

WHITE EARTH RESERVATION TRIBAL COUNCIL
RESOLUTION NO. 019-00-002

CIVIL TRESPASS ORDINANCE

WHEREAS, The White Earth Tribal Council is the duly elected governing body of the White Earth Band of Ojibwe, a federally recognized tribe, and;

WHEREAS, The White Earth Band of Ojibwe and its duly elected governing body retain the inherent powers of tribal government that they have possessed since time immemorial, including the authority and obligation to protect tribal members, tribal property and tribal integrity against all who would cause harm; and

WHEREAS, The White Earth Band of Ojibwe and its duly elected governing body possess, in addition to its inherent powers, those powers authorized pursuant to the constitution of the Minnesota Chippewa Tribe, specifically Article I, Section 3.

NOW THEREFORE, BE IT RESOLVED THAT, The White Earth Tribal Council hereby adopts the following civil trespass statute in order to protect all tribal members, tribal property and the political and economic integrity of the White Earth Band of Ojibwe from incursions by unauthorized persons.

Trespass

Section 1. Definitions

- (a) "Premises" means the real property and any appurtenant building or structure.
- (b) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a part-time or a full-time basis. A dwelling may be part of a multi-dwelling such as an apartment complex, a multi-purpose building or a manufactured home.
- (c) "Construction site" means the location of a place where building, alteration, painting or repair of a building or structure is taking place.
- (d) "Owner or lawful possessor" means the person, organization or legal entity or organization who holds legal title to a piece of property or on whose behalf a building or dwelling is being constructed, altered painted or repaired and the general contractor or subcontractor engaged in that work. In the case of trust property this includes the entity and its subparts on whose behalf the land is held in trust.

- (e) "Posted" means the placement of a sign in a conspicuous place on the exterior of the building that is under construction, alteration or repair or at the perimeter of a property line with at least two conspicuous signs for each ten acres being protected. The sign must carry an appropriate notice of the prohibited activity such as but not limited to "No Trespassing" or "No Trespassing by Motorized Vehicles" and the name of the person giving the notice.
- (f) "Building" means a structure suitable for affording shelter for human beings or animals including any appurtenant or connected structure.
- (g) "Person" means any member of the human race.
- (h) "Property" means land or real estate.

Section 2. A person is guilty of civil trespass if the White Earth Tribal Court finds by clear and convincing evidence that the person:

- (a) Returns to property at any time after being told to leave the property and not to return, if the actor is without claim of right to the property or without consent of a person or entity that is the legal owner or possessor of the property; and/or,
- (b) Remains on or returns to property that is clearly posted with signs that specify the prohibited activity or conduct; and/or,
- (c) Is physically present on the property of another with the intent to abuse, disturb, or cause harm to the property of another by way of damage to the wildlife, wild plants, standing timber and any other natural growth that occurs on the land; and/or,
- (d) Enters the locked or posted construction site of another without the consent of the lawful owner; and/or
- (e) Enters any tribally owned or leased building, office, work space, or workplace which is locked, closed, or not open to the public or after being told to leave and not return re-enters the space; and/or
- (f) Disturbs an archaeological site, burial ground or cemetery, and/or
- (g) Moves, excavates or removes any remains of past human life or activities such as, but not limited to: pottery, basketry, bottles, weapons, weapon projectiles, pit houses, rock carvings, rock paintings or any portion or piece of the forgoing items.

Section 3. Enforcement. The White Earth Tribal Police Department and the White Earth Conservation Department are authorized to issue citations enforcing the provisions of this ordinance.

Section 4. Penalties. A person who is found by the White Earth Tribal Court to have violated any of the provisions of Section 2 above may be:

- (a) Fined civilly in the amount up to a maximum of \$5000.
- (b) Ordered to forfeit civilly any vehicle, apparatus, equipment, gear or material accompanying the person in the violation.

(c) Ordered to pay restitution for any and all damages caused by the trespass.

We do hereby certify that the foregoing Civil Trespass Ordinance was duly acted upon by a vote of 2 for, 0 against, 0 silent, a quorum being present at a special meeting held on June 21, 2000 at Mahanah, Minnesota.

Steve Auginausk - Turney
Acting Chairperson

Erma Wzgenor

White Earth Nation Tribal Court
35500 Eagleview Rd.
P.O. Box 289
White Earth, MN 56591
(218) 983-4648
(218) 983-3294 FAX
lorit@whiteearth.com



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