HO-CHUNK NATION BURIAL/ MOUNDS ORDINANCE
4 HCO §1.01 TO §5.01

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HO-CHUNK NATION BURIAL/MOUNDS ORDINANCE
4 HCO §1.01 TO §5.01

I. GENERAL PROVISIONS

Section 1.01 Title

This chapter shall be known as the "Ho-Chunk Nation Burial/Mounds Ordinance."

Section 1.02 Definition

As used in this ordinance;

(a) "Adequate historical documentation" is information verifiable through at least two of he following types of independent sources: church records, deeds, maps and other written and two (2) corresponding oral sources.

(b) "Agency" means agency as such term is defined in 5 USC §551.

(c) "Areas likely to contain burial sites" include mounds and places where current knowledge suggests burials might be located.

(d) "Artifact" means material contained in or derived from an archaeological resource or other historic property that was used by those who created or used such property during its period of historical significance, for example pottery, stone carvings, weapons, tools and articles of personal adornment, architectural remains and the remains of foodstuffs and the byproducts of tool manufacture .

(e) " Board" means the Ho-Chunk Legislature.

(f) "Burial sites/earthworks" means any place where human remains are buried, including any prehistoric mound that is known from archeological or other knowledge to be a mound of mortuary type.

(g) "Cataloged burial site" is a place of land that has a record of having buried human remains or any burial site that is already recorded with the county register of deeds. This shall be the caseeven if the recorded burial site is untended, abandoned, and has no surface indications of burials.

(h) "Class of burial sites" means burial sites of a particular age, culture, or geographic region.

(i) "Committee" means the Ho-Chunk Nation Burial Sites/Earthworks committee.

(j) "Director" means the director of the state historical society of Wisconsin or a formally appointed designee.

(k) "Disturbance" means as defined in Wis. Stats. 157.70(1) (e) except when it is a result of the efforts by a qualified archeologist to identify a burial site.

(l) "Historic property" or "historic resource" means a prehistoric or historic district, landscape, site, building, structure, or object listed on or eligible for listing on the National Register, including artifacts, records and material remains related to such a property or resource.

(m) "Human remains" means any part of the body of a deceased person in any stage of decomposition in a context indicating substantial evidence for an intentional burial; or, an articulated skeleton.

(n) "Indian tribe" or "tribe" means any Indian tribe, band, nation or other organized group or community, including any Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(n) "Objects related to the burial" means items that were intentionally placed and directly associated with the burial.

(o) "Preservation" or "historic preservation" includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, study, interpretation, reconstruction and education and training regarding the foregoing activities, or any combination of the foregoing activities.

(p) "Religious affiliation" means a membership in an organized religion recognized by federal internal revenue service tax exemption or a membership in a traditional Indian religion in Wisconsin, pursuant to federal regulations established under the American Indian Religious Freedom Act (Public Law 95-341, 1978).

(q) "Skeletal analyst" means an individual who has a graduate degree in archeology, anthropology, or a closely related field and at least one year of full time professional experience or equivalent specialized training human osteological research, at least four months of supervised analytic experience in the identification, analysis, and interpretation of human osteological remains, and a

demonstrated ability to carry research to completion.

(r) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau.

(s) "Sufficient contiguous land" means the amount of land submerged or non-submerged, urrounding the burial site necessary to ensure its protection.

(t) "Traditional cultural authority" means a person in a Native American group or other social or ethnic group who is recognized by members of the group who is recognized by members of the group as an expert on the group's traditional history and cultural practices.

(u) "Tribal affiliation" means an association with federally recognized Indian tribes or bands.

(v) "Uncataloged burial sites" means any burial site that was not previously known or recorded (i.e., a burial found during construction, exposed suddenly by natural forces, etc.).

Section 1.03 Applicability.

The provisions of this ordinance shall apply to all burial sites/earthworks and areas likely to contain burial sites/earthworks until adequate historical documentation shows that said burial sites/earthworks are not of Ho-Chunk ancestry or cultural affiliation.

Section 1.04 Purpose.

The purpose of this chapter is to mandate tribal control of all Ho-Chunk Nation Burial Sites/Earthworks. To identify these sites and areas likely to contain burial sites/earthworks and to protect of said sites on behalf of all Ho-Chunk tribal members.

II. BURIAL/MOUNDS COMMITTEE

Section 2.01 Authorization - Establishment.

