



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE RESOLUTION ADOPTING AMENDMENTS TO THE *PUBLIC NUISANCE ACT (3 HCC § 2)*

RESOLUTION 12-06-11C

- 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(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(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation's lands, interests in lands or other assets; and
- WHEREAS,** Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation; 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
- WHEREAS,** The Legislature enacted the *Public Nuisance Act* (3 HCC §2) on August 22, 2000 and restated the law on October 25, 2001; and
- WHEREAS,** the purpose of the Public Nuisance Act is to regulate "the causes of substantial and unreasonable interference with the use or enjoyment of real property owned by the Ho-Chunk Nation." The law "is intended to improve the overall quality of life for the Nation's members and others living, or domiciled on or near, the Nation's real property." The law also addresses violations involving property owned by the Nation in cases such as trespass, failure to abide by occupancy conditions, or similar violations; and

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WHEREAS, due to unfortunate and reported increasing events involving damage to property within the Nation's jurisdiction, the Legislature deems it necessary to amend the Public Nuisance Act to provide broader protections and enforcement; and

WHEREAS, the Legislature is considering the following amendment to the Public Nuisance Act:

Add a new Section 17 entitled "Protection of Property" and insert the following substantive provisions:

"17. Protection of Property.

a. **Damage to Property.** Whoever intentionally causes damage to any physical property of another, including the Ho-Chunk Nation government, without the person's consent, shall forfeit not more than \$5,000.00; and in addition, shall be liable in restitution to the owner for the actual cost to repair, replace, or restore the property damaged; and such person(s) may be ordered to perform appropriate community service.

b. **Graffiti.** Whoever intentionally marks, draws or writes with paint, ink, or another substance on, or intentionally etches into, the physical property of another, including Ho-Chunk Nation property, without the person's consent, shall forfeit not more than \$5,000.00; and in addition, shall be liable in restitution to the owner for the actual cost to repair, replace or restore the property marked, drawn, written or etched upon, and in addition may be ordered to perform appropriate community service;" and

WHEREAS, the Legislature deemed it appropriate to submit the above amendments to the Public Nuisance Act out for public comment; and

WHEREAS, on August 23, 2011, the Legislature placed the Public Nuisance Act out for 45 day Public Review, from September 2, 2011 through October 17, 2011; and

WHEREAS, comments were received during the public review process and were for reviewed by the Legislature for consideration for inclusion in the Act;

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority adopts the proposed amendments to the *Public Nuisance Act* (3 HCC §2), including the attached comments received during the forty-five day public comment, which are to be incorporated into the amended Act.

CERTIFICATION

I, the undersigned, as Tribal Secretary, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13 members**, of whom 10 constituting a quorum were present at a meeting duly called and convened and held on the **6th day of December, 2011**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **9 members, 1 opposed, and 0 abstaining**, pursuant to the authority of Article V, Section 2(a) through (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.

Hope B. Smith
Hope B. Smith, Tribal Secretary

December 6, 2011
Date

