

MODOC ELECTION ORDINANCE

(Amended by Elected Council, January 25, 2022)

SECTION 1. AUTHORITY

This Election Ordinance is established by the Modoc Elected Council under authority delegated to it by Article IX, of the Constitution and bylaws of the Modoc Nation which reads as follows:

SECTION 3.

“All tribal elections shall be conducted in accordance with an election ordinance enacted by the Modoc Elected Council within six (6) months of adoption of this constitution and which is consistent with this constitution. Such ordinance shall provide for secret balloting, majority election, tie votes, and procedures for handling protests, resolving election disputes, and registration of voters. Provisions shall also be made for the conduct of recall, referendum and initiative elections and uniform procedures for submitting and validating petitions.”

SECTION 2. PURPOSE

The Intent and purpose of this Ordinance is to establish procedures for fair elections and to ensure the secrecy and sanctity of the ballot. The regulations and procedures contained in this Ordinance shall be administered in such a way as to accomplish this purpose and intent. In cases of disputes as to compliance with these regulations, substantial, rather than complete compliance with these regulations shall be deemed adequate

SECTION 3. DEFINITIONS

ELECTED COUNCIL: The Modoc Executive Department is a 5 member governing body established by Article IV of the Constitution.

TRIBAL COUNCIL: The Tribal Council is the governing body of tribe composed of all qualified voters of the tribe who are eighteen (18) years of age or older established by Article I of the Constitution.

QUALIFIED VOTERS: Any member of the Modoc Tribe who will be at least eighteen (18) years of age on election day.

DULY REGISTERED: To be duly registered a person must meet the following qualifications:

1. Be at least eighteen (18) years of age on election day.
2. Complete the necessary forms to effect registration as required by Section 4, of this Ordinance.

SECTION 4. ELECTION COMMISSION

1. Establishment of Election Commission.

The Modoc Election Commission (herein "Election Commission") is hereby established for the purposes of conducting and supervising all tribal elections, regular or special, in accordance with the Modoc Constitution and this ordinance; moderating election disputes; enforcing this ordinance; and recommending such additional rules to the Elected Council for the conduct of elections as may be necessary from time to time.

2. Composition.

The Election Committee shall consist of two members and an alternate appointed by the Chief and approved by the Elected Council by majority vote. Members may be dismissed with or without cause by the Chief or a majority vote of the Elected Council.

3. Qualifications.

- a. The members of the election committee shall be qualified voters of the tribe.
- b. If any member of the election committee registers as a candidate for an office to be filled during his or her term of office on the Committee, he or she shall withdraw from the Committee and the Alternate member shall step in. A new alternate position shall be immediately re-appointed by the Chief.

4. Duties of Committee.

In addition to performing any other duties delegated to the Committee by this Ordinance, the Committee shall:

- a. Direct the preparation of forms for use as Applications for Candidacy, ballots and other forms as may be required, and make them available to tribal members.
- b. Certify the eligibility of candidates for office.
- c. Conduct all elections in accordance with this Ordinance and the Constitution.
- d. Moderate election disputes for the Tribal Council to settle.
- e. Enforce the Election Ordinance, by filing action with Tribal Judge if necessary.
- f. Make recommended changes to Election Ordinance to Elected Council for consideration.

SECTION 5. VOTER REGISTRATION AND VOTING LISTS.

1. Registration Records.

The official register shall be kept by the Secretary/Treasurer or his/her representative.

2. How to Register as a Voter.

- a. Any member of the Modoc Tribe otherwise qualified to vote, must sign in the voter registration sheet/voting list at the door to the meeting in which an election is to be held.
- b. Before votes are cast, a census of the number of members present shall be taken and compared to the Voting List. There shall not be more people in the room at the time of voting than on the Voting List.

SECTION 6. GENERAL ELECTION

1. ELIGIBLE CANDIDATES

- a. All candidates for Elected Council positions are required to notify the Nation of their intent to run by filing an Application for Candidacy with the Election Commission by March 15 of the year of the election for purpose of background checks and inclusion on a verified ballot.
- b. To be eligible, all candidates for Election Council must abide by the requirements of Article IV Section 3 of the Modoc Constitution which reads: *“Any member of the Modoc Nation eighteen (18) years of age or older on the date of election shall be eligible to run for and serve on the Modoc Elected Council, provided, that, any member who has been convicted of violent felony by a court of competent jurisdiction*

or who is delinquently indebted to the Modoc Nation shall not run nor serve on the Modoc Elected Council. Further, any member who has been convicted of a non-violent felony shall not be eligible until seven (7) years after release from custody.”

