



MODOC NATION

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RESOLUTION NO. 22-21

MODOC NATION ELECTED COUNCIL RESOLUTION

Approval of the Modoc Nation Public Demonstration 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 regulate political demonstrations for the protection of tribal economic and property interests and to preserve the peace and welfare 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.

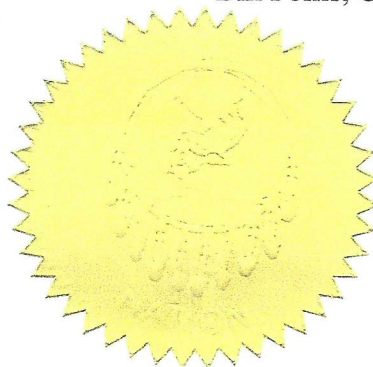
NOW, THEREFORE, BE IT RESOLVED that the Modoc Nation hereby enacts the Ordinance and incorporates the same in the laws of the Modoc Nation; and

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 22-21 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

PUBLIC DEMONSTRATION ORDINANCE

Adopted on May 17, 2022, by Modoc Nation Elected Council Resolution No. 22-21.

**Modoc Nation
Public Demonstration Ordinance**

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MODOC NATION PUBLIC DEMONSTRATION ORDINANCE

Adopted on May 17, 2022, by Modoc Nation Elected Council Resolution No. 22-21.

Section 1. Title

This Chapter shall be known as the Modoc Nation Public Demonstration 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. 22-

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Council.

Section 2. Purpose

The intent and purpose of this Public Demonstration Ordinance is to establish procedures for the fair distribution of opportunities to publicly demonstrate for or against a matter of public concern, and to ensure that such public demonstrations do not unreasonably interfere with the operations and obligations of the Modoc Nation. The regulations and procedures contained in this Public Demonstration 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.

“Political Campaign Event” means the assembly of ten (10) or more persons whose purpose is to support the candidacy of one or more persons that have officially declared an intent to seek public office. A person has officially declared an intent to seek public office when the person has followed the prescribed processes from the appropriate elections office to declare the person’s candidacy.

“Public Demonstration” means the assembly of one or more persons whose purpose is to express support for or opposition to a matter of public concern. Such expression may be verbal or written.

“Tribal Business” means an individual or entity that is authorized to conduct business under the laws of the Modoc Nation or any state in the United States and which is majority-owned by the Modoc Nation or an enrolled member of the Modoc Nation.

“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 (1) any personal or real property where the Modoc Nation owns a majority interest in the property, whether in fee or in trust, (2) any property where the United States owns a majority interest in the property and holds that property in trust for the benefit of the Modoc Nation, (3) any property where an enrolled member of the Modoc Nation owns a majority interest in the property and the property is restricted against alienation by the United States, and (4) any property where the United States owns a majority interest in the property and holds that property in trust for the benefit of an enrolled member of the Modoc Nation.

Section 4. Permit Required

No person shall participate in a Public Demonstration on Tribal Property without a valid permit issued by the Modoc Nation Chief or his or her delegate. Such permit shall be displayed at all times during the Public Demonstration in a manner and location that is visible to any member of the Elected Council and to any law enforcement agent.

Section 5. Penalty for Failure to Obtain or Display a Permit

- A. Each person that participates in a Public Demonstration on Tribal Property without a valid permit shall be subject to citation and civil prosecution for trespass. Each person that participates in a Public Demonstration without displaying a valid permit shall be subject to citation and prosecution for trespass.
- B. Each person that organizes a Public Demonstration on Tribal Property without a valid permit may be subject to disbarment for deliberate actions deemed detrimental to the welfare of the Modoc Nation. (See Modoc Tribal Enrollment Code, section 8(D).)
- C. It shall be an affirmative defense against disbarment if the person organizing a Public Demonstration reasonably believed that a valid permit existed.
- D. For the purposes of this section, a person organizes a Public Demonstration if (1) the person recruits other participants by publication in physical or electronic medium that is reasonably calculated to reach potential participants, (2) the person verbally persuades one or more participants to participate, or (3) the person assists with the planning or execution of a Public Demonstration with the intent for the Public Demonstration to occur without a valid permit.

Section 6. Permit Conditions

The Chief shall require the following provisions in any permit authorizing a Public Demonstration:

- A. **Time.** When the Public Demonstration is to occur within 100 feet of any Tribal Business, or may affect access to or from the Tribal Business, the Public Demonstration may not occur during the normal business operations of each potentially affected Tribal Business.
- B. **Place.** The Chief shall designate a permanent space for Public Demonstration that is not less than 50 feet and not more than 200 feet from the usual meeting space(s) of the Elected Council and the Tribal Council.

The Chief shall prescribe a place for each Public Demonstration that enables the Public Demonstration to reach its intended audience without interfering with the operations of the Modoc Nation government or any Tribal Business. If the Chief and the organizers of the Public Demonstration are unable to agree on an alternative location, the Public Demonstration must occur only in the designated permanent space for Public Demonstration.

The Chief may not prescribe a place for Public Demonstration that will unreasonably interfere with the operations of a business that is not a tribal business.

- C. **Manner.** The Public Demonstration shall not use devices that amplify sound without prior approval from the Elected Council. Any valid permit for a Public Demonstration that authorizes the use of amplified sound shall not be valid before 8:00 a.m. and shall cease to be valid at 9:00 p.m..

Section 7. Permit Fees

The Chief may charge a reasonable fee for the cost to issue and administer a permit for a Public Demonstration under this ordinance.

Section 8. Permit Not Required

- A. Any person that organizes or attends a Political Campaign Event, whether organizing in support or in opposition to the Political Campaign Event, shall not be subject to this Public Demonstration Ordinance if:
 - (1) The person does not unreasonably interfere with the operation of the Modoc Nation government, a Tribal Business, or any other business;
 - (2) The person does not use a device that amplifies sound between the hours of 8:00 a.m. and 9:00 p.m. without prior authorization from the Elected Council, which authorization shall not be unreasonably withheld; and

- (3) The person is on property wholly owned by the Modoc Nation, or owned by the United States and held in trust for the benefit of the Modoc Nation.
- B. This Public Demonstration Ordinance shall not apply to a Public Demonstration organized by a union that represents the workers in a Tribal Business, or may validly organize the workers in a Tribal Business, if the union follows the relevant terms of its contract with the Tribal Business.
- C. Nothing in this Section shall be construed to authorize any person to occupy any building or other facility without prior approval by the Chief or the Elected Council for the purpose of organizing or attending a Political Campaign Event.

Section 9. Remedies Authorized

- A. Any temporary or fully enrolled member of the Modoc Nation, Tribal Business, or other business operating on Tribal Property may file a claim in the Tribal Court against one or more organizers or participants in a Public Demonstration that failed to comply with this ordinance to recover the reasonable value of lost economic opportunity, and damages if any, attributable to the Public Demonstration.
- B. The Modoc Nation, through the Chief or the Elected Council, may file an action in the Tribal Court against one or more organizers of, or participants in, a Public Demonstration that failed to comply with this ordinance for trespass on Tribal Lands, including any resulting damages, and for disbarment.

Section 10. Criminal Trespass Not Precluded

Nothing in this Public Demonstration 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 11. Amendments

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

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