

**HO-CHUNK NATION CODE (HCC)
TITLE 2 – GOVERNMENT CODE
SECTION 10 – FLEET ORDINANCE**

ENACTED BY LEGISLATURE: SEPTEMBER 23, 2008

LAST AMENDED AND RESTATED: MARCH 3, 2009

CITE AS: 2 HCC § 10

This Ordinance supersedes the Fleet Policies and Procedures law (2 HCC § 10) last revised on 09/28/1995 and the Amended and Restated Transportation Policies and Procedures of the Ho-Chunk Nation HCC revised on October 22, 2003 and last amended by Resolution 03-03-09-L.

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1. Authority.

- a. Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.
- b. Article V, Section 2(f) of the Constitution grants the Legislature the power to set salaries, terms, and conditions of employment for all governmental personnel.
- c. 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.
- d. 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.

2. Purpose. This Ordinance regulates employees' use of the Nation's Fleet and Personal vehicles when driving on the Nation's behalf and when collecting reimbursement for mileage. The use of Ho-Chunk Fleet Vehicles is a privilege and not a right.

3. Declaration of Policy.

- a. All Ho-Chunk Nation owned, leased or otherwise insured vehicles are for Official Use only. It will be mandatory for Ho-Chunk Nation employees to use a Fleet vehicle for Official Use. The only exception to the preceding sentence is Legislators and Legislative staff and the President and Presidential staff, including Executive Directors.
- b. All Ho-Chunk Nation owned, leased, licensed, insured, and personal vehicles will be operated according to local driving laws and in accordance with the requirements of this Ordinance and the Ho-Chunk Nation's vehicle insurance policy.
- c. At no time will an employee be allowed to operate a vehicle without proper approval and authorization by the Transportation Director or his or her designee.
- d. The Nation has always recognized the importance of its Elders and the cultural significance of Members attending funeral services of Ho-Chunk Nation Members. The Nation realizes that when an Elder has a Member relative who passes away there may be transportation needs in order for the Elder to attend the funeral and the Nation recognizes the importance of honoring this transportation need. Therefore, the definition of Official Use will also include using Vehicles for transporting Elders only to and from funerals of Ho-Chunk Member relatives. If available, the Nation will honor requests to transport an Elder to and from a funeral. Every effort will be made to provide use of the Vehicle and a qualified driver for as long as necessary for the Transportation needs of the Elder to attend the funeral of a member of the Nation and, if needed, the driver may return to drive the Elder back from the funeral.

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e. All Fleet Vehicles will be assigned a Fleet number and affixed with the “Official Use Only” decal and the seal of the Ho-Chunk Nation.

f. Before disposal or sale of a Fleet vehicle, the “Official Use Only” decal, the seal of the Ho-Chunk Nation, all documents and assets belonging to the Nation will be removed from the vehicle.

g. The regulations and rules set forth in this Ordinance will govern the use of the Ho-Chunk Nation’s Fleet vehicles and will not supersede existing or subsequently amended laws to include the *Occupational Safety and Health Program Act of 2002* (6 HCC § 8-16), *Employment Relations Act of 2004* (6 HCC § 6), *Finance Manual* (5 HCC § 5) and the *Asset Management Policy Manual* (5 HCC § 8).

h. The Department of Administration will implement this Ordinance and publish such policies and procedures as needed for its implementation.

i. This law supersedes the *Fleet Safety* subsection of the *Occupational Health and Safety Act* (6 HCC § 8-16). This Ordinance shall control when there is a conflict with this Ordinance and the *Fleet Safety* subsection of the *Occupational Health and Safety Act*.

