



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

**HO-CHUNK NATION LEGISLATURE
QUICK PASSAGE PROCEDURE
TO AMEND THE HO-CHUNK NATION
WOOXETE KII
FACE COVERING ORDINANCE (3 HCC § 17)**

RESOLUTION 03-22-22 T

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, pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, the Legislature of the Ho-Chunk Nation ("Legislature") is the duly constituted governing body of the Ho-Chunk Nation pursuant to the Constitution of the Nation ("Constitution"); and

WHEREAS, Article V, Section 2(a) of the Constitution enables the Nation, through the Legislature, 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(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(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; and

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WHEREAS, Article V, Section 2(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions; 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(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 Ho-Chunk Nation Legislature passed the Legislative Organization Act, 2 HCC § 11 ("LOA"), which has been updated and amended from time to time; and

WHEREAS, the LOA provides the procedures for enacting or amending a Ho-Chunk Nation law; and

WHEREAS, Section 43 of the LOA provides Quick Passage Procedures for such changes to the Nation's law; and

WHEREAS, under certain limited circumstances, Section 43 provides "[t]he Legislature may vote to immediately pass Legislation"; and

WHEREAS, Section 43 of the LOA in relevant part, 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;

2) Adversely affects a person or multiple people for which Legislative relief is deemed appropriate and necessary by the Legislature;

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 44 would result in a delay that would adversely impact the Nation, a Member of the Nation, or Members of the Nation"; and

WHEREAS, Section 43 of the LOA provides "[f]or the Legislation to immediately become the law of the Nation it will require an affirmative vote of two-thirds (2/3) of the full Legislature seated in office"; and

WHEREAS, the United States Center for Disease Control and Prevention ("CDC") has been responding to an outbreak of respiratory disease caused by a novel coronavirus ("COVID-19"), and which has spread throughout the United States and Indian Country; and

WHEREAS, on March 12, 2020: the Ho-Chunk Nation's Legislature issued a Declaration of State of Emergency for the Nation within Resolution 03-12-20A; and

WHEREAS, through the adoption of Resolution 3-12-20A and Executive Administrative Order March 13, 2020-1, the Legislature and President of the Nation declared a state of emergency concerning the tribal and national response to the coronavirus (known as COVID-19), and set in place measures to protect the Nation, its Members and employees, including travel restrictions and adherence to certain federal recommendations and guidance to protect against the spread of such virus; and

WHEREAS, the Legislature then adopted Resolution 4-28-20B, as a continued declaration of the State of Emergency (Phase II); and

WHEREAS, from early 2020, and into 2022, there have been cases of COVID-19 in counties with higher Ho-Chunk Nation population numbers, such as Jackson, Monroe, Juneau, Sauk, Wood, and La Crosse counties; and

WHEREAS, COVID-19 poses a serious health risk to certain populations, such as elders, diabetics, and immune-compromised persons, and others with underlying health risks, and can be spread person to person; and

WHEREAS, the Legislature and President recognize that during a public health state of an emergency, there may at times need to be significant intrusion into individual's and the communities' rights, including the right to property, bodily integrity, and the ability to move freely at their own will; and

WHEREAS, the Ho-Chunk Nation realized that it could substantially reduce the risk of transmitting the COVID-19 virus by requiring all individuals in public buildings and property owned by the Ho-Chunk Nation to wear face coverings; and

WHEREAS, by memo dated July 27, 2020, the Nation's Executive Director of Health provided an update on the COVID public health concerns and impacts to the Ho-Chunk Nation and its Members, while also emphasizing the importance of taking precautions such as, wearing a face covering, washing hands, and social distancing; and

WHEREAS, in emphasizing the importance of such precautions, the Executive Director of Health stressed the core value of the Ho-Chunk Nation of love for one another as a trait that that supports taking such steps; and

WHEREAS, to preserve public health and safety, the Legislature and President implored tribal members, employees and individuals residing and working in the communities to wear face coverings and practice social distancing of six (6) feet when interacting with individuals from different households; and

