

TITLE 22. EXCLUSION

ARTICLE I EXCLUSION

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TITLE 22. EXCLUSION**ARTICLE I****EXCLUSION**

[NOTE: The provisions of this Title were enacted on April 21, 1982 by Ordinance No. 82-1; and were amended and numbered as Title 13, Article VII on August 30, 2006, by Tribal Council Resolution No. 35-2006; and were amended and renumbered as Title 22, Article I by motion January 21, 2009]

CHAPTER 1. GENERAL PROVISIONS**Sec. 22-1101. Definitions.**

Unless the context requires otherwise, as used in this Article:

(a) “Appellate Court” means the Court of Appeals of the Tribal Court of the Sac and Fox Tribe of the Mississippi in Iowa.

(b) “Hearing” means a hearing conducted before the Tribal Council as Tribunal for the purpose of determining whether to exclude a non-member from the Settlement and Tribal Lands and all ancillary hearings and matters related thereto.

(c) “Indian” means, for purpose of this Title, any person who would be subject to the jurisdiction of the United States as an Indian under Section 1153, Title 18, United States Code, if that person were to commit an offense listed in that section in Indian Country to which that section applies. 25 U.S.C. §1301(3).

(d) “Meskwaki Settlement” and “Settlement” and “Sac and Fox Reservation in Iowa” may be used interchangeably and means all land within the exterior boundaries of the Sac and Fox Reservation in Iowa.

(e) “Minor child” means a person under the age of eighteen [18] years.

(f) “Non-member” means a person who is not an enrolled member of the Sac and Fox Tribe of the Mississippi in Iowa.

(g) “Tribal Code” means the law Code of the Sac and Fox Tribe of the Mississippi in Iowa.

(h) “Tribal Council” means the members of the Tribal Council of the Sac and Fox Tribe of the Mississippi in Iowa.

(i) “Tribal land” means all trust and fee land owned by the Tribe.

(j) “Tribal member” means an enrolled member of the Sac and Fox Tribe of the Mississippi in Iowa.

(k) Tribe means the Sac and Fox Tribe of the Mississippi in Iowa.

(l) “Tribunal” means the Tribal Council sitting in its capacity as an adjudicatory body under the authority of the Sac and Fox Tribe of the Mississippi in Iowa Constitution and Bylaws.

(m) “Tribunal Legal Counsel” means the Office of the Attorney General of the Sac and Fox Tribe of the Mississippi in Iowa or such other legal counsel designated by the Tribal Council to act in the place of the Office of the Attorney General.

Sec. 22-1102. Declaration of Policy.

The Tribal Council of the Sac and Fox Tribe of the Mississippi in Iowa hereby declares that in order to promote the social and economic welfare and to protect the peace, safety, and general welfare of the Tribe, it may be necessary to remove from the Meskwaki Settlement and any other lands owned in fee by the Tribe, any non-member[s]: [a] who interferes with or obstructs the Tribe in its efforts to promote the social and economic welfare and protect the peace, safety, and general welfare of the Tribe; or [b] who interferes with or obstructs Tribal members in their peaceable pursuit of their daily activities; or [c] who occupies or attempts to occupy Settlement land or other Tribal land, including Tribally owned housing, contrary to the disposition of that land as provided for by the Tribal Council; or [d] who interferes with Tribal members engaging in the economic, social, cultural, political, or religious activities of their Tribal community.

The Tribe recognizes that “[i]mplicit in the concept of ownership of property is the right to exclude others” and that “a true owner of land exercises full dominion and control over it; a true owner possesses the right to expel intruders.” *United States v. Pueblo of San Ildeonso*, 513 F.2d 1383, 1394 (Ct.Cl. 1975). See also, *PruneYard Shopping Ctr. v. Robins*, 447 U.S. 74, 82 (1980) (stating that “one of the essential sticks in the bundle of property rights is the right to exclude others); *Kaiser Aetna v. United States*, 444 U.S. 164, 180 (1979) (describing the “right to exclude” as so universally held to be a fundamental element of the property right”). The Tribe is the true owner of all Tribal land and consequently has the right to exclude any non-member from Tribal land. The Tribe declares that it will utilize all means necessary pursuant to law to enforce its right to exclude non-members from Tribal land.

Sec. 22-1103. Authority.