4. Definitions. As used in this Ordinance, the following will have the meaning provided here:

a. “CDL” means a Commercial Driver’s License.

b. “GVWR” means gross vehicle weight rating.

c. “Long-Term Use” means from six (6) days up to six (6) months.

d. “Official Use” will be defined as normally scheduled work duties during the regular workday or other work-related meetings and/or activities as authorized by the employee’s supervisor in compliance with this policy (i.e. conferences, training, workshops, transports, meetings, and other incidental travel-related duties) and includes provisions as outlined in Section 3 subparagraph e.

e. “Qualified driver” means an employee of the Ho-Chunk Nation who meets the requirements of Section 5.

f. “Short-Term Use” means one (1) to five (5) days.

g. Unacceptable Driving Record means a conviction of three (3) or more minor moving violations within a one (1) year period or one (1) at-fault accident within the past year.

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h. “Vehicle” means a motorized conveyance, which includes the following:

- (1) Boats;
- (2) Heavy equipment;
- (3) Trailers;
- (4) Buses;
- (5) Shuttles;
- (6) Dump trucks;
- (7) Farm equipment;
- (8) Cars;
- (9) Vans, to include handicapped equipped vans; and
- (10) Trucks

5. Eligibility and Requirements to Operate a Ho-Chunk Nation Fleet Vehicle.

a. Only employees of the Ho-Chunk Nation with a valid driver’s license may operate the Nation’s vehicles. For purposes of this definition an Occupational License will not be considered a valid license.

b. At no time will an employee be allowed to operate a vehicle without proper approval and authorization.

c. Only employees with an acceptable driving record will be eligible to drive the Nation’s vehicles. Employees with an unacceptable driving record as defined in 4 (g) will not be eligible to drive the Nation’s vehicles and subject to the requirements of 6(f).

d. The Nation’s vehicles may only be driven by an employee of the Nation and then only on the Nation’s behalf.

e. Ho-Chunk Nation employees will have personal automobile insurance with limits not less than required by the Nation’s insurance carrier for uninsured and underinsured motorists. Drivers’ information must be updated every six (6) months and must be on file with their respective Department and with the Fleet Department in order to be eligible to operate personal and Fleet vehicles while on Official Business.

f. A Commercial Driver’s License will be required for employees operating vehicles and equipment as follows:

(1) Class A – any combination of vehicles with a GVWR or licensed weight of 26,001 pounds or more, provided that the GVRW of the vehicle(s) being towed is in excess of 10,000 pounds.

(2) Class B – any single vehicle with a GVWR or licensed weight of 26,001 or more and any such vehicle towing a vehicle not in excess of 10,000 pounds.

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(3) Class C – any single vehicle with a GVWR or licensed weight of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds comprising:

(a) Vehicles designed to transport sixteen (16) or more passengers including the driver; and

(b) Vehicles used in transportation of hazardous materials that require the vehicle to be placarded.

(4) A valid regular state driver's license will be required to operate Class D vehicles.

g. Employees required to have a CDL will pass a physical examination conducted by a third party examiner.

h. In addition to required class CDL, certain endorsements may be required and include the following:

(1) Endorsement P – authorizes driving a vehicle carrying sixteen (16) or more passengers including the driver;

(2) Endorsement H – authorizes driving a vehicle transporting hazardous materials;

(3) Endorsement N – authorizes driving tank vehicles; and,

(4) Endorsement X – represents a combination of hazardous materials and tank vehicle endorsements.

i. An employee prior to use of a Nation's vehicle must sign a Vehicle Use Agreement which will include a copy of the Department of Administration's policy and procedures for the use of the vehicle.

6. Conditions for Operating a Vehicle. Except for as provided in the next sentence, vehicles are reserved and issued to qualified drivers by the Transportation Director. For business enterprise vehicles, vehicles are reserved and issued to qualified drivers per Department policy. A log sheet will be utilized and maintained for each vehicle. The following are conditions for operating a vehicle. Failure to comply with these conditions will result in disciplinary action in accordance with the Ho-Chunk Nation's employment law:

a. **Safety.** The Ho-Chunk Nation will attempt to assure a safe work environment in compliance with Federal, State, and local safety regulations. Employees are expected to follow safety rules and exercise caution in their work and driving activities. Employees