WHEREAS, in August of 2020, the Executive Branch of the Nation proposed a Face Covering Ordinance for the Legislature to enact, as a way of protecting and providing for the health and welfare of the Nation and its Members during the COVID-19-related State of Emergency; and

WHEREAS, the Legislature determined that enactment of the Face Covering Ordinance must occur through Quick Passage in order to address a situation that affects the health, safety, and welfare of the Nation and its Members, and adherence to the Normal Legislative process would cause delay that would adversely impact the Nation or Members of the Nation; and

WHEREAS, at the time the Nation's Executive Branch proposed, and the Legislature adopted, a Face Covering Ordinance, United States Centers for Disease Control had certain mask guidelines in place, as did the State of Wisconsin and multiples counties where the Nation's tribal members and properties are located; and

WHEREAS, throughout 2021 and 2022, much of the population, including tribal members, have received vaccinations against COVID-19; and

WHEREAS, as populations in Indian Country, and the United States, have become more vaccinated, the numbers for positive COVID-19 results have decreased steadily; and

- WHEREAS**, in light of new circumstances, the Nation’s gaming and non-gaming enterprises have considered it potentially helpful to the Nation were they to take a more flexible approach to any mask mandates for non-employee customers and persons visiting the Nation’s businesses; and
- WHEREAS**, the Executive Director of Business proposed a Stepwise Plan for the Nation’s gaming and non-gaming enterprises, to make masks recommended (and not mandatory), and included various phases to the Plan, over a several-week period; and
- WHEREAS**, the Nation’s Executive Director of Health also proposed a Stepwise Plan, via memo to the Legislature on March 4, 2022, suggesting that masks for guests and visitors be only recommended, as well as various additional steps; and
- WHEREAS**, in response, the Legislature adopted Resolution 03-08-22 G Quick Passage Procedure to Amend the Woonexet Kii Face Covering Ordinance; and
- WHEREAS**, the Executive Director of Health informed the Legislature on March 22, 2022 that there has been confusion among non-employees at the Health Clinic regarding whether they are required to wear a mask;
- WHEREAS**, the Executive Director of Health recommended that the Woonexet Kii Face Covering Ordinance be amended to make it clear that masks are required at the Nation’s properties for all employees and at the Nation’s health facilities for non-employees and a motion was passed for such amendments to be drafted; and
- WHEREAS**, the Legislature finds that it should consider amending the Nation’s Face Covering Ordinance by use of the Quick Passage Procedures in order to address a situation that adversely affects the welfare or economic well-being of the Nation, in order to clarify that all employees of the Nation and non-employees at the Nation’s health facilities are required to wear a mask; and
- WHEREAS**, the Legislature finds that it should consider amending the Nation’s Face Covering Ordinance by use of the Quick Passage Procedures because the lack of clarity regarding the requirements to wear masks adversely affects multiple people for which relief is deemed necessary, and the application of the law is a matter that is internal to the operation of the government; and

NOW, THEREFORE, BE IT RESOLVED, that the Legislature, pursuant to its Constitutional authority, and the Legislative Organization Act, hereby amends the Ho-Chunk Nation Face Covering Ordinance, by adopting amendments to make mask-wearing required for all Nation employees and non-employees at the Nation's health facilities.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **13** constituting a quorum were present at a meeting duly called and convened and held that on the **22nd day of March, 2022**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **12 members, 0 opposed, and 1 abstaining**, pursuant to the 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 the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.


