

**HO-CHUNK NATION CODE (HCC)
TITLE 11 – VEHICLES AND TRAFFIC
SECTION 2 – SPEEDING ORDINANCE**

ENACTED BY LEGISLATURE: March 17, 2015

LAST AMENDED: September 15, 2015

CITE AS: 11 HCC § 2

1. Authority.

- a. Article V, Section 2(a) of the Ho-Chunk Nation Constitution (õConstitutionö) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.
- b. 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.
- c. Article V, Section 2(o) of the Constitution grants the Legislature the power to enact laws to regulate and zone any lands within the jurisdiction of the Ho-Chunk 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.
- e. 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.

2. Purpose and Construction. It is the purpose of this Code is to establish and enforcement speed limit for vehicles on roadways within the Ho-Chunk Nationõs jurisdiction.

3. Applicability. This Code shall apply to all persons where the location of the offense occurred on lands within the Ho-Chunk Nationõs jurisdiction.

4. Definitions.

- a. **“Alley”** means every highway within the corporate limits of a city, village, or town primarily intended to provide access to the rear of the property fronting upon another highway and not for the use of through traffic.

- b. **“Bicycle”** means every vehicle propelled by feet or hands acting upon pedals or cranks and having wheels any 2 of which are not less than 14 inches in diameter.
- c. **“Conviction”** or “convicted” means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture or property deposited to secure the person’s appearance in court, a plea of guilty or no contest accepted by the court, the payment of a fine or court cost, or violation of a condition of release without the deposit of property, regardless of whether or not the penalty is rebated, suspended, or probated, on Nation lands or any other jurisdiction. It is immaterial that an appeal has been taken.
- d. **“Crosswalk”** means either of the following, except where signs have been erected by local authorities indicating no crossing.
- e. **“Electric personal assistive mobility device”** means a self-balancing, 2-nontandem-wheeled device that is designated to transport only one person and that has an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.
- f. **“Expressway”** means a state trunk highway that has 4 or more lanes of traffic physically separated by a median or barrier and that gives preference to through traffic by utilizing interchanges or limiting at-grade access to selected public roads and public driveways.
- g. **“Freeway”** means a state trunk highway that has 4 or more lanes of traffic physically separated by a median or barrier and that gives preference to through traffic by limiting access to interchanges only.
- h. **“Headlamp”** means a major lighting device used to provide general illumination ahead of a vehicle.
- i. **“Highway”** means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county, or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of schools and facilities under the jurisdiction of the Nation, but does not include private roads or driveways.
- j. **“Highway maintenance or construction area”** means the entire section of roadway between the first advance warning sign of highway maintenance or construction work and an “END ROADWORK” or “END CONSTRUCTION”

sign or, in the case of a moving vehicle engaged in the maintenance or construction work, that section of roadway where traffic may return to its normal flow without impeding such work.

- k. **“Hours of darkness”** means the period of time from one-half hour after sunset to one-half hour before sunrise and all other times when there is not sufficient natural light to render clearly visible any person or vehicle upon a highway at a distance of 500 feet.
- l. **“Intersection”** means the area embraced within the prolongation or connection of the curb lines or, if none, then within the boundary lines of the roadways of 2 or more highways which join one another at, or approximately at right angles, whether or not one such highway crosses the other, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- m. **“Moped”** means any of the following motor vehicles capable of speeds of not more than 30 miles per hour with a 150-pound rider on a dry, level, hard surface with no wind, excluding a tractor, a power source as an integral part of the vehicle and a seat for the operator:
 - i. A bicycle-type vehicle with fully operative pedals for propulsion by human power and an engine certified by the manufacturer at not more than 130 cubic centimeters or an equivalent power unit.
 - ii. A Type 1 motorcycle with an automatic transmission and an engine certified by the manufacturer at not more than 50 cubic centimeters or an equivalent power unit.
- n. **“Motorcycle”** means a motor vehicle, excluding a tractor, an all-terrain vehicle, or a utility terrain vehicle, which is capable of speeds in excess of 30 miles per hour with a 150-pound rider on a dry, level, hard surface with no wind, with a power source as an integral part of the vehicle, and which meets the conditions under i and ii below:
 - i. Type 1 is a motor which meets either of the following conditions:
 - 1. Is designed and built with 2 wheels in tandem and a seat for the operator, and may be modified to have no more than 3 wheels by attaching a sidecar to one side of the wheels in tandem without changing the location of the power source.