(a) This Title is enacted pursuant to the powers of the Tribal Council contained in Article X and XI of the Constitution of the Sac and Fox Tribe of the Mississippi in Iowa, according to the following provisions:

(1) Article X, § 1[c] of the Constitution provides that the Tribal Council is empowered to approve or veto any sale, disposition, lease, or encumbrance of Tribal lands, interest in lands or other tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs or any other qualified official or agency of government. Article XI, Sec. 2[a] provides that any disputes as to the extent or possession of

assignments of agricultural land shall be settled by the Tribal Council. Article XI, Sec. 3[a] provides that any disputes as to the extent or possession of the home sites shall be settled by the Tribal Council. Article XI, Sec. 7 provides that the Tribal Council may make all necessary regulations and forms to carry out the provisions of this Article.

(2) Article X, § 1[e] of the Constitution provides that the Tribal Council is empowered to protect and preserve the property and natural resources of the Tribe. The Tribe finds that as a means to protect and preserve the property and natural resources of the Tribe, the Tribe may from time to time be required to exclude from the Meskwaki Settlement and other Tribal land any non-member[s] who wastes, damages, or destroys, or attempts to waste, damage, or destroy the property and natural resources of the Tribe, or who interferes with or attempts to interfere with the Tribal Council in its effort to protect, preserve, and develop the property and natural resources of the Tribe, or who occupies or attempts to occupy Settlement land or other Tribal land, including the Tribally assigned housing, contrary to the disposition of that land as provided for by the Tribal Council.

(3) Article X, § 1[f] of the Constitution provides that the Tribal Council is empowered to encourage the agriculture and trade of the community, and to foster the arts, crafts, tradition, and culture of the Sac and Fox Tribe. The Tribe finds that as a means to encourage agriculture and trade and foster Meskwaki tradition and culture, the Tribe may from time to time be required to exclude from the Meskwaki Settlement and other Tribal land any non-member[s] who engages in action that tends to obstruct or interfere with agriculture or trade on the Meskwaki Settlement or with the development of the arts, crafts, tradition and culture of the Sac and Fox Tribe, including exclusion of any non-member[s] who occupies or attempts to occupy Settlement land or other Tribal land, including Tribally assigned housing, contrary to the disposition of that land as provided for by the Tribal Council or contrary to the customs and traditions of the Tribe.

(4) Article X, § 1[k] of the Constitution provides that the Tribal Council is empowered to regulate the use and disposition of property of members or associations of members of the Tribe insofar as necessary to protect the peace, safety, and general welfare of the Tribe. Any such regulation which directly affects non-members of the Tribe shall be subject to review by the Secretary of the Interior. The Tribe finds that as a means to regulate the use and disposition of property to protect the peace, safety, and general welfare of the Tribe, the Tribe may from time to time be required to exclude from the Meskwaki Settlement and other Tribal land any non-member[s] who uses or disposes of property in a manner that tends to threaten the peace, safety, and general welfare of the Tribe.

(5) Article X, § 1[n] of the Constitution provides that the Tribal Council is empowered to take action to preserve order among members of the Tribe which action shall be supplementary to and not in conflict with the activities of the federal and state authorities. The Tribe finds that as a means to preserve order among members, the Tribe may from time to time be required to exclude from the Meskwaki Settlement and other Tribal land any non-member[s] who

engages in action which tends to interfere with the preservation of order among members of the Tribe.

(b) This Article 22 does not and is not intended to impose criminal sanctions against non-members who violate the Article. However, violation of an Order of Exclusion after hearing except as otherwise provided herein, may be enforced through any legal means including, but not limited to civil and criminal penalties and incarceration subject to the provision of this Title, Section 22-1301 and 22-1302. This Article enables the Tribal Council of the Sac and Fox Tribe of the Mississippi in Iowa to exercise control over its land and resources and to function as a governmental body without interference from non-members which obstructs orderly Tribal activities and functions. Any exclusion of a non-member[s] deemed necessary under this Article is intended and should be construed as both a regulatory measure and as an exercise of land ownership rights, but not as punishment. Notwithstanding the foregoing, the Tribe may institute or seek criminal penalties against any excluded non-member who fails to abide by the terms an order of exclusion, subject to the provisions of this Title, Section 22-1301 and 22-1302.

(c) The Tribe is the beneficial owner of the land contained within the Sac and Fox Reservation in Iowa, also known as the Meskwaki Settlement, such land being held in trust for the Tribe by the United States government. The Tribe is also the beneficial owner of all other Tribal land. This beneficial ownership and Article X of the Constitution of the Sac and Fox Tribe of the Mississippi in Iowa empower the Tribal Council to require non-members who wish to reside on or enter upon lands within the Meskwaki Settlement or other Tribal land to refrain from committing any of the prohibited acts which are contained in the Tribal Code and to exclude from the Settlement and Tribal land those non-members who do not so refrain. See, *United States v. Pueblo of San Ildefonso*, 513 F.2d 1383, 1394 (Ct.Cl. 1975).