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and supervisors of the Ho-Chunk Nation are strongly encouraged to correct unsafe driving habits and conditions as promptly as possible. All employees, supervisors and directors of the Ho-Chunk Nation are to report any violations of this policy.

b. All drivers and passengers in a vehicle are required to wear a seat belt according to applicable state laws.

c. No smoking will be allowed in any of the Nation's vehicles.

d. Drivers are required to notify their supervisor of any ticket, accident, or violation they have received while driving on Official business. Notification must be made as soon as reasonably possible but in no way, later than the next scheduled driving duty to be performed. Drivers are personally responsible for the cost of all traffic citations and parking tickets.

e. Modification to vehicles may be undertaken only with the written consent of the Transportation Director and the modification is to be made by the Fleet Department mechanic or an approved vendor.

f. Employees whose driver's license is revoked, suspended, or subject to restrictions have a duty to report such action to their immediate supervisor and the Transportation Director. Failure to report such action may subject the employee to disciplinary action by the employee's supervisor and will result in loss of Fleet privileges and/or the ability to claim mileage while on official business.

g. Employees whose driving record is unacceptable will be ineligible to operate vehicles on the Nation's behalf.

h. All material must be properly secured while transporting:

(1) Ladders, pipes or tools carried outside of the closed compartment of the vehicles. These items will be placed securely in the brackets or carriers provided. Tools, equipment, and materials carried in a truck bed will be secured by using side rails and tailgate.

(2) Cargo transported on trailers. This cargo will have one (1) tie-down for each ten (10) feet of cargo.

i. Unsecured items will not be placed on the dashboard of a Ho-Chunk Nation vehicle.

j. The driver is responsible for returning the Nation's vehicle with a full fuel tank. Failure to refuel a vehicle by the driver will result in the reimbursement of fuel costs and an administrative fee of \$50.00 being charged to the driver's department.

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k. All belongings, including trash, must be removed from the vehicle prior to return.

l. A log sheet will be utilized and maintained for each vehicle.

m. Vehicles owned by the Nation or operated while working for the Nation will not be left unattended while the engine is running. For purposes of the preceding sentence a vehicle shall not be considered unattended if the vehicle is on the Nation's property and the driver can observe the vehicle.

n. All windows and mirrors will be clear of any item that may cause an obstruction of a driver's view before operation.

7. Prohibited Use. The following actions shall be prohibited when using the Nation's Fleet and Personal vehicles when driving on the Nation's behalf or when collecting reimbursement for mileage:

a. Operating a vehicle while under the influence of alcohol or illegal drugs is strictly prohibited.

b. The purchase and transporting of alcohol or illegal drugs while being either an operator or a passenger in any Ho-Chunk Nation owned vehicle is strictly prohibited. Also strictly prohibited is being an operator or a passenger while being under the influence of alcohol or other illegal drug(s).

c. Parking a Ho-Chunk Nation owned vehicle at establishments that serve alcoholic beverages at anytime, including meal times, is considered to be damaging to the Ho-Chunk Nation's reputation; therefore, employees are expected to use discretion or their best judgment in these situations.

d. Employees are prohibited from driving a vehicle home after regular work hours unless approval is granted by the Transportation Department.

e. Personal use of a trailer hitch or towing device is not permitted.

f. Hauling loads of material that are not rated for a vehicle is prohibited (i.e., potentially damaging loads of firewood, sod, and/or gravel and hazardous materials).

g. Animals, other than service animals, are not to be transported in Ho-Chunk Nation private passenger vehicle or cabs of any vehicle(s).

h. Installation and/or use of any radar detector, laser detector or similar device in a vehicle are prohibited.

i. Hitchhikers and or unauthorized personnel are not permitted in a vehicle.