Rep. Stephanie Begay, Tribal Secretary

03.22.22
Date



**HO-CHUNK NATION CODE (HCC)
TITLE 3 - HEALTH AND SAFETY
SECTION 17 - WOOXETE KII FACE COVERING ORDINANCE**

ENACTED BY LEGISLATURE: August 4, 2020

LAST AMENDED: March 8, 2022

CITE AS: 3 HCC § 17

1. Authority.

a. Article V, Section 2(a) of the Constitution of the Ho-Chunk Nation ("Constitution") 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(1) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.

d. Article V, Section 2(q) of the Constitution grants the Legislature the power to issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities.

e. 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.

f. 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. This Ordinance regulates the conduct of individuals within the jurisdiction of the Ho-Chunk Nation when necessitated by the written recommendation of the Ho-Chunk Nation Health Officer during a State of Emergency related to a communicable disease. Wearing face coverings has been scientifically proven to dramatically reduce the spread of COVID-19.

3. Declaration of Policy. It is declared to be the policy of the Nation to regulate all persons within the jurisdiction of the Ho-Chunk Nation as reasonably necessary to protect, promote, and preserve the health and general welfare of the public, and to establish rules and regulations relating thereto, and to provide a means for effectively enforcing laws, rules, and regulations. The provisions of this Ordinance shall be liberally construed and applied to promote its

underlying purpose of protecting the public health for safety reasons. The Nation intends to provide education on the requirements of this Ordinance and its Policy, while also promoting voluntary compliance.

4. Scope. This Ordinance shall apply to buildings and property owned by the Ho-Chunk Nation that are accessible to the public and/or its employees.

5. Definitions.

- a) "Face Covering" means a manufactured or homemade cloth covering that fully covers an individual's nose and mouth that is secured with ear straps or otherwise tied or secured so as to prevent slipping, and/or a face shield which covers the mouth and nose, fits snugly against the side of the face, and is secured on the head, or as otherwise conforms to the Centers for Disease Control and Prevention ("CDC") "do-it-yourself" face covering instructions.
- b) "Indoor area open to the public" means any structure or premises subject to the jurisdiction of the Ho-Chunk Nation or used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or other use by the public.
- c) "Mass gathering" means a planned event with a large number of individuals in attendance, such as a concert, festival, meeting, training, conference, performance, show, party, or sporting event. Individuals that are members of the same household or living unit do not count towards the mass gathering numbers in their own household or living unit.
- d) "Qualifying vehicle" means a paratransit vehicle, a taxi, a private car service vehicle, a ride sharing vehicle, or any other for-hire vehicle.

6. Face Coverings Required.

- a) Consistent with and subject to Section 7, the Ho-Chunk Nation requires that every employee of Ho-Chunk Nation who is present in a building owned by the Ho-Chunk Nation or other property owned by the Nation wear a face covering that covers their nose and mouth at all times.
- b) Consistent with and subject to Section 7, the Ho-Chunk Nation recommends that every non-employee individual age five (5) and older who is present in a building owned by the Ho-Chunk Nation or other property owned by the Nation, excluding those properties in Section 6.c, wear a face covering that covers their nose and mouth at any time they are or will be in contact with other people who are not household members. This recommendation includes the following areas: in shared office areas, or meeting rooms when more than one person is present, in indoor areas open to the public, while driving or riding in Tribal transportation or a qualifying vehicle, in public, or at a mass gathering indoors, unless exempted under this section.

- c) Consistent with and subject to Section 7, the Ho-Chunk Nation requires that every non-employee individual age five (5) and older who is present in a building owned by the Ho-Chunk Nation or other property owned by the Nation where health care services are provided wear a face covering that covers their nose and mouth at all times.

7. Exemptions. This Ordinance is not applicable to:

- a) Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove their face covering without assistance.
- b) Any individual who falls within the CDC's guidance for those who should not wear face coverings due to a medical condition, mental health condition, or disability that prevents them from wearing a face covering.
- c) Any individual who is communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.
- d) Individuals for whom wearing a face covering would create a risk to the person related to their work, as determined by government safety guidelines.
- e) Individuals in settings where it is not practical or feasible to wear face coverings when obtaining or rendering goods or services to the extent necessary to obtain or render such goods and services including, but not limited to, the receipt of dental services or medical treatments or consuming food or beverages.
- f) Individuals working in a private office within the Scope for which this Ordinance applies.
- g) Individuals speaking to an audience, whether in-person or through broadcast, so long as the speaker remains six (6) feet or more away from other individuals.
- h) Individuals participating in religious ceremonies.
- i) Individuals gathered on private property or in private residences. However, individuals who are congregated with others not from the same household are strongly encouraged to wear face coverings and maintain social distancing of six (6) feet.
- j) Any individual actively engaged in exercising in a gym or similar indoor facility, so long as physical separation of not less than six (6) feet is maintained and the