(d) Article X, § 1[q] of the Constitution provides that the Tribal Council has the authority to appoint tribal committees and agencies and to delegate to them the execution of any of the foregoing powers, reserving the right to review any action taken. Accordingly, the Tribal Council hereby delegates to the Tribal Police the power to enforce orders of exclusion issued under this Article, and the Tribal Council directs that Tribal Police promptly execute all such orders on behalf of the Council. The Tribal Council hereby further delegates to the Tribal Court of Appeals the limited authority to review Tribal Council exclusion orders, but that delegation is strictly limited as stated in this Article.

CHAPTER 2. PROCEDURAL AND SUBSTANTIVE LAW

Sec. 22-1201. Tribal Council Authority.

(a) The Tribal Council has the authority as set forth in this Article, Chapter 1, to conduct hearings pursuant to their dispute resolution powers contained in Articles X and XI of the Constitution of the Sac and Fox Tribe of the Mississippi in Iowa, and to exclude non-members from the Settlement and Tribal Lands.

(b) Exclusion After Hearing. A non-member of the Sac and Fox Tribe may be excluded from the Meskwaki Settlement and Tribal Lands after notice and a hearing in accordance with the requirements set forth in this Article and after entry of a resolution and order by a majority vote of the members of the Tribal Council present at any meeting called for that purpose at which a quorum is in attendance.

(c) Exclusion Before Hearing. In cases involving danger to the public health, safety, or welfare a non-member may be excluded pending a hearing where a majority of a quorum of the Tribal Council agree that such exclusion is necessary to protect the public health or safety. In such case the exclusion hearing provided for in this Article shall be held as soon thereafter as is reasonably possible and no longer than thirty days after the exclusion order is entered.

Sec. 22-1202. Jurisdiction.

The Tribal Council and the Tribal Court of the Sac & Fox Tribe of the Mississippi in Iowa shall have personal jurisdiction over non-Indians and Indians who are not enrolled members of the Sac & Fox Tribe of the Mississippi in Iowa and who are present within or reside within the exterior boundaries of the Meskwaki Settlement and Tribal land and as otherwise set forth in the Code of the Sac & Fox Tribe of the Mississippi in Iowa, Title 5, Sec. 5-4102 and as it may be amended. The Tribal Council and the Tribal Court of the Sac & Fox Tribe of the Mississippi in Iowa shall have subject matter jurisdiction over exclusion proceedings as set forth in this Title.

Sec. 22-1203. Initial Tribal Council Action.

(a) The Tribal Council has the authority to exclude non-members from the Settlement and Tribal land. Upon a request from a Tribal member or from the Executive Director of the Sac & Fox Tribe of the Mississippi in Iowa, the Tribal Council may consider exclusion of a non-member.

(b) If, after consideration and upon Motion and Tribal Council Resolution, the Tribal Council makes a preliminary determination that a non-member should be excluded from the Settlement and Tribal land, the Tribal Council shall cause a Notice of Exclusion to be served upon the excluded non-member. The Notice shall contain the language and information set forth below and shall be served upon the non-member as set forth herein.

(c) The Notice shall be served on the non-member as follows:

(1) by restricted certified mail to the last known address of the non-member with the requirement that the receipt be signed only by the non-member. Notice is deemed to have been served on the date the non-member signs the receipt for the mail.

(2) by personal service on the non-member. Notice is deemed to have been served on the date of service on the non-member.

(3) by posting the notice at the known place where the non-member resides. Notice is deemed to have been served on the date seven [7] days after the date the notice is first posted.

(4) if the whereabouts of the non-member are unknown notice shall be by publication in a Tama County newspaper in two consecutive regular issues of the newspaper. If the Tribe has its own newspaper the notice shall also be published in the Tribal newspaper for two consecutive regular issues of the newspaper. Notice is deemed served on the date three [3] days after the final publication in a Tama County newspaper.

(d) The Notice of Exclusion shall contain the following language at a minimum:

(1) Name of the non-member excluded person;

(2) Notice that the non-member has been excluded from the Settlement and/or all Tribal Lands;

(3) A brief statement of the reason for exclusion consistent with the “Grounds for Exclusion” section of this Article.