The Burial/Mounds Committee as authorized by the Ho-Chunk Legislature pursuant to Article X of the Constitution and Bylaws of the Ho-Chunk Nation is established for protecting ancestral remains, grave goods, burial, sacred, and historical sites, for example, but not limited to, ancient earthworks located on present, historic and pre-historic lands of Tribal occupation as determined by Tribal Laws, traditions and customs on behalf of the Ho-Chunk Nation.

Section 2.02 Purpose

Therefore, the Burial Mounds Committee is developing action plans establishing Tribal policy and legal procedures to protect ancient shrines and to create self-regulating methods to preserve cultural, religious and historical burial objects that have a unique tie to the Ho-Chunk Nation.

Section 2.03 Duties Generally

The committee shall administer the duties necessary to identify recorded burial sites/earthworks and areas likely to contain burial sites/earthworks. The committee shall also monitor as necessary to assure no disturbance of such sites or any objects related to the burial.

Section 2.04 Powers Generally

The committee shall have the power:

(a) To hire and fire committee employees and to pay salaries pursuant to a salary schedule established by the Ho-Chunk Legislature.

(b) To establish rules and regulations governing all activities of the committee.

(c) To expend funds appropriated by the Ho-Chunk Legislature for the Ho-Chunk Nation Burial/Mounds Committee.

(d) To obtain funding from federal, state, or other sources to supplement Ho-Chunk Legislature appropriations.

(e) To establish procedures and timetable necessary to identify and protect all burial sites/earthworks of Ho-Chunk ancestors.

(f) To require the states and delegated agencies to assist the Ho-Chunk Nation in protecting burial sites/earthworks from any disturbance.

(g) To establish and administer a cataloging system of all burial sites/earthworks.

(h) To monitor all agencies, state, county and local governments to assure compliance with the Indian Civil Rights Act, 25 USC § 1301- §1341, Religious Freedom Act, Pub. L. NO. 96-341 and the Indian Reorganization Act as amended at 25 USC § 461- §479.

(i) To require state, county and local governments and agencies to notify the committee of all sites identified and cataloged as they are documented through their appropriate agency.

(j) To develop workshops on the traditions and customs of the Ho-Chunk Nation to educate any interested persons on tribal beliefs.

(k) To hold hearings and to subpoena witnesses and documents in accordance with this chapter.

(l) To require state, county and local government and agencies to submit reports and take all action deemed necessary by the committee for the fair and vigorous implementation of this chapter.

(m) To enter into cooperative agreements with federal, state, county and local governments, agencies, museums and institutions for the implementation of this chapter.

(n) To develop land acquisition functions pursuant to existing procedures and future Tribal legislation to expand the Ho-Chunk jurisdictional responsibility to include sacred sites utilizing all elements of the National Trust for Historic Preservation in the United States.

(o) To take such other actions necessary to achieve the purpose and objectives of the Ho-Chunk Nation Burial/Mounds committee, the Ho-Chunk Legislature for this chapter.

Section 2.05 Adoption of Rules, Regulations, Policies and Guidelines

When the committee is appointed and organized, it shall with all reasonable speed adopt, with the final approval of the council, detailed rules, regulations, policies and guidelines to fully implement this chapter and the purpose and responsibilities of the committee.

III. HEARINGS

Section 3.01 Notice of Hearings

If a hearing is requested by the committee, an individual, an employer, or union pursuant to this section, a written notice of the hearing shall be given to all concerned parties, stating the nature of the hearing and the evidence to be presented.

Section 3.02 Parties' Rights

The notice shall advise such parties of their right to be present at the hearing, to present testimony of witnesses and other evidence, and to be represented by counsel at their own expense.

Section 3.03 Rules

Hearings shall be governed by the following rules or procedures:

(a) All parties may be present testimony of witnesses and other evidence and may be represented by counsel at their expense.

(b) The committee may have the advice and assistance at the hearing of counsel provided by the tribe.

(c) The chairman of the committee or the vice-chairman shall preside and the committee shall proceed to ascertain the facts in a reasonable and orderly fashion.

(d) The hearing may be adjourned, postponed and continued at the discretion of the committee.

Section 3.04 Burden of Proof as to Compliance with Requirements of Chapter

In any hearing before the committee where the issue is compliance by a government, agency, museum or institution with any of the requirements and provisions of this chapter, the burden of proof shall be on the respondent rather than the Ho-Chunk Legislature or other complainant to show said compliance.

Section 3.05 Action

At the final close of the hearings, the committee may take immediate action or take the matter under advisement.

