



MODOC NATION

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RESOLUTION NO. 22-20

MODOC NATION ELECTED COUNCIL RESOLUTION

Approval of the Modoc Nation Civil Trespass on Tribal Property Ordinance

WHEREAS, the Modoc Nation is a federally recognized Indian tribe organized under the Oklahoma Indian Welfare Act of 1936 with a Constitution and Bylaws approved by the United States Secretary of the Interior on July 27, 1990; and

WHEREAS, the Elected Council of the Modoc Nation is empowered to act on behalf of the Modoc Nation under Article I, Section 3 of the Constitution; and

WHEREAS, the Elected Council has determined that it is in the best interest of the Modoc Nation and its members to set forth laws related to civil trespass on public tribal property under the jurisdiction of the Modoc Nation; and

WHEREAS, the Elected Council has directed an Ordinance be drafted to accomplish the above-described goals; and

WHEREAS, the Elected Council desires to enact the Ordinance for inclusion in the laws of the Modoc Nation.

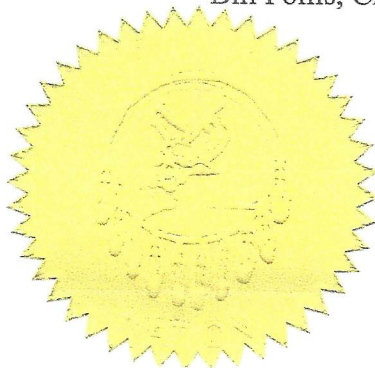
NOW, THEREFORE, BE IT RESOLVED that the Modoc Nation hereby enacts the Ordinance and incorporates the same in the laws of the Modoc Nation; and

BE IT FURTHER RESOLVED that the Ordinance is incorporated into this Resolution by reference and made a part hereof as if fully set forth herein.

CERTIFICATION

I hereby certify that the foregoing resolution 22-20 was passed at a meeting of the Elected Council of the Modoc Nation on May 17, 2022, with a vote of 5 yes, 0 no, and 0 abstaining.

Attest: Robert Burkybile
Second Chief

Bill Follis, Chief

MODOC NATION

CIVIL TRESPASS ON TRIBAL PROPERTY ORDINANCE

Adopted on May 17, 2022, by Modoc Nation Elected Council Resolution No. 22-20.

**Modoc Nation
Civil Trespass on Tribal Property Ordinance**

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MODOC NATION CIVIL TRESPASS ON TRIBAL PROPERTY ORDINANCE

Adopted on May 17, 2022, by Modoc Nation Elected Council Resolution No. 22-20.

Section 1. Title

This Chapter shall be known as the Modoc Nation Civil Trespass on Tribal Property Ordinance (“Trespass Ordinance”). It is promulgated by the Modoc Nation’s Elected Council pursuant to Article V of the Constitution of the Modoc Nation and Resolution No. __ - __ of the Elected Council.

Section 2. Purpose

The intent and purpose of this Trespass Ordinance is to establish the civil offense of trespass on Tribal Property for the fair administration and protection of public property under the jurisdiction of the Modoc Nation. The regulations and procedures contained in this Trespass Ordinance shall be administered in such a way as to accomplish this purpose and intent.

Section 3. Definitions

For the purpose of this Ordinance, the capitalized terms set forth below shall have the following meanings:

“Elected Council” is defined in Article I of the Constitution of the Modoc Nation as the five (5) member representatives duly elected by the Modoc Tribal Council empowered to act on behalf of the Modoc Nation on those matters set forth in the Constitution.

“Person of Authority” means any official, employee, or agent of the Modoc Nation whose duties include the administration or control of the Tribal Property.

“Tribal Council” is defined in Article I of the Constitution of the Modoc Nation as all enrolled members of the tribe who are at least eighteen (18) years of age and over.

“Tribal Property” means any real property over which the Modoc Nation exercises jurisdiction and (1) where the Modoc Nation owns a majority interest in the property, whether in fee or in trust, or (2) where the United States owns a majority interest in the property and holds that property in trust for the benefit of the Modoc Nation.

Section 4. Civil Trespass Defined

- A. Trespass shall be defined as it exists under the common law. Generally, trespass is the intentional entry onto the land of another.
- B. Trespass shall also include:

- (1) The intentional entry or taking by any person on or of Tribal Property where the Elected Council has taken actual or implied official action to exclude such person from such Tribal Property; and
- (2) Any person having lawfully entered Tribal Property that refuses to leave such Tribal Property when ordered to do so by a Person of Authority.

Section 5. Remedies Authorized

- A. All remedies to trespass at common law, and all defenses to trespass at common law that are not inconsistent with this Trespass Ordinance, may be brought before a court of competent jurisdiction.
- B. Membership in the Modoc Nation shall not be a defense to trespass. No member of the Modoc Nation shall, by virtue of that person's membership, be entitled to enter onto Tribal Property or to refuse to leave Tribal Property when that person has been excluded by the Elected Council or ordered to leave by a Person of Authority.
- C. The Modoc Nation, acting through the Chief or the Elected Council, may cause the immediate removal of any person alleged to have trespassed on Tribal Property.

Section 6. Criminal Trespass Not Precluded

Nothing in this Trespass Ordinance shall be construed to preclude criminal prosecution for trespass under the laws of the Modoc Nation, any state, or available federal laws of the United States.

Section 7. Amendments

This Ordinance may be amended only by duly enacted resolution of the Elected Council.

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