2. The General Election shall be held on the first Saturday of May every four years. The next election after this amended Election Ordinance is May 7, 2022.
3. Vacancy appointment Elections shall be held on the first Saturday of May the year following the appointment.
4. Judicial Elections – The Tribal Judge election shall be conducted at the same meeting as the Elected Council election with the same procedure with the exception that “No person who has been convicted of a felony by a court of competent Jurisdiction shall be eligible for a Judicial office.” In accordance with Article VII Section 5 of the Modoc Constitution.

SECTION 7. BALLOTS

1. Official ballots of verified candidates shall be provided to voting membership at registration. Space will be provided for unverified write-in candidates who will then be required to verify before officially taking office.
2. When votes are called for, only registered voters shall be in the room and shall cast their ballots and place them in appropriate box. The Election Commission shall then remove the ballots and count them in the presence of the registered voters. Each candidate may appoint a representative to witness the vote count on their behalf.

SECTION 8. ELECTION

The candidate for a position that receives the majority number of votes shall stand elected for a four-year term. If a tie occurs, the candidates may make further statements prior to another vote. Voting will continue until a majority has elected a candidate for the position. If a write-in candidate wins and fails to pass verification, the candidate receiving the next highest number of votes shall assume the office for the full term.

SECTION 9. CONTEST OF ELECTION RESULTS.

1. General and All Other Elections - Grounds for Contest.
 - a. Any qualified voter of the Tribe may contest any Election result for any of the following causes:
 - (i) Misconduct on behalf of a member of the Elected Council.
 - (ii) Bribery.
 - (iii) That illegal votes were cast.
 - (iv) errors sufficient to change the results of the election as to any person who has been declared elected.
 - (v) error in the vote counting or summation of ballot counts sufficient to change the results of an election.
 - (vi) That a candidate knowingly submitted false information to the Council.
 - b. All disputes shall be settled by the Tribal Council at that election annual meeting.
 - c. The Election Commission shall moderate the dispute resolution.

SECTION 10. RECALL, REFERENDUM, AND INITIATIVE ELECTION

1. RECALL

- a. In accordance with Article XIII Section 1 of the Modoc Constitution, the Tribal Council may vote to recall a sitting Elected Council member or Judge after a petition signed by at least ten (10) verified members of the Modoc Tribal Council is filed with the Chief or Second Chief.
- b. The Chief or Second Chief shall call a special meeting of the Tribal Council within twenty (20) days of verification of the petition.
- c. The Election Commission shall oversee the verification of the petition and the vote.

2. REFERENDUM

- a. In accordance with Article XV of the Modoc Constitution, the Tribal Council may vote on an issue brought to them by the Elected Council for the purpose of deciding an issue or questions that are within the authority of the Tribal Council or the Elected Council. 1/3 of registered voters must cast ballots for election to be valid.

- b. An affirmative vote shall be binding on the Tribal Council and the Elected Council and shall remain in force until amended or rescinded by subsequent action by the voters or expire on its own terms.

3. INITIATIVE PETITION

- a. In accordance with Article XIV of the Modoc Constitution, members of the Tribal Council may propose legislation by submitting to the Elected Council by submitting a valid petition signed by at least 1/3 of the current registered voters.
- b. Upon validation of the petition by the Election Commission, the Elected Council has 30 days to call a special meeting to conduct the vote.
- c. If the petition is received within 90 days before the Annual meeting, the vote will take place at the Annual meeting.
- d. An affirmative vote, with at least 1/3 of registered voters casting a ballot, shall be binding on the Tribal Council and the Elected Council and shall remain in force until amended or rescinded by subsequent action by the voters or expire on its own terms.

SECTION 11. AMENDMENTS TO ORDINANCE.

The Elected Council may amend this Ordinance by a majority vote of a quorum at any duly noticed meeting of that body, provided, that amendments may not be made at any time during an election in progress.

SECTION 12. RATIFICATION OF ELECTION ORDINANCE.

The Election Ordinance shall become effective upon approval by a majority of the Elected Council members in a duly called and noticed Elected Council meeting.

SECTION 13. CONSTITUTIONAL CONFLICT.

Any portion of this Ordinance in conflict with the Modoc Constitution shall be superseded by the Modoc Constitution.