Section 3.06 Committee Decision - Notification

The committee shall notify all parties 30 days after the last hearing of its decision in the matter.

IV ENFORCEMENT AND REMEDIES

Section 4.01 Application - Penalties

Any government, agency or institution that violates this chapter or rules, regulations or orders of the committee shall be limited to, federal litigation.

Section 4.02 Appeals

Any party to a hearing shall have the right to appeal any decision of the committee to the Ho-Chunk Tribal Court.

Section 4.03 Reports

Governments, agencies, museums and institutions shall submit reports, and other information requested by the committee.

Section 4.04 Inspection

The committee and its representative shall have the right to make on-site inspections during regular working hours in order to monitor any government, agency, museum or institution's compliance with this chapter and rules, regulations and orders of the committee.

Section 4.05 Reservation of Rights

The tribe hereby fully reserves the right to alter, amend or repeal the provisions of this ordinance with the required review and approval of the Secretary of Interior where mandated by the Ho-Chunk Nation Constitution and Bylaws. All rights and privileges granted or extended hereunder, shall be subject to such reserve right., however, said reservation of rights shall not be applicable to existing licenses prior to any statutory amendment.

V. SEVERABILITY

Section 5.01

If any provision of this ordinance, or the application thereof, to any person, business, corporation or state government or any political subdivision or circumstances is held invalid, the invalidity shall not affect other provisions or applications or this ordinance which can be given effect without the invalid provisions, or applications and to this end the provisions of this ordinance are declared severable.

CERTIFICATION

I, the undersigned as Secretary of the Ho-Chunk Nation, hereby certify that the Ho-Chunk Legislature is composed of ____voting members, of whom ____members, constituting a quorum, were present at a session duly called and held on , 19 at Wisconsin; the foregoing Ordinance was therefore adopted by an affirmative vote of for and against; that said Ordinance is in full force and effect unless by legal enactment of the Ho-Chunk Legislature it shall be amended or rescinded.

Secretary, Ho-Chunk
Legislature

Attest:

Chairman, Ho-Chunk
Legislature

DRAFT-7

HO-CHUNK NATION BURIAL AND REPATRIATION LAW

Chapter 1. Title and Purpose

Sec. 101. This Act shall be known as the Ho-Chunk Nation Burial and Repatriation Law.

Sec. 102. The purpose of this Act is to reaquire, protect and preserve the ancestral remains artifacts, and burial, sacred, and historical sites of the Ho-Chunk Nation. [**remove:** The purpose of this Act is to protect and preserve the ancestral remains, artifacts, and burial, sacred, and historical sites of the Ho-Chunk Nation.]

Chapter 2. Definitions

For purposes of this Act, the following definitions shall apply:

Sec. 201. "Board" means the State of Wisconsin Burial Site Preservation Board.

Sec. 202. "Burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.

[**removed:** Sec. 203. "Cataloged" means recorded under sub (2) (a), (4)(e) or (6)(c) of Sec. 157.70 of the Wisconsin Statutes.]

Sec. 203. "Committee" means the Ho-Chunk Nation Burial and Repatriation Committee.

Sec. 204. "cultural affiliation" means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically to the present day Ho-Chunk.

Sec. 205. "cultural items" mean human remains and-

(a) "associated funerary objects" which shall mean objects that , as a part of the death rite or ceremony of a culture are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.

(b) "unassociated funerary objects" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individual or

families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with the Ho-Chunk Nation,

(c) "sacred objects" which shall mean specific ceremonial objects which are needed by traditional Ho-Chunk religious leaders for the practice of traditional religion by present day adherents, and

(d) "cultural patrimony" which shall mean an object having ongoing historical, traditional, or cultural importance central to the Ho-Chunk itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by an individual regardless of tribe or Native American and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

Sec. 206. "Dedicated" has the meaning given in s.157.061 (4) of the Wisconsin Statutes.

Sec. 207. "Director" means the director of the State of Wisconsin Historical Society or his or her formally appointed designee.

Sec. 208. "Disturb" includes defacing, mutilating, injuring, exposing, removing, destroying, desecrating or molesting in any way.

Sec. 209. "federal agency" means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution.

Sec. 210. "Federal lands" means any land other than tribal lands which are controlled or owned by the United States.

Sec. 211. "Historic place" or "historic resource" means a prehistoric or historic district, landscape, site, building, structure, or object listed on or eligible for listing on the Ho-Chunk Nation Register, including artifacts, records and material remains related to such a property or resource.