(4) A statement that the non-member must vacate the Settlement and all Tribal Lands within thirty [30] days from the date of service of the Notice of Exclusion or as ordered by the Tribunal after hearing, whichever is later;

(5) Instructing the non-member that:

(a) he/she is entitled to a hearing before the Tribal Council upon the non-member submitting a written request for hearing directed to Chairman of the Tribal Council with a copy to the Tribal Office of the Attorney General at: Sac & Fox Tribe of the Mississippi in Iowa, 349 Meskwaki Road, Tama, IA 52339-9629;

(b) the request for a hearing must be received by the Tribal Council Chairman and Tribal Office of the Attorney General no later than ten [10] days after service of the Notice of Exclusion on the non-member;

(c) the request for a hearing must include the non-member’s name, current mailing address and current telephone number.

(6) The notice shall include the following paragraph:

FAILURE TO TIMELY REQUEST A HEARING AS SET FORTH IN THIS SECTION SHALL EXHAUST YOUR RIGHT TO A HEARING AND ANY APPEAL YOU MAY HAVE BEEN ENTITLED TO IN THIS MATTER. UPON EXPIRATION OF THE TIME YOU ARE AFFORDED BY THIS NOTICE TO REQUEST A HEARING, IF YOU DO NOT REQUEST A HEARING THE TRIBAL COUNCIL SHALL ENTER AN ORDER EXCLUDING, LIMITING, OR

CONDITIONING YOUR PRESENCE ON THE SETTLEMENT AND ALL TRIBAL LANDS AND THAT ORDER SHALL BE THE FINAL ORDER OF THE TRIBAL COUNCIL. THEREAFTER, IF YOU DO NOT COMPLY WITH THE ORDER YOU MAY BE SUBJECT TO ARREST AND CHARGES OF CRIMINAL OR CIVIL TRESPASS, INJUNCTION, ARREST AND CHARGES OF DISOBEDIENCE OF A LAWFUL ORDER, AND/OR ALL OTHER LEGAL REMEDIES AVAILABLE TO THE TRIBE.

Sec. 22-1204. Grounds for Exclusion.

Exclusion of a non-member may be ordered when the Tribunal, after hearing unless otherwise provided herein, finds by a preponderance of the evidence that the:

(a) Non-member is accused of conduct within the Meskwaki Settlement or Tribal lands which would be punishable by a period of imprisonment in excess of six months under the laws of the Code of the Sac & Fox Tribe of the Mississippi in Iowa, or the laws of the United States, or the laws of the State of Iowa, and such non-member either has been convicted of said offense or admits in an exclusion hearing to having committed such conduct.

(b) Non-member either admits in an exclusion hearing or is determined by the Tribunal to have:

- (1) Made threats of serious bodily injury or harm against a Tribal member; or
- (2) Entered the home of a Tribal member without the consent of the occupant[s]; or
- (3) Traded, peddled, or conducted business on the Settlement and/or Tribal land without a Tribal business license or the written consent of the Tribal Council; or
- (4) Removed from the Settlement or Tribal land any member of the Tribe under the age of eighteen [18] years without the consent of a parent or guardian; or
- (5) Desecrated any religious or burial ground within the Settlement or Tribal land; or
- (6) Interfered with to the extent of causing disruption or delay or prevention or termination of, any Meskwaki traditional or religious ritual where at least one Meskwaki Tribal member is a participant; or
- (7) Committed any act[s] of vandalism against Tribal real or personal property; or
- (8) Committed any act which was intended to or did, in any way, prevent, obstruct, delay, terminate, and/or interfere with an attempt to convene or

a convened or scheduled Tribal Council or the Tribal government, its agents or employees, when said Council and/or government are engaged in the lawful conduct of Tribal governmental and/or Tribal work, meetings, projects, or other legitimate activities; or

(9) Committed any act which was intended to or did, in any way, prevent, obstruct, and/or interfere with the lawful conduct of the federal government or its agents or employees, the state government or its agents or employees, or private contractors, persons, or businesses which engage in work involving tribal projects, federal projects, and/or state projects undertaken for the benefit of the Tribe on the Settlement or Tribal land; or

(10) Violation by the non-member of:

(a) The Tribal Constitution and Bylaws Articles X or XI, and as they may be amended; or

(b) The Tribal Housing laws and provisions as codified in the Tribal Code, and as they may be amended; or

(c) The Sac & Fox Tribe of the Mississippi in Iowa Meskwaki Housing Program Policies and Procedures, and as they may be amended.

