UTILITIES ORDINANCE
HCC-98-006

Section 1. PURPOSE.

This ordinance is designed to prohibit and regulate conduct pertaining to use of Ho-Chunk Nation utilities on tribal lands; to promote the public health, safety, convenience and general welfare of the people of the Ho-Chunk Nation; to encourage planned and orderly development; to protect the environment; and to permit the careful planning and efficient operation and maintenance of services.

Section 2. DEFINITIONS.

"Complaint" means an individual's grievance regarding a decision made by the Housing and Public Works Department.

"Department" means the Ho-Chunk Nation Housing and Public Works Department, which is the entity directly responsible for the operation and maintenance of utility service.

"Major Alteration" means any repair, addition or improvement to a water facility costing in excess of $100.00 for a dwelling unit and $2,000.00 for a non-dwelling unit.

"Request" means an individual requesting service such as repairs or connections.

"Tribal Lands" mean all lands to which title thereto is held by the Nation, or for the benefit of the Nation; and any lands held in the name of one or more tribal member(s) to which utility service is provided by the Nation.

"User" means the owner or occupant of the premises utilizing the services.

"Utilities" means public water systems, including wells, reservoirs, pumping equipment, water treatment systems, distribution mains, buildings and appurtenances;

all vehicles, equipment, tools, structures, buildings, sites, easements, rights of way and

all things necessary for the operation and maintenance of services provided.

Section 3. APPLICATION.

A. This ordinance shall apply to any new installation of a water system, or the major alteration of an existing water facility, undertaken after the effective date of this ordinance.

B. While modernization of existing water facilities is not required, it is expected

that facilities, which do not meet the standards of this ordinance, will be made to comply at the earliest possible time.

Section 4. JURISDICTION.

The jurisdiction of this ordinance shall include all lands held by the Nation or the 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 issuance 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. And in addition shall extend to any and all tribal lands as defined herein and persons or activities therein.

Section 5. ORGANIZATION.

The management, operation and control of the utility service for the Ho-Chunk Nation

is vested in the Department.

Section 6. USER RULES AND REGULATIONS.

The rules and regulations hereinafter set forth shall apply to every person, company or corporation who is utilizing the Ho-Chunk Nation utility services.

A. Water supply. Whenever running water is supplied to a building after enactment of this ordinance, connection shall be made, whenever possible, to a public water system which has been inspected and approved by the Department or the Ho-Chunk Nation Department of Health. Where an approved public water system is not available an individual water system (well) shall be acceptable, providing that system has been tested and approved as safe and sanitary by either the Department or the Ho-Chunk Nation Department of Health.

B. Application for service.

1. Every person requesting the utility service shall file an application in writing to the Department in such form as is prescribed for that purpose. Such applications shall be available from the Department. The application must specify the service requested in order to provide adequate service. Any approved applicant will have a meter installed at the applicant's residence or place of business.

2. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application.

3. The Department may require each consumer to pay a cash deposit prior to service beginning to guarantee payment of all charges for such service, and to pay for meter installation and use. Such deposits will be

refunded to the applicant after one year of timely payments, or when the user moves from the premises, whichever is first. A subsequent monetary deposit will be required to insure continued service in the event the consumer fails to make timely payments, and the Department commences action to collect the late payments in accordance with Section 10. herein.

C. Installations and Alterations. Installations and major alterations of a public water system shall be undertaken only by a State of Wisconsin-licensed or duly qualified plumber, shall be executed in a safe, neat and workmanlike manner, and shall meet the material and installation standards of this ordinance. All work shall have an approved design and shall meet the specifications established in Standard Specifications for Sewer and Water Construction in Wisconsin. All installation shall be done in accordance with standards established in Standard Specifications for Sewer and Water Construction in Wisconsin.

The Department of Environmental Services shall be responsible for design approval. All contractors must provide notification to the Department prior to starting a construction project on a public water system.

D. Materials. The materials used shall be new and durable. The size of the pipe shall be adequate in relation to the fixture served.

E. Exterior Water Lines. Water service line may be laid in solid ground, below

the frost line. Water service line may be laid in same trench as sewer line, providing water line is not less than one foot higher than sewer line and laid to one side on a solid ledge of ground.

F. Maintenance.

1. All public water distribution systems components subject to this ordinance shall be maintained in a safe and sanitary condition by the Department.
2. All users shall keep their lateral water service pipes in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary waste of water.
3. Every user shall permit the Department, or the its duly authorized agent, at all reasonable hours of the day, to enter their premises or building to examine the water sytem pipes and fixtures, and/or the manner in which the water is being used within the home or business when the Department has reason to believe repairs are necessary or that a violation of this ordinance has occurred or is continuing.

