



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

ENACTED BY LEGISLATURE: SEPTEMBER 23, 2008

LAST AMENDED AND RESTATED: MARCH 6, 2017

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 amended March 3, 2009 and March 6 2017.

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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. The Nation's Division of Transportation oversees all vehicles, maintenance, and makes consultation with departments for purchases.

3. Declaration of Policy.

a. All Ho-Chunk Nation owned, leased, grant funded, and all other 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 exceptions to the preceding sentence are Legislators and Legislative staff and the President and Presidential staff, including Executive Directors.

b. Ho-Chunk Nation Legislators and President will not be required to request a fleet vehicle for Official Use.

(1) Use of personal vehicles on Official Use shall abide by this ordinance.

c. All Ho-Chunk Nation owned, leased, grant funded, and all other insured, 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.

d. At no time will an employee be allowed to operate a vehicle without proper approval and authorization by the Transportation Division and/or department designee.

e. All vehicles will be assigned only with a vehicle number and the seal of the Ho-Chunk Nation.

f. Before disposal or sale of a 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. All maintenance records will stay with the vehicle when used as a trade-in, auction or sale.

g. The Department of Administration will implement this Ordinance and publish policies and procedures as needed for its implementation. Implementation to include purchasing, maintenance, tracking and serve as a centralized administrative office for all Nation owned vehicles.

h. Emergency Vehicles. Ho-Chunk Nation Police Officers shall be allowed to park their police vehicle at their residence during times when they are off duty. The Ho-Chunk Nation Police Department shall develop policies and procedures for the use of all emergency vehicles (police, ambulance and fire vehicles).

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*.

j. The Ho-Chunk Nation is morally committed to providing safe working conditions, complying with all safety traffic laws and ordinances.

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 a minimum of seven (7) days, not to exceed six (6) months at which time a renewal to the assignment is required.
- 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);
- e. “Qualified driver” means an employee of the Ho-Chunk Nation who meets the requirements of Section 5.
- f. “Short-Term Use” means not to exceed six (6) days.
- g. “Accident” defined for the purposes of this document is to mean any at fault incident involving a Ho-Chunk Nation insured motor vehicle resulting in any damage to any Ho-Chunk or Non Ho-Chunk person or personal property.
- h. “Unacceptable Driving Record” means a two (2) at-fault accidents within a one (1) year period while on Official Use status.

i. "Vehicle" means a motorized conveyance, which includes (but not limited to) 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;
- (10) Trucks; and
- (11) ATVs.

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

a. Only employees, as defined in the ERA, Chapter II, 70, of the Ho-Chunk Nation with a valid driver's license and insurance 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 fleet vehicle without a Valid Driver's License, insurance, Vehicle User Agreement, and Fleet Request Form on file with their department and the Division of Transportation.

c. All drivers of Ho-Chunk Nation vehicles are subject to the requirements of 6(f) of this document.

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

e. Ho-Chunk Nation employees driving Nation owned vehicles will have a valid personal automobile insurance, which meets the minimum state standards in which the driver resides.

f. Departments shall delegate one primary and one alternate point of contact with the Division of Transportation. Only the primary or alternate points of contact shall submit electronic copies of an employee's valid Driver's License and personal auto insurance. It shall be the responsibility of each Departments to track employee driver eligibility and report any changes or discrepancies to the Division of Transportation

g. 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 GVWR 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.

(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.

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

i. 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.

- j. An employee prior to use of a Nation's vehicle must sign a Vehicle Use Agreement.

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 or designee. Long Term Vehicle Assignments are reserved and issued to qualified drivers per internal departmental policy. 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 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 properly wear a seat belt and follow Child Restraint regulations according to applicable state laws.

- c. Smoking, E-Cigarettes, and smokeless tobacco are prohibited in all 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, fines 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 Transportation Division Master Mechanics 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 Ho-Chunk Nation vehicle use privileges and/or the ability to claim mileage while on official business.

- g. 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.

- h. Unsecured items shall not be placed on the dashboard of a Ho-Chunk Nation vehicle.
- i. The driver is responsible for returning the Nation's vehicle with a minimum of $\frac{3}{4}$ tank of fuel, and recommended full fuel tank. Failure to refuel a vehicle by the driver may result in the reimbursement of fuel costs and possible loss of fleet use eligibility
- j. All belongings, including trash, shall be removed from the vehicle prior to its return.
- k. A mileage log sheet and Pre and Post Vehicle Inspection Form will be utilized and maintained by the driver for all vehicles
- l. Vehicles owned by the Nation or operated while working for the Nation will not be left unattended while the engine is running for an extended period of time. For purposes of the preceding sentence an extended period of time is greater than fifteen (15) minutes.
- m. All windows and mirrors will be clear of any item that may cause an obstruction of a driver's view before operation.
- n. Electronic devices are prohibited from use when driving.
- o. Except for as provided in Section 4, 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,
 - (3) Tribal Member(s) receiving Ho-Chunk Nation services or
 - (4) Any other special transports approved by the Transportation Director.

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, prescribed medications recommending no driving 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 are passengers under the influence of alcohol or other illegal drug(s).

c. Parking a Ho-Chunk Nation owned vehicle at establishments that serve alcoholic beverages 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 Director.

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, heavy equipment 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.

j. Using a Ho-Chunk Nation owned vehicle for jumpstarting a vehicle is prohibited, except in a medical emergency, or by authorized personnel.

8. Vehicle Requisition and Assignment:

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

(1) A Ho-Chunk Nation Fleet Requisition Form must be submitted and approved before an employee is allowed to operate Ho-Chunk Nation insured vehicles or drive a personal vehicle while on official business.