Sec. 212. "Historic Preservation Department" means the Ho-Chunk Nation Historic Preservation Department as established by the Ho-Chunk Nation Legislature.

Sec. 213. "Human remains" means any part of the body of a deceased person in any stage of decomposition.

Sec. 214. "Ho-Chunk" means a duly enrolled member or otherwise identified members of the Ho-Chunk Nation.

[~~"Ho-Chunk"~~ means a duly enrolled member or members of the Ho-Chunk Nation.]

Sec. 215. "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Sec. 216. "Interest" means an interest based on any of the following:

(a) Direct kinship
(b) A cultural, tribal or religious affiliation.
(c) A scientific, environmental or education purpose.
(d) Land use.
(e) A commercial purpose not related to land use which is consistent with the purposes of this section.
(f) Any other interest which the board deems to be in the public interest.

Sec. 217. "museum" means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.

Sec. 218. "Nation" means the Ho-Chunk Nation.

Sec. 219. "Native American" means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

Sec. 220. "Owner" means a person who owns or leases land on which a burial site is located.

Sec. 221. "Person" includes the state.

Sec. 222. "Preservation" or "historic preservation" includes identification, evaluation, recording, documenting, curating, acquiring, protecting, managing, rehabilitating, restorating, stabilization, maintenance, study, interpretation or reconstruction.

Sec. 223. "Qualified archaeologist" means an individual who has a graduate degree in archaeology, anthropology or a closely related field and at least one year of full-time profession experience or equivalent specialized training in archaeological or physical anthropological research, administration or management, at least 4 months of supervised field and analytic experience in general North American archaeology or physical anthropology and a demonstrated ability to carry research to completion.

Sec. 224. **SECTION 224 REMOVED**

["Review Committee" means the committee established pursuant to 25 U.S.C. 3001, et. seq.]

Sec. 224. "right of possession" means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as applied in section 7(c), result in a Fifth Amendment taking by the United States as determined by the United states Claims court pursuant of 238 U.S.C. 1491 in which event the "right of possession" shall be as provided under otherwise applicable property law. The original acquisition of Native American human remains and associated funerary objects which were excavated, exhumed, or otherwise obtained with full knowledge and consent of the next of kin or the official governing body of the Ho-Chunk Nation is deemed to give right of possession to those remains.

Sec. 225. "Secretary" means the United States Secretary of the Interior.

Sec. 226. "Tribal cultural authority" means a Ho-Chunk individual who is recognized by members of the Nation as an expert on the Nation's traditional history and cultural practices.

Sec. 227. "tribal lands" means-

(a) all lands within the exterior boundaries of any lands held in trust for the Ho-Chunk Nation by the United States;

(b) all dependent Indian communities.

Chapter 3. Ho-Chunk Nation Burial and Repatriation Committee

Sec. 301. The Ho-Chunk Nation hereby authorizes the Ho-Chunk Nation Burial and Repatriation Committee.

[Section 302 removed Sec. 302. The purpose and objective of the Burial, and Repatriation Commitee is to]

Sec. 302. The Committee shall be comprised of 5 individuals chosen by the Traditional Court with the advice and consent of the Legislature. The 5 individuals on the committee shall be chosen from the Thunder, Bear, Deer, Wolf, and Warrior clans with each clan being represented on the committee.

Sec. 303. The Committee shall have the power:

(a) to establish it's internal by-laws, rules, and regulations governing all activities of the Committee;

(b) to utilize funds appropriated by the Ho-Chunk Nation Legislature for the Committee;

(c) to assist, **when necessary,** the Ho-Chunk Nation Historic Preservation

Department in obtaining funding from federal, state, or other sources to supplement Ho-Chunk Nation appropriation;

(d) to recommend to the Ho-Chunk Historic Preservation Department procedures and timetables necessary to identify, protect, and repatriate burial sites and/or cultural items related to the Ho-Chunk Nation.

(e) to assist the Department of Historic Preservation in conducting appropriate Workshops on the traditions and customs of the Ho-Chunk Nation to educate any interested persons in the traditional beliefs of the Nation.

(f) to conduct hearings and call witnesses and obtain relevant documents as necessary in accordance with this Act.

(g) to require, request, and review state, county and local governments and agencies reports and take all action deemed necessary for the fair and vigorous implementation of Act.

(h) to recommend to the Ho-Chunk Nation Legislature any proposals for land acquisitions pursuant to existing procedures and future legislation to expand the Ho-Chunk Nation jurisdictional responsibility to include sacred sites.