Section 7. UTILITY RESPONSIBILITY.

It is expressly stipulated that no claim shall be made against the Ho-Chunk Nation, or the Department, by reason of breaking, clogging, stoppage, or freezing of any service pipe, nor from any damage from repairing mains, making connection or extensions or any

other work that may be deemed necessary. The Department reserves the right to cut off service at any time for the purpose of repairs or any other necessary purpose, any regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the water, the Department shall, if practicable, give notice to each and every consumer within the affected service area of the time when such service will be shut off.

Section 8. UTILITY SERVICE RATES.

The Department shall adopt standard rates for utility service charges and revise said rates when they deem necessary.

Section 9. MAINTENANCE OF SERVICE.

All public water distribution system components within the jurisdiction of this ordinance up to the curb stop of the users premises will be maintained by the Department without expense to the property owner, except when they are damaged as a result of the negligence or carelessness on the part of the user of the premises or business, in which case these components and/or systems will be repaired at the expense of the property owner. Any fees for such repair will be added on to the next regular billing invoice for service to the premises. Water service laterals, that being the piping from the curb stop to the home, must be maintained free of defective conditions, by and at the expense of the owner or occupant of the property. All other water delivery piping within the house shall be maintained in a manner which does not cause unreasonable water loss. Owner or occupant failure to diligently repair leaks to the water service laterals or piping within the house, which are determined to cause unreasonable water loss to the public water distribution

system will result in discontinuance of water service until the owner makes the necessary repairs. A failure by the owner or occupant to make the necessary repairs within a reasonable time will authorize the Department to seek an order of the Tribal Court evicting the occupant(s) of the premises and/or authorizing the Department to make the repairs and collect the cost of same as a debt to the Nation. In the event such repairs are called for, all costs of labor, materials, and other necessary and reasonable costs will be charged to the owner and/or occupant of the premises. No offsets of lost income or additional costs to either the owner or occupant of the premises will be allowed as a result of the Department having to gain such an order from the Tribal Court.

Section 10. PAYMENT OF BILLS.

A. Reasonable care will be exercised in the proper delivery of utility bills. Failure to receive a utility bill, however, shall not relieve any person of the responsibility for payment of rates within the prescribed period, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

B. Billing. The property owner or occupant shall be held responsible for all utility bills on premises that s/he owns or occupies. All utility bills and notices of any nature relative to the utility services will be addressed to the owner or occupant and mailed or delivered to the premises referred to on such bill or notice each month. Such bills shall be due and payable to the Department before the end of the month in which the bill is

rendered.

C. Default on utility bill. If a customer defaults on payment for utility services, the Department may:

a. Impose a delinquency charge.

b. Terminate utility service, no earlier than (15) days after notice is given to the customer by the Department.

c. Take any other action necessary to collect such payments. Any amount of money due and owing for payment of utility services found to be in default of the users obligation to make timely payment for such services, as well as any reasonable costs associated with the collection of the amount in default, shall be considered a debt to the Ho-Chunk Nation,

D. Discontinuation of services. When utility services have been discontinued due to default, the Department may restore said utility services at its discretion. The Department shall establish rates for any such reconnection.

Section 11. CUSTOMER COMPLAINTS OR REQUESTS.

A. All complaints regarding decisions made by the Department shall be filed in writing with the Executive Director of Housing requesting full review by the Housing Board of Directors.

B. All requests for repairs or connections shall be made directly to the

Department.

Section 12. MISCELLANEOUS RULES AND REGULATIONS.

A. Vacating of Premises and Discontinuance of Service. Whenever premises served by the Department are vacated, or whenever any person desires to discontinue utility services, the Department must be notified in writing. The owner or occupant of the premises shall be liable for any damages to the utility(ies) by reason of failure to notify the Department of the discontinuation of utility service(s).

B. Property Rights. The private property of each user shall not be subject to utility debts in any amount or to any extent whatever, except the amount of money held for deposit for such utility service, and except for per capita payments to the extent authorized by the Per Capita Debt Allocation ordinance. Debts owed under this ordinance are deemed debts to the Nation.

C. Annual Report. The Department shall submit a detailed annual report, signed and presented by the Executive Director of Housing to the Ho-Chunk Nation Legislature disclosing:

1. Number of services provided, by name and class of service
2. Number of new services, by name and class of service.
3. Number of terminated services by class of service and reason for termination.

