk Trial Court of Amount Due Certain Shareholders. Upon the voluntary or involuntary dissolution or liquidation of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the Court and shall be paid over to the creditor or shareholder or to his legal representative upon proof satisfactory to the Court of his rights thereto.

b. Survival of Remedy After Dissolution.

(1) The dissolution of a corporation by i) the issuance of a certificate of dissolution by the Legislative Secretary, ii) an order issued by the Court before the corporation's assets have been liquidated as provided in this Ordinance, or iii) upon expiration of its period of duration, shall not take away or impair any remedy available to or against a corporation, its directors, officers, or shareholders, for any right or claim existing or any liability incurred, prior to dissolution if an action or other proceeding is commenced within two years after the date of dissolution.

(2) Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name.

(3) The shareholders, directors, and officers shall have power to take corporate or other action as shall be appropriate to protect a remedy, right or claim. If a corporation was dissolved by the expiration of its period of duration, it may amend its articles of incorporation at any time during the period of two years so as to extend its period of duration.

Legislative History:

02/20/96	Adopted by Ho-Chunk Nation Legislative Resolution 2/20/96A.
11/24/04	Business Corporation Ordinance reformatted IAW Legislative Resolution 11/16/04A as a Proposed Bill (5 HCC § 2) and submitted to the Office of the President for Executive Review and Coordination.
06/10/05	Legislature posts Draft Bill Business Corporation Ordinance out for 45-Day Public Review.
08/13/05	45-Day Public Review ends without comment.
10/04/05	Enacted as Business Corporation Ordinance (5 HCC § 2) by Legislative Resolution 10/04/05E.
08/23/16	Amended via Quick Passage Procedure by Legislative Resolution 08/23/16J amending the definition of “corporation”.