(i) to work in conjunction with the Department of Historic Preservation and to recommend other actions necessary to achieve the purposes and objectives of this Act.

Chapter 4. Adoption of Rules, Regulations, Policies and Guidelines

Sec. 401. When the committee is appointed and organized, the Department of Historic Preservation shall with all reasonable speed, and no later than 90 days after this Act has taken effect, [formulate and] adopt, with the final approval of the Legislature, detailed rules, regulations, policies and guidelines to fully implement the purposes and responsibilities of the Committee.

Chapter 5. Hearings

[Add: Sec. 500. Purpose of Hearings
The Burial Mounds Committee may assess penalties on individuals. Persons assessed penalties may request a hearing to dispute any penalty imposed.]

Sec. 501. Notice of Hearings.
If a hearing is requested by the Committee, an individual, an employee, or union pursuant to this Act, a written notice of hearing shall be given to all concerned parties,

stating the nature of the hearing and the evidence to be presented.

Sec. 502. Parties' Rights
The notice shall advise such parties of their right to be present at the hearing, to present testimony of witnesses and other evidence, and to be represented by counsel at their own expense.

Sec. 503. Hearings shall be governed by the following rules or procedure:

(a) All parties may present testimony of witnesses and other evidence and may be represented by counsel at their own expense.

(b) The Committee may have the advice and assistance at the hearing by the Department of Justice.
(c) The chairman of the committee or the vice-chairman shall preside and the committee shall proceed to ascertain the facts in a reasonable and orderly fashion.

(d) The hearing may be adjourned, postponed and continued at the discretion of the committee.

Sec. 504. Burden of Proof
In any hearing before the committee where the issue is compliance by a government agency, museum or institution with any of the requirements and provisions of this Act, the burden of proof shall be on the respondent rather than the committee or other complainant to show said compliance.

Sec. 505. Decision and Notification
(a) A the final close of the hearings, the committee may take immediate action to take the matter under advisement.

(b) the committee shall notify all parties, in writing, within 30 days of its decision following a final hearing on the matter.

Chapter 6. Ho-Chunk Nation Department of Historic Preservation Department.

Sec. 601. The Ho-Chunk Nation, having established the Historic Preservation Department, hereby declares that its functions, duties and responsibilities are as follows:

(a) to work in cooperation with state, federal, and local agencies to assist the Nation in protecting, preserving, and repatriating burial sites and/or cultural items related to the Ho-Chunk Nation.

(b) to establish and administer a cataloging system of all burial sites and/or cultural items related to the Ho-Chunk Nation.

(c) to monitor all agencies, state, county, and local governments to assure compliance with legislative acts affecting burial sites and/or cultural items related to the Ho-Chunk Nation, including but not limited to the Native American Graves Protection and Repatriation Act 25 U.S.C. 3001, et. seq. and Section 157.70 of Wisconsin Statutes.

(d) to contact and require state, county and local governments and agencies to notify the committee and Historic Preservation Department of all sites identified and cataloged as they are documented through their appropriate agency.

(e) to work with other departments and branches within the Nation to protect and preserve those sites and articles important to the Nation.

(f) to develop a program whereby the sensitivity of certain objects, locations, and stories pertaining to the Nation are maintained in a confidential manner.

(g) to disseminate historically accurate information to the Ho-Chunk people [and any other interested parties] concerning both pre-historical and recorded history.

[Add: (h) Create rules, regulations, policies, and guidelines to govern Committee hearings, Historic Preservation Department investigations, and any cataloguing efforts.]

Chapter 7. Procedures for Notification of Burial Sites

Sec. 701. Any person who knows or has reasonable grounds to believe that a burial site or the land contiguous to a cataloged burial site is being disturbed or may be disturbed shall immediately notify the following persons:

(a) If the site is located on Trust land or land belonging to the Nation, the person shall notify the Historic Preservation Department in writing or verbally.

(1) If the Historic Preservation Department receives a report under this subsection, it shall immediately commence an investigation.

(2) If it is determined that a burial site exists on trust land or land belonging to the Nation, the Historic Preservation Department shall catalog its findings and inform the State Historical Society.

(b) If the site is located on private or state of Wisconsin public property, the person must notify the State of Wisconsin Burial Site Preservation Office and the Ho-Chunk Nation Preservation Department.
[**removed**: If the site is located on private or state of Wisconsin public property, the person must notify the State of Wisconsin Historical Society Director and may notify the Historic Preservation Department.]