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

(3) Transportation will establish an electronic dispatching process where technically applicable

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 and the assignment may be renewed.

(2) A Long-Term Vehicle Requisition Form must be approved by the Transportation Department prior to an employee or department being assigned or reassigned a vehicle and will be based on availability.

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 and/or combine vehicle use for business travel to the same destination, except when the timetables are conflicting.

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. (See Section 5 subsection f. requirements)

10. Vehicle Accident Policy. Every driver is required to report any accident in which he or she is involved while operating a vehicle while on approved Ho-Chunk Nation business no later than the next day of business. This means reporting any contact between the vehicle and another vehicle, person, animal, or objects resulting 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 Division 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) and personal vehicles while conducting official business 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 plate numbers of all vehicles involved:

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

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

(c) Obtain the names, addresses, and telephone numbers of available Witnesses.

(d) Obtain the names of law enforcement officials at the scene

(2) Employees involved in accidents with Ho-Chunk insured or personal vehicles while conducting official business or on the Nation's property may be subject to an immediate drug and/or alcohol test. These accidents include those that involve:

(a) Personal injury to employee or others which necessitates first aid and/or medical attention; or

(b) Causing extensive damage to the Nation's property or equipment; or

(c) If physically able to:

(1) The accident will be reported to the Transportation Division, the employee's immediate supervisor, 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 Division within a twenty-four (24) hours of the accident.

(3) The Ho-Chunk Nation maintains a "Zero Tolerance" when it comes to reporting accidents of Ho-Chunk Nation insured vehicles. Failure to report to those individuals as specified within Section 10, subparagraph c. (1) & (2) shall result in disciplinary action by the drivers immediate supervisor.

11. Post-Accident Requirements

a. Driver supervisor(s) shall determine through consultation with law enforcement conducting the on scene report if immediate post-accident drug and alcohol testing is warranted. Ho-Chunk or local medical facilities may be utilized for testing and it shall be the responsibility of the driver to cover all medical expenses incurred for such tests. Compliance with Ho-Chunk Nation Drug and Alcohol Policy is also applicable.

b. Employees are required to make themselves available if it is determined an immediate post-accident drug and/or alcohol test is recommended by a direct supervisor or local law enforcement. Failure to comply may result in immediate disciplinary action or possible termination.

c. Employee's first at fault accident with a Ho-Chunk Nation insured vehicle will be considered a warning and shall require the immediate supervisor to schedule a counseling report with the employee. An employee's second at fault accident with a Ho-Chunk insured vehicle shall result in loss of fleet driving privileges until a drivers safety course with a DMV approved facility is completed, an employee's third at fault accident shall result in loss of Ho-Chunk Nation insured vehicle driving privileges and mileage claims for a period of one calendar year from the date of the 3rd accident.

12. Vehicle Maintenance.

a. Vehicles will be serviced and maintained in compliance with factory recommendations and warranty. Maintenance not covered under warranty is provided the Ho-Chunk Nation's Division of Transportation mechanics or approved vendor.

b. All Ho-Chunk Nation owned vehicles not specifically assigned to the Division of Transportation for daily fleet requests are required to coordinate with Ho-Chunk Nation Mechanics to schedule routine and incidental maintenance in Tomah or consult with Transportation Mechanics to arrange for a practically located service vendor. Notification and approval by Transportation prior to major mechanical repairs exceeding \$300.00 is required.

c. Vehicles deemed unsafe by the Transportation Division and not in a safe mechanical condition will not be driven. Mechanical problems will be reported immediately to the Transportation Division. Accidents or incidents due to non-reported vehicle safety concerns become the liability of the negligent party.

13. Nation Owned and Tribal Member Vehicle License Plates and Registration. See 3 HCC § 13 Vehicle Registration Code

14. Centralized Vehicle Administration. For purposes of centralized vehicle administration, the Division of Transportation will establish a Vehicle Purchase Policy, develop processes, documents and forms necessary to facilitate fiscally responsible vehicle purchases, monitoring, service and maintenance, and inventory of all Ho-Chunk Nation owned, leased, grant funded or otherwise insured vehicles.

15. Sovereign Immunity.

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.

16. 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 Ho-Chunk owned vehicles will be terminated for an employee's violation(s) of this Act. In addition to terminating access to Ho-Chunk owned vehicles the Supervisor may institute disciplinary action against the employee pursuant to the Nation's *Employment Relations Act* (6 HCC § 5).

b. If it is obvious that an employee has intentionally, frequently, and excessively misused of Ho-Chunk Nation owned vehicles, the Department of Administration will deny or restrict all use of vehicles immediately. Only in these cases may Administration revoke vehicle use 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 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 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:

- 08.25.95 Legislature adopts HCC 95-019, Ho-Chunk Nation Fleet Policies & Procedures.
06.13.07 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.
11.08.07 Administration Committee tables Fleet Vehicle Transportation Policy & Procedures to reorganize the Policy into an Ordinance and add language from the Safety Code.
12.06.07 Administration Committee motioned to schedule an Off-Site.
01.31.08 Legislative Offsite held to review code.
04.29.08 Legislature sends Fleet Policies and Procedure Manual out for a forty-five (45) day comment and review period.
09.23.08 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).
08.09.16 Legislature places the Fleet Ordinance (2 HCC § 10) out for 45 day public comment via Resolution 08-09-16A.
03.06.17 Legislature adopts amendments to the Fleet Ordinance (2 HCC § 10) via Resolution 03-06-17B.