4. Status of construction, repairs, operation and maintenance of all systems and services.

5. Status of any contracts and agreements.

6. Any such other information as the Department shall deem pertinent.

Section 13. PROHIBITED ACTIVITIES.

A. No person other than authorized personnel from the Department are allowed to operate curb stops.

B. No user shall allow others to connect to the water distribution system through his lateral or other plumbing connections on his premises.

Section 14. LIABILITY FOR MINORS.

Parents are as responsible for the acts of their minor children as if the parents committed the acts themselves.

Section 15. PENALTIES.

The following penalties may be assessed singly or in combination:

1. A person who violates any provision of this ordinance shall forfeit not less than

$25.00.

2. A person who repeatedly violates provisions of this ordinance may be requested to post a bond of at least $50.00 against future violations.

3. Any or all utility services provided by the Nation, including water, sewer, or other service may be terminated for a violation of any provision of this ordinance or for a failure to pay any forfeiture assessed for any violation.

4. A person who violates any provision of this ordinance may be required to do community service work, and

5. Restrictive conditions may be placed on future utility service.

Section 16. ENFORCEMENT.

A. The Department is hereby authorized to issue a citation for violation of this ordinance to either the owner or occupant of the premises. The citation shall specifically state the violation and penalty. Any citation so issued is to be referred to the Ho-Chunk Nation Department of Justice for prosecution.

B. Any fines imposed as penalties, and any costs associated with such prosecutions, may be collected by any means available in law. The Court may also issue other orders deemed necessary to abate the problem giving rise to the violation. Failure to comply with any other order of the Tribal Court may be punishable as contempt.

Section 17. EFFECTIVE DATE:

This ordinance will be effective on November 30, 1998.

Legislative History:

9/14/95-Introduced to the Legislature.
7/08/98-Motion by Rep. Funmaker from the Environment, Lands, Natural Resources, Transportation, Housing and Building Development Committee to table the Utilities Ordinance until the next meeting.
7/22/98-Motion by Rep. Miller from the Environment, Lands, Natural Resources, Transportation, Housing and Building Development Committee to table the Utility Ordinance and Junk Ordinance for review by the committee.
9/09/98-Motion by Rep. Blackdeer from the Legislature to recommend the Utility Ordinance for approval to the Legislature, William Gardner, Legislative Counsel will prepare the appropriate resolution to accompany the Ordinance for presentation at the next Legislative Meeting.
10/26/98-Motion by Rep. Funmaker from the Development Committee to recommend the adoption of the Utilities Ordinance to the full Legislature, with an effective date of November 30, 1998.
11/03/98-Motion by Rep. Funmaker to adopt Resolution 11/03/98D Ho-Chunk Nation Utilities Ordinance.

HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

Ho-Chunk Nation Legislature
Resolution 11-3-98D

Ho-Chunk Nation Utilities Ordinance

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 Nation; and

WHEREAS, the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, the Legislature of the Ho-Chunk Nation ("Legislature") is the duly constituted governing body of the Nation pursuant to the Constitution of the Ho-Chunk Nation ("Constitution"); and

WHEREAS, Article V, Section 2.(a), 2.(h), 2.(l), and 2.(s) authorizes the Legislature to enact ordinances which deal with the Nation's land, interests in lands, or other assets; prohibit and regulate conduct of persons within the jurisdiction of the Nation; to impose penalties for violation of these ordinances; and to promote the public health of members of the Ho-Chunk Nation; and

WHEREAS, the Legislature has determined that it is necessary to enact this ordinance in order to foster efficient planning, operation, and maintenance of its water utilities, as well as to provide for the safety and general welfare of the people of the Ho-Chunk Nation;

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its constitutional authority, hereby enacts the attached UTILITIES ORDINANCE, with an effective date of November 30, 1998.

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

BE IT FURTHER RESOLVED that this ordinance will be numbered HCC-98-006.

CERTIFICATION

I, the undersigned, as Secretary for the Ho-Chunk Nation Legislature, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **10** members, of whom **9** constituting a quorum were present at a meeting duly called and convened and held on the **3rd day of November, 1998,** that the foregoing resolution was adopted at said meeting by an affirmative vote of **9** members, **0** opposed, and **0** abstaining, pursuant to the authority of Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that said resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Marlene Gamroth — November 3, 1998

Marlene Gamroth,
Legislative Secretary

November 3, 1998