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j. Using a Ho-Chunk Nation owned vehicle for jumpstarting a vehicle is prohibited, except in a medical emergency, by authorized personnel, or if the individual whose car has stalled has a signed waiver of liability.

k. Except for as provided in Section 3, subsection d., passengers riding in a Ho-Chunk Nation vehicle must be:

- (1) An on-the-job employee,
- (2) Other appropriate person(s) engaged in business for the Ho-Chunk Nation, or,
- (3) Tribal Member(s) receiving Ho-Chunk Nation services.

8. Vehicle Requisition and Assignment:

a. The Transportation Department will establish and publish vehicle requisition and assignment procedures for short-term use:

(1) Except for vehicles under the control of the business enterprises, a Ho-Chunk Nation Fleet Requisition Form must be submitted and approved before an employee is allowed to operate Ho-Chunk Nation vehicles or drive a personal vehicle while on official business.

(2) If no vehicle is available, a non-availability letter will be given to the employee in order to claim mileage for a privately owned vehicle.

b. Long-Term Vehicle Assignment:

(1) Long-term vehicle assignments may be for a period of up to six (6) months at which time the vehicle use will be evaluated by the Transportation Department.

(2) A long-term vehicle requisition form must be approved by the Transportation Department prior to an employee being assigned or reassigned a Departmental vehicle and is based on availability.

(3) Log sheets will be submitted to the Transportation Department daily at the end of the business day or the day thereafter for Transportation mileage records.

(4) The Transportation Department will establish and publish policies and procedures for long-term use of a vehicle to ensure the proper maintenance of the vehicle and ensure that required services, such as oil changes, are performed.

c. In an effort to promote economical use and provide quality for the service of all of the Nation's Departments, the Transportation Director reserves the right to reassign

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and/or combine vehicle use for business travel to the same destination, except when the timetables are conflicting. Any violation of this policy may result in loss of future privileges for vehicle use.

9. Insurance Coverage. The Ho-Chunk Nation provides automobile insurance coverage protection for employees operating vehicles only within the scope of their employment. The Ho-Chunk Nation's automobile insurance will not be deemed a waiver of the requirement of personal auto insurance.

10. Vehicle Accident Policy. Every driver is required to, no later than the next day of business, report any accident in which he or she is involved while operating a vehicle while on approved Ho-Chunk Nation business. This means reporting any contact between the vehicle and another vehicle, person, animal, or objects that result in death, injury, or property damage. Such contact must be reported as an accident regardless of who was hurt, what property was damaged and to what extent, where it occurred, or who was responsible.

Vehicle operators will comply with the requirements of insurance. The Transportation and Safety Departments will establish and publish policy, procedures and forms for the reporting of accidents and damage to the vehicle as follows:

a. All accidents involving a Ho-Chunk Nation owned vehicle(s) are to be reported to the nearest law enforcement agency.

b. Employees involved in an accident while operating a Ho-Chunk Nation owned vehicle must complete the Ho-Chunk Nation accident form and:

(1) Obtain the license numbers of all vehicles involved:

(2) Obtain the names, addresses, and telephone numbers of all persons involved;
and

(3) Obtain the names of the insurance carriers of all persons involved; and

(4) Obtain the names, addresses, and telephone numbers of all witnesses, if possible.

(5) Obtain the names of law enforcement officials at the scene and the Accident Report Number.

(6) Employees involved in accidents while conducting official business or on the Nation's property may be subject to a drug and/or alcohol test. These accidents include those that involve:

(a) Personal injury to employee or others which necessitates first aid or

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medical attention; or

(b) Damage to the Nation's property or equipment.

c. If physically able to:

(1) The accident or vehicle damage will be reported to the Transportation Director, the employee's immediate supervisor, and the employees of the Ho-Chunk Nation's Safety and Insurance Divisions the same business day of the accident or the morning after, if it is an after-hours accident.

(2) Except if the accident occurs over the weekend or on a legal holiday, an accident report will be submitted to the Transportation Director within a twenty-four (24) hours of the accident. If the accident occurs over the weekend or on a legal holiday, the accident report will be submitted to the Transportation Director within twenty-four (24) hours of the next business day.