2. Is designed and built to have no more than 3 wheels, seating for the operator and no more than 3 passengers, and does not have the operator area enclosed.
 - ii. Type 2 is a motor vehicle designed and built to have at least 3 wheels in contact with the ground, a curb weight of less than 1,500 pounds, and a passenger and operator area with sides permanently enclosed with rigid construction and a top which may be convertible.
- o. **“Motor vehicle”** means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. “Motor Vehicle” includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile, an all-terrain vehicle, a utility terrain vehicle, and an electric personal assistive mobility device shall be considered motor vehicles only for purposes made specifically applicable by statute.
- p. **“Operator”** means a person who drives or is in actual physical control of a vehicle.
- q. **“Outlying District”** means the territory contiguous to and including any highway within the corporate limits of a city or village where on each side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial, or residential purposes fronting thereon average more than 200 feet apart.
- r. **“Pedestrian”** means any person afoot or any person in a wheelchair, either manually or mechanically propelled, or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person, but does not include any person using an electric personal assistive mobility device.
- s. **“Roadway”** means that portion of a highway between the regularly established curb lines or that portion which is improved, designed, or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term “roadway” refers to each roadway separately but not to all such roadways collectively.
- t. **“Safety zone”** means the area or space officially set apart within a roadway for the exclusive use of pedestrians, including those about to board or alighting from public conveyances, and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

- u. **“Sanitation worker”** means an individual engaged in the collection and transport of solid waste and recyclables.
- v. **“Semiurban district”** means the territory contiguous to and including any highway where on either side of the highway the buildings in use for business, industrial, or residential purposes fronting thereon average not more than 200 feet apart or where the buildings in use for such purposes fronting on both sides of the highway considered collectively average not more than 200 feet apart.
- w. **“Service road”** means every highway that runs generally parallel to but is separated from the main roadway by a physical barrier and primarily intended to provide access to the abutting property and not for use of through traffic.
- x. **“Sidewalk”** means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, constructed for use of pedestrians.
- y. **“State trunk highway”** means any highway designated as part of the state trunk highway system.
- z. **“Stop”** when required means complete cessation from movement.
- aa. **“Street”** means every highway within the corporate limits of a city or village except alleys.
- bb. **“Traffic”** means pedestrians, ridden or herded or driven animals, vehicles, and other conveyances, either singly or together, while using any highway for the purpose of travel.
- cc. **“Traffic officer”** means every office authorized by law to direct or regulate traffic or to make arrests for violation of traffic regulations.
- dd. **“Utility work area”** means the entire section of a roadway between the first advance warning sign of work on a utility facility or on a high-voltage transmission line, and an “END UTILITY WORK” sign, or, in the case of a moving vehicle engaged in work on such a utility facility or high-voltage transmission line, that section of roadway where traffic may return to its normal flow without impeding such work.
- ee. **“Vehicle”** means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except railroad trains. A snowmobile, an all-terrain vehicle, and an electric personal assistive mobility

device shall not be considered a vehicle except for purposes made specifically applicable by statute.

- 5. Reasonable and Prudent Limit.** No person shall drive a vehicle at a greater speed than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a vehicle shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and using due care.
- 6. Conditions Requiring Reduced Speed.** The operator of every vehicle shall, consistent with the requirements of 5(a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, when passing school children, highway construction or maintenance workers, sanitation workers, or other pedestrians, and when special hazard exists with regard to other traffic or by reason of weather or highway conditions.
- 7. Fixed Limits.**
 - a. In addition to complying with the speed restrictions imposed by paragraphs 5 and 6, no person shall drive a vehicle at a speed in excess of the following limits unless different limits are indicated by official traffic signs:
 - i. Fifteen miles per hour when passing a schoolhouse, youth center, or headstart center at those times when children are going to or from the school or center or are playing within the sidewalk area at or about the school or center.
 - ii. Fifteen miles per hour when passing an intersection or other location properly marked with a "school crossing" or "children crossing" sign when any of the following conditions exists:
 1. Any child is present.
 2. A crossing guard is within a crosswalk at the intersection or the location or, if no crosswalk exists, is in the roadway at the intersection or the other location.
 3. A crossing guard is placing in or removing from the roadway at or near the intersection or the other location a temporary sign or device that guides, warns, or regulates traffic.