(11) Committed any act which was intended to or in any way did prevent, obstruct or interfere with or pose a threat to the health, safety, or welfare of the Tribe or its members.

(12) Committed an act which if committed by an adult member of the Tribe would be a Class 1, 2, 3, or 4 offense as defined in the Tribal Code, Criminal Article, and such non-member has either been convicted of said offense or admits in an exclusion or other hearing to having committed such offense.

(13) Committed an act which if committed by an adult member of the Tribe would be grounds for banishment as defined in the Tribal Code.

Sec. 22-1205. EMERGENCY EXCLUSION.

(a) In cases involving danger to the public health, safety or welfare, and after a Tribal Council meeting where a majority of a quorum of the Tribal Council concur, the Chairman of the Tribal Council or an otherwise authorized Council member may sign and issue an emergency exclusion order pending a hearing when such exclusion is necessary to protect the Tribal public health, safety or welfare.

(b) An emergency exclusion order may be issued if there is good cause established by a preponderance of the evidence to believe that a non-member committed

an act that endangered or continues to endanger the public health, safety, or welfare. The emergency exclusion order shall set forth the following:

- (1) Name of the non-member excluded person;
- (2) Notice that the non-member has been excluded from the Settlement and all Tribal Lands;
- (3) A brief statement of the reason for exclusion consistent with the “Grounds for Exclusion” section of this Article.
- (4) A statement that the non-member must vacate the Settlement and all Tribal Lands immediately.
- (5) Instructing the non-member that:
 - (a) he/she is entitled to a hearing before the Tribal Council upon the non-member submitting a written request for hearing directed to Chairman of the Tribal Council with a copy to the Tribal Office of the Attorney General at: Sac & Fox Tribe of the Mississippi in Iowa, 349 Meskwaki Road, Tama, IA 52339-9629;
 - (b) the request for a hearing must be received by the Tribal Council Chairman and Tribal Office of the Attorney General no later than ten (10) days after service of the Notice of Exclusion on the non-member;
 - (c) the request for a hearing must include the non-member’s name, current mailing address and current telephone number.
- (6) The emergency exclusion order shall include a notice with the following language:

FAILURE TO TIMELY REQUEST A HEARING AS SET FORTH IN THIS SECTION SHALL EXHAUST YOUR RIGHT TO A HEARING AND ANY APPEAL YOU MAY HAVE BEEN ENTITLED TO IN THIS MATTER. UPON EXPIRATION OF THE TIME YOU ARE AFFORDED BY THIS NOTICE TO REQUEST A HEARING, IF YOU DID NOT REQUEST A HEARING, THE TRIBAL COUNCIL ORDER PREVIOUSLY SERVED UPON YOU SHALL BE THE FINAL ORDER EXCLUDING, LIMITING, OR CONDITIONING YOUR PRESENCE ON THE SETTLEMENT AND ALL TRIBAL LANDS. THEREAFTER, IF YOU DO NOT COMPLY WITH THE ORDER YOU MAY BE SUBJECT TO ARREST AND CHARGES OF CRIMINAL OR CIVIL TRESPASS, INJUNCTION, ARREST AND CHARGES OF DISOBEDIENCE OF A LAWFUL

ORDER, AND/OR ALL OTHER LEGAL REMEDIES AVAILABLE TO THE TRIBE.

(c) An emergency exclusion order issued pursuant to this section shall be deemed effective immediately, and shall be deemed to extend to all land on the Settlement and all other Tribal land, unless the order itself states otherwise. The emergency exclusion order shall remain in full force and effect until the conclusion of the exclusion hearing except if the non-member fails to timely request a hearing or fails to appear at the hearing after a request for hearing, then the order shall remain in full force and effect as a permanent order.

(d) The Tribal Police shall immediately attempt to locate the non-member who is excluded by an emergency exclusion order and personally serve the non-member with the emergency exclusion order. The Tribal Police may then:

(1) Immediately escort the excluded non-member from the Settlement and Tribal land if the non-member has not been living on the Settlement or Tribal land or if the circumstances so require.

(2) Allow the excluded non-member a reasonable amount of supervised time, not to exceed three hours, to collect personal belongings if the non-member has been living on the Settlement or Tribal land or if circumstances so require. Upon the expiration of time for the non-member to collect personal belongings, the Tribal Police may immediately escort the excluded non-member from the Settlement or Tribal land.