(3) Failure to report an accident or vehicle damage to those individuals as specified within Section 10, subparagraph c. (1) & (2) may result in disciplinary action, up to and including termination, and/or legal action.

11. Post Accident Drug/Alcohol Testing.

a. Drug and alcohol testing will also be conducted if a bodily or personal injury requires first aid or medical attention or if the Nation's property or equipment is damaged regardless of the dollar amount of damage incurred.

b. Employees will make themselves available for post-accident drug and/or alcohol testing.

12. Vehicle Maintenance.

a. Vehicles will be serviced and maintained in compliance with factory recommendations and warranty. Maintenance not covered under warranty is provided by the Ho-Chunk Nation's Transportation/Fleet Department mechanics. The Transportation Department will schedule safety checks, service and maintenance.

b. Vehicles deemed unsafe by the Transportation Department and not in a safe mechanical condition will not be driven. Mechanical problems will be reported immediately to the Transportation Director.

13. Sovereign Immunity.

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a. Nothing in this Act will be deemed to waive the sovereign immunity of the Ho-Chunk Nation or any of its enterprises, officers, agents, or employees.

b. Pursuant to Article XII, Section 1 and 2 of the Ho-Chunk Constitution, the Legislature in taking any action will be deemed to not have waived the Nation's sovereign immunity from suit, unless the Legislature expressly waives the Nation's sovereign immunity.

14. Violations and Penalties.

a. Except as provided in paragraph b. below, it will be the final decision of the employee's Supervisor, or the employee's Executive Director with notification to the Departments of Personnel and Administration, if access to Fleet Vehicles will be terminated for an employee's violation(s) of this Act. In addition to terminating access to Fleet Vehicle the Supervisor may institute disciplinary action against the employee pursuant to the Nation's *Employment Relations Act* (6 HCC Sec. 5).

b. If it is obvious that an employee has intentionally, frequently, and excessively misused Fleet Vehicles, the Department of Administration will deny or restrict all use of the vehicles immediately. Only in these cases may Administration revoke all the Fleet privileges without advanced notice to the employee's Supervisor or the employee. If Administration takes this action and at the determination of the employee's Supervisor it is necessary for the employee to have the use of Fleet Vehicles to accomplish the employee's job, the employee may be disciplined up to and including termination.

c. In addition to penalties provided in paragraph a. and b. above, the misuse or abuse of Tribal property, including Fleet Vehicles, may result in the denial of the service, imposition of cost for the personal use of the vehicle(s), reimbursement to the Nation of wages paid to an employee while the employee was misusing the vehicles, and disciplinary action up to and including termination.

d. Any violation of this Act may also result in litigation by the Nation to seek restitution from the employee for abuse and misuse of tribal property.

Legislative History:

8/25/95 Legislature adopts HCC 95-019, Ho-Chunk Nation Fleet Policies & Procedures.

6/13/07 Item placed on Administrative Committee agenda as a result of an urgent Elite Elder's need for transport from the Chicago Branch Office to attend a funeral.

09/14/07 The Administration Committee Motioned to table the Transportation Policy concern for review and to make additional changes to the policy.

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11/8/07 Administration Committee tables Fleet Vehicle Transportation Policy & Procedures to reorganize the Policy into an Ordinance and add language from the Safety Code.

12/6/07 Administration Committee motioned to schedule an Off-Site.

1/31/08 Legislative Offsite held to review code.

4/29/08 Legislature sends Fleet Policies and Procedure Manual out for a forty-five (45) day comment and review period.

9/23/08 Legislature passes Resolution 9/23/08 I to Amend and Rename Fleet Policies and Procedure Manual as the Fleet Ordinance.

03/03/09 Legislature passes Resolution to Amend Fleet Ordinance via Quick Passage Procedures of *Legislative Organization Act* (2 HCC § 11) to amend the first two sentences of Section 6, Section 6, subparagraph m.; the first sentence of Section 7; and Section 8, subparagraph a. (1).