



# HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

**HO-CHUNK NATION LEGISLATURE  
AMENDMENT OF THE HO-CHUNK NATION  
ENVIRONMENTAL AND PUBLIC HEALTH ORDINANCE  
(3 HCC § 6) AND ENACTMENT OF THE HO-CHUNK NATION  
POOL ORDINANCE (3 HCC § 8).  
RESOLUTION 11-18-08 A**

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation (“Nation”) is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Ho-Chunk Nation Legislature (“Legislature”) the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power; and
- WHEREAS,** Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget; and
- WHEREAS,** Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and
- WHEREAS,** Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation; and
- WHEREAS,** Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals; and
- WHEREAS,** Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation; and
- WHEREAS,** Article V, Section 2(w) of the Constitution grants the Legislature the power to enact laws to regulate hunting, fishing, trapping, recreation and all other related activities on lands within the Nation’s jurisdiction; and
- WHEREAS,** Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its Legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and

## **Executive Offices**

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WHEREAS, the Legislature passed the Ho-Chunk Nation *Environmental and Public Health Ordinance* (3 HCC § 6), which was last Amended October 25, 2001; and

WHEREAS, Section 10 of the *Environmental Public Health Ordinance* provides:

**10. Adoption of Safety, Maintenance and Operation of Public Swimming Pools and Water Slides Rules and Regulations.** There is hereby adopted, for the purpose of establishing reasonable rules and regulations for the sanitary and safe maintenance and operation of the public swimming pools of the Nation, the Wisconsin Administrative Code, Chapter HFS 172, Safety, Maintenance and Operation of Public Swimming Pools (except for provisions noted in herein), and any amendments thereto that may from time to time be made, and the whole thereof, as set forth fully therein.

a. **Policy.** Environmental Health Services shall enforce Wisconsin Administrative Code, Chapter HFS 172, Safety, Maintenance and Operation of Public Swimming Pools, except for Sections 172.04 and 172.15, to regulate the maintenance and operation of public swimming pools, including whirlpools, in order to protect the health and safety of the public.; and

WHEREAS, on June 9, 2000, the Nation signed a **HEALTH AND SAFETY AGREEMENT** with the State of Wisconsin agreeing that the Nation shall set forth public health and safety standards for facilities used by the public that are at least as restrictive as those standards set forth in Chapter 254, Wisconsin Statutes, and the administrative rules adopted thereunder including but not limited to Wisconsin Administrative Code HFS 172, Safety, Maintenance and Operation of Public Swimming Pools; and

WHEREAS, the **HEALTH AND SAFETY AGREEMENT** makes the Nation an agent of the Wisconsin Department of Health and Family Services; and

WHEREAS, Section 10 of the *Environmental Public Health Ordinance* as currently enacted and the **HEALTH AND SAFETY AGREEMENT** with the State of Wisconsin as currently drafted infringes on the sovereignty of the Ho-Chunk Nation; and

WHEREAS, at the direction of the Vice President of the Ho-Chunk Nation, the Legislative Counsel's Office drafted a *Pool Ordinance* (3 HCC § 8) to protect the sovereignty of the Ho-Chunk Nation; and

WHEREAS, the Ho-Chunk Nation Department of Business, Office of Environmental Health, and Division of Safety within the Department of Labor has commented on draft versions of the *Pool Ordinance* (3 HCC § 8); and

WHEREAS, the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which was last Amended August 5, 2008; and

WHEREAS, the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and

WHEREAS, Section 30 of the *Legislative Organization Act* provides Quick Passage Procedures; and

WHEREAS, under certain limited circumstances, Section 30 provides "[t]he Legislature may vote to immediately pass Legislation."; and

WHEREAS, Section 30 of the *Legislative Organization Act* in relevant parts provides:

- (2) For the Legislation to be considered for Quick Passage the Legislature must conclude:
  - (a) The Legislation must take effect immediately to address a situation that:

- 1 Adversely affects the health, safety, welfare, or economic well-being of the Nation;
  - 3 Is internal to the operation of the Government; or
  - 4 Impacts negotiations with a sovereign entity; and
- (b) Adherence to the Normal Legislation Process outlined in Section 31 would result in a delay that would adversely impact the Nation, a Member of the Nation, or Members of the Nation.

**WHEREAS,** Section 30 of the *Legislative Organization Act* provides “[f]or the Legislation to immediately become the law of the Nation it will require an affirmative vote of more than two-thirds (2/3) of Legislators present at the Legislative Session.”.

**NOW THEREFORE, BE IT RESOLVED** that the Legislature, pursuant to its Constitutional Authority, amends the Ho-Chunk Nation *Environmental and Public Health Ordinance* (3 HCC § 6) and enacts the Ho-Chunk Nation *Pool Ordinance* (3 HCC § 8).

**BE IT FURTHER RESOLVED** that the Legislature, pursuant to the requirements of the **HEALTH AND SAFETY AGREEMENT** with the State of Wisconsin, directs the Legislative Counsel’s Office to renegotiate the **HEALTH AND SAFETY AGREEMENT** with the State of Wisconsin.

**CERTIFICATION**

I, the undersigned, as Tribal Secretary for the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **11 members**, of whom **10** constituting a quorum were present at a meeting duly called and convened and held on the **18<sup>th</sup> day of November, 2008**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **9 members, 0 opposed, and 1 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.

  
\_\_\_\_\_  
Elliott Garvin, Tribal Secretary

**11-18-08**  
\_\_\_\_\_  
Date