(e) If the Tribal Police are unable to locate and personally serve the excluded non-member, the excluded non-member may be served according to the provisions set forth in section 22-1202[c] of this Article, however, the non-member may be personally served and escorted from the Settlement and Tribal land pursuant to the provisions of section 22-1204[d] [I] & [ii] of this Article if the non-member is subsequently encountered on the Settlement or Tribal land during the time of emergency exclusion.

(f) In the event of an emergency exclusion where the non-member requests a hearing, an exclusion hearing shall be held as soon after the issuance of the emergency exclusion order as is reasonably possible, and in no event later than thirty days after the issuance of the emergency exclusion order; the hearing procedures and application of law shall be consistent with the procedures and substantive law set forth in section 22-1202[c] & [d](notice); and section 22-1206 (hearing) of this Article.

Sec. 22-1206. Defenses.

(a) Where the grounds alleged for exclusion are lodged against the non-member while the non-member is or was acting as a Tribal police officer or other employee or agent of the Tribe, the non-member shall be accorded qualified immunity, or other immunity provided for by Tribal law, so long as the acts of the non-member were not outside the scope of such immunity and/or employment. Such defense, if raised, shall be heard at and become part of any hearing as provided for in Section 22-1207 below, and the defense shall not give rise to a separate pre-hearing.

(b) Except for a minor child whose acts are approved by a parent or guardian, it is not and shall not be deemed to be a defense to exclusion that the non-member's acts have or had been approved or ratified by one or more persons who had or have been assigned a house within the Settlement and Tribal land.

Sec. 22-1207. Hearing.

(a) Upon a timely and proper request for hearing by a non-member proposed for exclusion or upon issuing an emergency order of exclusion, a hearing date shall be determined and notice of the hearing date shall be provided to the Tribal Council, to the Tribal Attorney General, and to the non-member not less than fourteen [14] days prior to the hearing by the Tribal Executive Office. The hearing notice shall include the date, time, and location of the hearing and the amount of time allotted for the hearing. The hearing notice shall be mailed First Class U.S. Mail to the non-member at the address provided by the non-member on his or her request for a hearing or in the event of an emergency exclusion order, notice shall be given as set forth in section 22-1202[c] of this Article.

(b) At the time, date, and location designated for hearing, a quorum of the Tribal Council shall convene in their capacity as the hearing Tribunal. Continuance of a hearing may be granted and ordered whenever, and for whatever reason, as may be determined by the Tribunal. The Tribunal may be advised by the Tribunal legal counsel.

(c) The party or person bringing the action pursuant to Section 22-1203 [a] may be represented by legal counsel and may present witnesses, cross-examine witnesses, present testimony and documentary and other evidence to the Tribunal at the hearing.

(d) The non-member proposed for exclusion shall be given an opportunity to confront and cross-examine witnesses and to present a defense, witnesses, testimony, and documentary and other evidence to the Tribunal at the hearing. The non-member may be represented by legal counsel or by a spokesperson at his or her own expense.

(e) After the hearing is concluded the Tribunal shall render its written order no later than fourteen [14] days following the conclusion of the hearing. The Tribunal may determine that the non-member shall be excluded from the Settlement and all Tribal land, or from part of the Settlement and/or Tribal land, or may permit such person to remain upon the Settlement and Tribal land with or without conditions as the Tribunal sees fit. The order shall be consistent with the requirements set forth in sec. 21-1207, below.

(f) All orders of exclusion shall remain in force until revoked by the Tribal Council, unless the order specifically provides otherwise.

Sec. 22-1208. Order Re: Exclusion.

(a) The order issued by the Tribunal after hearing shall be signed by the Tribal Council Chairman or otherwise authorized Tribal Council member and shall set forth the decision of a majority vote of a quorum of the Tribal Council. The Tribal Council shall also enter a Tribal Council resolution adopting the Order for the Tribe's internal records only. The order shall contain:

- (1) findings of fact and conclusions of law;
- (2) the date of the hearing;
- (3) the name of the non-member who is the subject of the hearing;
- (4) the decision of the Tribunal and sufficient details to provide notice to the non-member as to:
 - (a) the grounds for exclusion consistent with Section 22-1203 of this Article;
 - (b) whether he or she is completely excluded from the Settlement and all Tribal land, or whether the non-member may remain within part of the Settlement and Tribal land with restrictions or conditions;
 - (c) if there are conditions or restrictions, a statement of specific details of the restrictions or conditions;
 - (d) if the non-member is required to vacate all or part of the Settlement and Tribal land, or if there are conditions on the non-member remaining on the Settlement and Tribal land, the order shall specify the effective date of the exclusion and/or restrictions or conditions.
- (5) The order shall also contain the following language:

THIS ORDER IS A FINAL ORDER OF THE TRIBAL COUNCIL, SUBJECT ONLY TO YOUR RIGHT TO APPEAL THIS MATTER TO THE APPELLATE DIVISION OF THE TRIBAL COURT. WHETHER YOU APPEAL THIS ORDER

OR NOT, YOU ARE REQUIRED TO COMPLY WITH THE TERMS OF THIS ORDER NO LATER THAN THE DATE SET FORTH IN THIS ORDER. THEREAFTER, IF YOU REMAIN ON THE SETTLEMENT AND/OR ANY TRIBAL LANDS YOU ARE SUBJECT TO ARREST AND CHARGES OF CRIMINAL OR CIVIL TRESPASS, INJUNCTION, ARREST AND CHARGES OF DISOBEDIENCE OF A LAWFUL ORDER, AND/OR ALL OTHER LEGAL REMEDIES AVAILABLE TO THE TRIBE. ALL ORDERS OF EXCLUSION SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REVOKED BY THE TRIBAL COUNCIL.

(b) If after notice as set forth in paragraph 22-1202[c] above, the non-member proposed for exclusion did not appear at the scheduled exclusion hearing, the Tribunal may, by written order, determine that such non-member shall be excluded from all or any part of the Settlement and Tribal land or may permit such person to remain upon the Settlement and Tribal land on such conditions as the Tribunal may see fit to impose. The order referenced in this sub-paragraph shall state with specificity all conditions imposed, if any, and shall state which parts of the Settlement or Tribal land the non-member may be present upon, if any, and shall further include the following:

THIS ORDER IS A FINAL ORDER OF THE TRIBAL COUNCIL. YOU ARE REQUIRED TO COMPLY WITH THE TERMS OF THIS ORDER NO LATER THAN THE DATE SET FORTH IN THIS ORDER. THEREAFTER, IF YOU REMAIN ON THE SETTLEMENT AND/OR ANY TRIBAL LANDS YOU ARE SUBJECT TO ARREST AND CHARGES OF TRESPASS, AND/OR ARREST AND CHARGES OF FAILURE TO COMPLY WITH A VALID ORDER OF THE TRIBAL COUNCIL, AND/OR ALL OTHER LEGAL REMEDIES AVAILABLE TO THE TRIBE. ALL ORDERS OF EXCLUSION SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REVOKED BY THE TRIBAL COUNCIL.

(c) A copy of every order of exclusion shall be provided to:

(1) The excluded non-member by certified mail restricted return receipt requested, mailed to the address provided by the non-member on his or her request for hearing; if there is no known address then the Order shall be personally served on the excluded non-member; if the whereabouts of the non-member are not known, then the order shall be published in a Tama County and/or the Tribal newspaper for two consecutive regular publications of the newspaper;

(2) Meskwaki Police Department;

(3) Local law enforcement officials as determined by the Chief of the Meskwaki Police Department;

(4) State law enforcement officials as determined by the Chief of the Meskwaki Police Department;

(5) The Superintendent of the Bureau of Indian Affairs;

(6) The United States Attorney for the Northern District of Iowa.

(d) Records shall be kept in the Tribal Council office building of every case in which exclusion of a non-member is ordered including copies of all notices, certificates of service of notice, transcripts of the hearing, the order and all other documents relating to the matter.

CHAPTER 3. ENFORCEMENT OF ORDER OF EXCLUSION

Sec. 22-1301. Enforcement Generally.

(a) If any person ordered excluded from the Settlement and Tribal land by order of the Tribal Council pursuant to this Article, or if any person upon whom conditions of residence or entry onto the Settlement or Tribal land are imposed by order of the Tribal Council pursuant to this Article, refuses to comply with the order on or before the compliance date specified in the order, then for purposes of appropriate action and enforcement the Tribal Council or its designee may refer this matter to any or all of the following:

(1) the Tribal police;

(2) the Tribal Attorney General Office;

(3) the Tribe's general legal counsel;

(4) law enforcement for the State of Iowa;

(5) the Superintendent of the Bureau of Indian Affairs;

(6) the United State Attorney;

(7) any other entity determined to be appropriate for the purposes of taking legal action deemed practical or advisable in the circumstances.