(c) If a site is located on property held by the United States of America, the person shall notify the Ho-Chunk Nation Historic Preservation Department. The Ho-Chunk Nation Historic Preservation Department shall notify the proper federal authorities pursuant to the Native American Graves Protection and Repatriation Act and any other applicable law.
[**removed**: If a site is located on property held by the United States of America, the Historic Preservation Department shall notify the proper federal authorities pursuant to the Native American Graves Protection and Repatriation Act and any other applicable law.]

Sec. 702. It shall be the duty of the Historic Preservation Department to periodically inquire with the [**Add:** Wisconsin Burial Sites Preservation Office] [**Remove:** State of Wisconsin Historical Society Director] to determine whether any reports of burial sites for which the Nation has or may have an interest has been reported.

(a) all inquiries shall occur at least once every three months.

(b) any such inquiries shall not be limited to those sites that the [**Add:** Wisconsin Burial Sites Preservation Office or Burial Sites Preservation Board] [**delete:** Director himself or herself] determines that the Nation has an interest.

Chapter 8. Procedures for Repatriation of articles belonging to the Nation.

Sec. 801. Any person who knows or has reasonable grounds to believe that human remains or cultural items which properly belong under the ownership or control of the Nation shall immediately notify the following persons:

(a) If within jurisdiction of the Nation, the person or persons shall notify the Historic Preservation Department in writing or verbally.

(1) If the Historic Preservation receives a report under this subsection, it shall immediately commence an investigation.

(2) If it is determined that the human remains or cultural items properly belong to the Nation, the Historic Preservation Department shall catalog its findings and immediately commence repatriation efforts pursuant to the Native American Graves and Repatriation Act (cite)

Sec. 802. It shall be the duty of the Historic Preservation Department to periodically inquire with any federal agency or museum to determine whether any human remains or cultural items which the Nation has or may have an interest have been identified.

(a) any such inquires shall be undertaken on a continuous basis.

(b) any such inquiries shall not be limited to those items that the federal agency or museum himself determines that the Nation has an interest.

Chapter 9. Enforcement and penalties.

Sec. 901. The Nation's Attorney General shall enforce this Law by assisting the Historic Preservation Department to carry out its mandates according to the sections herein.

Sec. 902. If necessary the Attorney General is authorized to file in any tribal, state, or federal court such injunctive relief as is necessary for the purpose of carrying out the provisions of this Law and only after a determination that all other efforts to protect burial sites or items of cultural significance which are in danger of being destroyed, misappropriated, stolen or desecrated have been found to be or are likely to be useless .

Sec. 903. Persons found guilty of violating any provision of this Act shall be subject to the following penalties:

a. A fine not less than _____ Dollars ($_____) nor more than _____ Dollars (_____) per violation.

Chapter 10. Severability

Sec. 1001. If any provision of this Act, or the application thereof, to any person, business, corporation or state government or any political subdivision or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions, or applications and to this end the provisions of this Act are declared severable.

HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE
RESOLUTION 11-25-97B

ADOPTION OF THE HO-CHUNK NATION BURIAL AND REPATRIATION LAW

WHEREAS, On November 1, 1994, the Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Business Committee; and

WHEREAS, The Legislature of the Ho-Chunk Nation is the duly constituted governing body of the Ho-Chunk Nation pursuant to the Constitution of the Ho-Chunk Nation, and has been given certain powers pursuant to the Constitution and of the Ho-Chunk Nation; and

WHEREAS, Article V, Section 2(a) enables the Nation, through the Legislature, to make laws, including codes, ordinances, resolutions, and statutes; and

WHEREAS, Article V, Section 2(r) authorizes the Legislature to protect and foster Ho-Chunk religious freedom, culture, language, and traditions; and

WHEREAS, the purpose of this Act is to reacquire, protect and preserve the ancestral remains, artifacts, and burial, sacred, and historical sites of the Ho-Chunk Nation;

NOW THEREFORE BE IT RESOLVED that the Ho-Chunk Nation hereby adopts the Ho-Chunk Nation Burial and Repatriation Law attached hereto.

CERTIFICATION

I, the undersigned, as Secretary of the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **8** members, of whom **6** constituting a quorum were present at a meeting duly called and convened this **25th day of November, 1997,** and that the foregoing resolution was duly adopted at said meeting by an affirmative vote of **6** members, **0** opposed, and **0** abstaining, and that said resolution has not been rescinded or amended in any way.

Vicki L. Shisler — 11/25/97

Vicki L. Shisler, Legislative Secretary — Date

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