individual wears a face covering at all times when not actively engaged in exercising or engaged in post-exercise hygiene activity for which a mask is impracticable, such as showering in a locker room, so long as six (6) feet of physical separation is maintained between individuals.

- k) Whenever tribal or other applicable law prohibits wearing a face covering or where it is necessary to evaluate or verify an individual's identity.

- l) Within Ho-Chunk Nation gaming and non-gaming enterprises, this law will apply as a recommendation for patrons and guests within indoor areas open to the public, when the Nation's Gaming Commission, Emergency Management, Executive Director of Business and the Nation's Health Officer have approved a governing safety plan or policy, which shall be consistent with this law and reported to the Legislature prior to implementation. Any such plan or policy that is not reported to the Legislature will have no effect.

The scope of exclusions, and recommendations, set forth in Section 6 and 7 above may be amended by the Legislature after the receipt of any recommendations from the Nation's Health Officer, as conditions and safety precautions may change.

8. Enforcement. Failure to comply with this Order may endanger the public and may result in civil enforcement action to include the refusal of service, issuance of citations or additional orders. Notwithstanding the preceding, the Nation, through its Health Department, will seek to educate persons subject to this law on the importance of face coverings and compliance.

- a) The Ho-Chunk Nation Police Department is granted authority to assist with the execution of this Ordinance and enforcement authority.
 - i. The Ho-Chunk Nation Police Department shall ensure compliance with this Ordinance by seeking voluntary compliance and/or issuing civil citations to any and all individuals who refuse to comply. Citations shall begin at \$10 and increase by increments of \$10 for each subsequent violation of this ordinance, with a maximum penalty of \$50 per violator.

- b) Any Tribal license or certificate holder may be subject to administrative action for licenses or certificates they possess with the Nation for failure to adhere to these requirements.

9. Applicability. This Ordinance shall remain in effect until such time that it is repealed, or amended, by vote of the Ho-Chunk Nation Legislature. The Ho-Chunk Nation Health Officer may recommend that this ordinance be repealed by issuing a written recommendation containing scientific and/or medical data to the Legislature.

10. Severability. The provisions of this law are hereby declared to be severable. If any provision is declared void, invalid, or unenforceable in whole or in part, then such declaration shall not affect the remaining provisions of the law.

Legislative History:

- 07/28/20 Legislature receives request from Executive Director of Health to consider adoption of an Ordinance to address the wearing of masks and face coverings on the Nation’s lands, as a preventive measure against the COVID-19 pandemic. Legislature adopts a motion requesting that Legislative Counsel work with the Department of Justice to draft such an Ordinance and bring back to the Legislative Meeting on August 4, 2020, with input from interested Legislators.
- 08/04/20 Legislature adopts *Wooxete kij Face Covering Ordinance* (codified in the Ho-Chunk Code at 3 HCC § 17) by Resolution 8-04-20 I. It was adopted by Quick Passage procedure and is effective immediately.
- 6/08/21 Legislature adopts amendments to *Wooxete kij Face Covering Ordinance* by Quick Passage Procedure, through Resolution 6-08-21K, which took effect immediately. The amendments were to Section 6 (Face Coverings Required) and Section 7 (Exemptions).
- 3/08/22 Legislature adopts Quick Passage amendments to the *Wooxete kij Face Covering Ordinance* through Resolution 03-08-22 G, which took effect immediately. The amendments accommodated a “Stepwise Plan,” submitted by the Executive Director of Business and the Executive Director of Health, regarding face coverings in the Nation’s properties.