- iii. Fifteen miles per hour when passing a safety zone occupied by pedestrians and at which a public passenger vehicle has stopped for the purpose of receiving or discharging passengers.
- iv. Fifteen miles per hour in any alley.
- v. Twenty-five miles per hour on any highway within the corporate limits of a city or village, other than on highways in outlying districts in such city or village.
- vi. Twenty-five miles per hour on any service road within the corporate limits of a city or village unless modified by the authority in charge of the highway.
- vii. Thirty-five miles per hour in any outlying district within the corporate limits of a city or village.
- viii. Thirty-five miles per hour on any highway in a semiurban district outside the corporate limits of a city or village.
- ix. Sixty-five miles per hour on any freeway or expressway.
- x. In the absence of any other fixed limits or the posting of limits as required or authorized by law, fifty-five miles per hour.
- xi. Fifteen miles per hour on any street or town road, except a state trunk highway, within, contiguous to, or adjacent to a public park or recreation area when children are going to or from or are playing within such area.
- xii. Thirty-five miles per hour on any town road where on either side of the highway within any 1,000 feet along such highway the buildings in use for business, industrial, or residential purposes fronting thereon average less than 200 feet apart.
- xiii. Forty-five miles per hour on any highway designated as a rustic road under relevant Wisconsin State Statutes.

8. Zoned and Posted Limits. In addition to complying with the speed restrictions imposed by paragraphs 5 and 6, no person shall drive a vehicle in excess of any speed limit established pursuant to law by state, local, or Nation authorities and indicated by official signs.

9. Minimum Speed Regulation.

- a. No person shall drive a motor vehicle at a speed so slow as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or is necessary to comply with the law.
- b. The operator of a vehicle moving at a speed so slow as to impede the normal and reasonable movement of traffic shall, if practicable, yield the roadway to an overtaking vehicle and shall move at a reasonably increased speed or yield the roadway to overtaking vehicles when directed to do so by a traffic officer.

10. Motorcycles and Mopeds. Whenever a motorcycle or a moped is operated the following rules apply:

- a. All motor vehicles including motorcycles and mopeds are entitled to the full use of a traffic lane and no vehicle may be driven or operated in such a manner so as to deprive any other vehicle of the full use of a traffic lane. With the consent of both drivers, Type 1 motorcycles may be operated not more than 2 abreast in a single lane, but mopeds may be so operated only where the speed limit is 25 miles per hour or less.
- b. No person shall ride any motorcycle or moped while in a side-saddle position.
- c. No passenger may ride a Type 1 motorcycle who, when properly seated, cannot rest the feet on assigned foot rests or pegs. No passenger may ride on a moped.
- d. No more than 2 persons may ride on a motorcycle having 2 wheels in tandem during operation unless a sidecar has been attached to the motorcycle and the additional passengers are provided with adequate seating within the sidecar.
- e. No passenger shall ride in front of the operator on a motorcycle.
- f. The headlamps on motorcycles shall be lighted whenever the motorcycle is in operation. Motorcycles may be operated to the nearest repair facility for headlamp repair in the event of mechanical or electrical headlamp failure except during the hours of darkness.
- g. On any road for which the speed limit is more than 25 miles per hour, mopeds shall be operated only when riding single-file in the extreme right-hand lane. No person may operate a moped on any restricted access highway.

11. Penalties.

- a. Except as provided in paragraph 11(g), any person violating provisions in paragraphs 9(a) through 9(b) shall be required to forfeit \$175 for the 1st offense and \$213 for the 2nd or any subsequent conviction within a year.
- b. Except as provided in paragraph 11(g), any person violating provisions in paragraphs 7(a)iv to 7(a)viii, or paragraph 7(a)x, or paragraph 8(a) shall be required to forfeit the applicable amount in TABLE 1, column A. If an operator of a vehicle violates these provisions where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic or when sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, the operator shall be required to forfeit the applicable amount in TABLE 1, column B. In addition to the applicable forfeiture, if an operator of a vehicle violates these provisions when children are present near a school, youth center, or headstart center, the operator shall be required to forfeit the additional amount from TABLE 1, column C.

| TABLE 1 | A | B | C |
|----------------------------|----------|----------|----------|
| 1-15 mph above limit | \$175 | \$213 | \$30 |
| 16-19 mph above limit | \$200 | \$263 | \$50 |
| 20-24 mph above limit | \$225 | \$313 | \$70 |
| 25-29 mph above limit | \$250 | \$364 | \$90 |
| 30-34 mph above limit | \$295 | \$452 | \$125 |
| 35-39 mph above limit | \$358 | \$578 | \$175 |
| 40-44 mph above limit | \$452 | \$767 | \$250 |
| 45 mph or more above limit | \$515 | \$893 | \$300 |