(b) Means to enforce an Order of Exclusion where the excluded person does not comply with the Order include but are not limited to:

(1) Charge of criminal trespass and potential arrest for same. Where the non-member is an Indian and criminal charges may be brought in either Tribal court or the state courts. Where the non-member is non-Indian the criminal charges may only be brought in state courts.

(2) Civil injunction;

(3) Charge of Disobedience of a Lawful Court Order and potential arrest for same. Where the non-member is an Indian the non-member may be arrested by either Tribal law enforcement officers or federal, state, county or municipal law enforcement officers. Where the non-member is a non-Indian, the non-member may only be arrested by federal, state, county, or municipal law enforcement officers.

(4) Fines imposed by the Tribal Council as set forth in section 22-1302 of this Article or imposed by the Court;

(5) Incarceration imposed by the Tribal Council as set forth in section 22-1302 of this Article or imposed by the Court but only if the non-member is an Indian. If the non-member is non-Indian this subsection shall not apply to the powers of the Tribal Council, but may be imposed by the State Courts under relevant State law.

Sec. 22-1302. Enforcement Of Violated Exclusion Orders.

(a) When an excluded non-member has one or more times violated an exclusion order issued against him, the Tribal Council may declare the excluded non-member to be in contempt of the Tribal Council and may fine the excluded non-member up to One Thousand Dollars [\$1,000.00] per offense, or imprison the excluded non-member, subject to the limitations set forth in Section 22-1301 [b] [1], [3], and [5], for up to six months per offense, or both, after notice to the excluded non-member and hearing on the sole issue of whether the excluded non-member is in contempt and if so, the appropriate action to be ordered. Such notice of contempt and hearing shall be procedurally executed in the same manner as the notice and hearing on the order of exclusion, sections 22-1202[c] (notice) and 22-1206[b],[c], & [d] (hearing) except the sole issue at the hearing will be the issue of contempt and the Tribal Council shall enter an order at the conclusion of the contempt hearing and specify the terms of sanctions, fines, incarceration, if any.

(b) Enforcement under this section may be referred to other agencies as set forth in section 22-1301.

CHAPTER 4. APPEAL OF ORDER OF EXCLUSION

Sec. 22-1401. Appeal

(a) Notwithstanding Tribal Code Title 1, Article III, Chapter 2, section 1-3213 or any other Tribal law, the sole right to review of an Order of Exclusion and proceedings related thereto shall be through the Tribal Court, Appellate Division of the Sac and Fox Tribe of the Mississippi in Iowa.

(b) Tribal Court review can only be initiated from a final order of the Tribal Council in an exclusion proceeding. The appeal must be filed with the Tribe's Appellate Court Clerk within fourteen [14] days of the date that the order was served on the Appellant. Failure of Appellant to file an appeal within the prescribed time shall deprive the Appellate Court of jurisdiction over the appeal.

(c) The sole issues which can be reviewed on appeal shall be whether the Tribal Council committed procedural due process errors, made erroneous findings or conclusions of law, or erred in the introduction or exclusion of evidence. The Tribal Appellate Court may only remand the matter back to the Tribal Council if it concludes as a matter of law that the Tribal Council made errors of law, or in its findings, or in the introduction or exclusion of evidence, or that the fairness of the order was substantially affected by an error of procedural due process. The Court of Appeals shall be the only tribunal with jurisdiction to hear appeals of Tribal Council order in exclusion proceedings, but the Appellate Court's jurisdiction shall be expressly limited as set forth in this paragraph. The only relief the Appellate Court shall have authority to provide is to remand the matter back to the Tribal Council for further proceedings.

Sec. 22-1402. Stay of Appeal

The Court is precluded from issuing, and shall have no jurisdiction to issue any stay of the Exclusion Order pending Appellate Court review.

Sec. 22-1403. Limitations on Appeal

(a) The Appellate Court is expressly divested of jurisdiction over the appeal of any appellant who violates an exclusion order, and such appellant shall not be permitted to pursue an appeal.

(b) A discussion held by the Tribal Council and recorded in the minutes of a regular meeting establishing that the excluded non-member violated the order of exclusion, or the signed and sworn affidavit of the Tribal Executive Director, a member of Tribal Council, or a Tribal Police Officer establishing that the excluded non-member violated the order of exclusion, shall be sufficient evidence to substantiate the violation of an exclusion order.

CHAPTER 5. HARBORING AN EXCLUDED NON-MEMBER

Any Tribal member found to be harboring an excluded non-member on the Settlement or Tribal land is subject to banishment under the Constitution and Tribal Code.