- c. Except as provided in paragraph 11(g), any person violating provisions in paragraph 7(a)ix shall be required to forfeit the applicable amount in TABLE 2, column A. If an operator of a vehicle violates these provisions where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic or when sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, the operator shall be required to forfeit the applicable amount in TABLE 2, column B. In addition to the applicable forfeiture, if an operator of a vehicle violates these provisions when children are present near a school, youth center, or headstart center, the operator shall be required to forfeit the additional amount from TABLE 2, column C.

| TABLE 2 | A | B | C |
|-----------------------|----------|----------|----------|
| 1-15 mph above limit | \$200 | \$263 | \$50 |
| 16-19 mph above limit | \$250 | \$364 | \$90 |
| 20-24 mph above limit | \$276 | \$414 | \$110 |

| | | | |
|----------------------------|-------|-------|-------|
| 25-29 mph above limit | \$301 | \$465 | \$130 |
| 30-34 mph above limit | \$326 | \$515 | \$150 |
| 35 mph or more above limit | \$515 | \$893 | \$300 |

- d. Except as provided in paragraph 11(g), any person violating provisions in paragraphs 5(a) or 6(a) shall be required to forfeit the applicable amount in Table 3, column A. If these violations occur where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic or when sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, the operator shall be required to forfeit the applicable amount in TABLE 3 Column B. In addition to the applicable forfeiture, if an operator of a vehicle violates these provisions when children are present near a school, youth center, or headstart center, the operator shall be required to forfeit the additional amount from TABLE 3, column C

| TABLE 3 | A | B | C |
|-------------------------|----------|----------|----------|
| 1 st Offense | \$213 | \$288 | \$60 |
| 2 nd Offense | \$263 | \$389 | \$100 |

- e. Except as provided in paragraphs 11(g), any person violating provisions in paragraphs 7(a)i to 7(a)iii shall forfeit the applicable amount in TABLE 4, column A for the 1st offense and the applicable amount from TABLE 4, column B for the 2nd or any subsequent conviction within 1 year. In addition to the applicable forfeiture, if an operator of a vehicle violates these provisions when children are present near a school, youth center, or headstart center, the operator shall be required to forfeit the additional amount from TABLE 4, column C

| TABLE 4 | A | B | C |
|---------------------------|----------|----------|----------|
| 1-10 mph over limit | \$187 | \$263 | \$40 |
| 11-15 mph over limit | \$200 | \$263 | \$50 |
| 16-19 mph over limit | \$238 | \$288 | \$80 |
| 20 mph or more over limit | \$263 | \$389 | \$100 |

- f. Any person violating the provisions in paragraph 10 shall be required to forfeit \$200.
- g. Bicycles and electric personal assistive mobility devices.
- i. Any operator of a bicycle or electric personal assistive mobility device who violates provisions in paragraphs 4(a), 5(a), 7(a)i through 7(a)xiii, or 8(a) shall be required to forfeit \$20.

- ii. Any operator of a bicycle or electric personal assistive mobility device who violates provisions in 9(a) through 9(b) shall be required to forfeit \$10.
- h. If you are convicted of an offense and then convicted of the same offense within 12 months of the first conviction, the higher penalty will be assessed. Any subsequent offense(s) within 12 months of the most recent conviction will be subject to the higher penalty. Once an offense occurs, drivers must have 12 months with no convictions to be assessed the lower penalty.
- i. Any penalties assessed under this paragraph shall be considered a debt to the Nation.

Legislative History:

- 12/17/13 The Legislature establishes the Criminal Code Workgroup by Resolution 12-17-13C.
- 01/06/15 The Criminal Code Workgroup presents the Speeding Ordinance to the Legislature and recommends placing it out for 45 Day Public Comment.
- 01/06/15 The Legislature places the Speeding Ordinance out for 45 Day Public Comment by Resolution 01-06-15I.
- 03/17/15 The Legislature enacts the Speeding Ordinance by Resolution 03-17-15O. The language "the corporate limits of a city or village" was included in the Ordinance to provide consistency with other local speeding ordinances and to be enforceable if relevant at such time. In addition, even if the Nation at some time may not have jurisdiction over lands within "the corporate limits of a city or village" that does not mean it may have jurisdiction over such lands at another time, in which case the provisions containing this language would be relevant.
- 09/15/15 Technical corrections made to the Speeding Ordinance in accordance with Section 45 of the Legislative Organization Act (2 HCC § 11).