



RESOLUTION NO. 19-229-FWF

**RESOLUTION OF THE GOVERNING BODY
OF THE THREE AFFILIATED TRIBES
OF THE FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Approval and Adoption of Amended Section III of the MHA Nation Code of Ethics in Government Ordinance."

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws under said Act; and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution and By Laws of the Mandan, Hidatsa, and Arikara Nation, also known as the Three Affiliated Tribes (or "Tribes" or "MHA Nation"), the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Article I of the Constitution of the Three Affiliated Tribes expressly provides that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands, including lands held in fee, within the exterior boundaries of the Fort Berthold Reservation; and

WHEREAS, Article VI, Section 3 of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council all necessary sovereign authority – legislative and judicial – for the purpose of exercising the jurisdiction granted by the people of the Three Affiliated Tribes in Article I of the Constitution; and

WHEREAS, Pursuant to Article VI, Section 5 (l) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, Section III of the MHA Nation Code of Ethics in Government Ordinance deals primarily with the procedure of filing complaints with the Ethics Committee, hearings on the complaints, and resolution of such complaints; and

WHEREAS, Section III of the MHA Nation Code of Ethics in Government Ordinance has undergone legal review and certain amendments have been proposed to said Section III, most particularly to subsections G, M, and N, defining the roles of the Ethics Committee, Special Prosecutor, and Investigator; and



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WHEREAS, The proposed amendments have gone through all necessary readings and public comment period as required by Tribal law; and

WHEREAS, Based on its review and discussion of the Ethics Ordinance Section III proposed amendments, it is the considered decision of the Tribal Business Council that such amendments to Section III of the MHA Nation Ethics in Government Ordinance are necessary and shall be approved and adopted in the best interests of the Tribes and the enrolled members thereof.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Business Council of the Three Affiliated Tribes hereby approves the proposed amendments to Section III of the MHA Nation Ethics in Government Ordinance and hereby adopts the amended Section III, which is attached, to be effective immediately as provided by Tribal law.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 12th day of September, 2019; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [X] Voting. [] Not voting.

Dated this 12th day of September 2019.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council
Three Affiliated Tribes

Tribal Chairman, Mark Fox
Tribal Business Council
Three Affiliated Tribes

SECTION III. IMPLEMENTATION AND COMPLIANCE WITH ETHICS
ORDINANCE; DUTIES AND RESPONSIBILITIES OF ETHICS AND
RULES COMMITTEE; INVESTIGATIONS; HEARINGS; FINDINGS;
AND APPEALS

A. Establishment of the Ethics and Rules Committee of the MHA Nation

There is hereby established an Ethics and Rules Committee which shall be appointed by majority vote of the Tribal Business Council and shall consist of three (3) licensed attorneys who are not employed by the MHA Nation of any of its subdivisions or entities. Members of the Ethics and Rules Committee shall be appointed to four (4) year terms and shall only be subject to removal during such term for failing to fulfill duties under this Ordinance or for cause. A violation of this Ordinance shall constitute cause for removal.

B. Powers and Duties of Ethics and Rules Committee

The Committee shall have the specific duties, responsibilities and authority to:

1. Ensure that all appropriated measures are taken for protecting the confidentiality of all statements, records, documents, other materials, and information designated as such by this Ordinance or by any other applicable rules or regulations of the MHA Nation or other competent jurisdiction.
2. Provide written advisory opinions to guide the conduct and address specific questions when requested by officials and employees who are subject to this Ordinance.
 - a. All opinions shall be confidential and maintained by the Ethics Committee;
 - b. All opinions shall be binding upon the Committee, with regard to matters related to the specific request, until amended or revoked by the Committee
3. The Committee may initiate and/or receive, review and/or investigate complaints filed with the Committee.
4. The Committee may conduct Administrative Hearings to determine violations or non-compliance with this Ordinance. All Committee hearings shall follow Rules of Procedures established and adopted by the Committee. The Committee may employ a special prosecutor to present the charges presented under any complaint filed under this Ordinance.

C. Retaliation Prohibited

1. Retaliation against any party or witness to a complaint shall be prohibited. Retaliation shall include any form of adverse or punitive action. This protection shall also be afforded to any person(s), including Committee members, the prosecutor,

staff, or anyone offering testimony or evidence or complying with directives of the Committee.

2. Any violations shall be subject to penalties under this Ordinance, as well as obstruction and contempt violations of both the civil and criminal codes of the MHA Nation.

D. Complaints

Any individual may file a written complaint with the Ethics Committee for an alleged violation of this Ordinance. The complaint shall include the name of the individual alleged to have violated this Ordinance, the facts surrounding the alleged violation and the section of this Ordinance alleged to have been violated. The complaint shall be signed and dated.

E. Dismissals

The Committee may summarily dismiss without hearing any complaint which the Committee determines has insufficient facts to constitute a violation or non-compliance to this Ordinance; or if there is insufficient evidence to support the allegations; or if the Committee lacks personal and subject matter jurisdiction.

F. Statute of Limitations

No action shall be brought under this chapter more than two (2) years after the alleged act took place.

G. Administrative Hearings

1. The Committee, in the capacity of a quasi-judicial body, may conduct administrative hearings on any alleged violation or noncompliance with this Ordinance.
2. The Committee may impose or recommend any sanctions, civil damages, restitution, or other penalties provided in this chapter, or refer their findings to other appropriate entities for action.
3. Upon completion of the administrative hearing, the Committee shall immediately deliberate in executive session and by memorandum render its findings of facts, conclusions of law and orders regarding sanctions. The memorandum shall be issued no later than 30 days after the conclusion of the hearing and deliberations.

H. Notice of Final Decision of Committee

The individual who is the subject of a complaint shall be given notice of the Committee's final decision along with a copy of the memorandum within three days of entry of the findings of fact, conclusions of law and order. The notice shall include notice of the right

to appeal to the Fort Berthold District Court if the Committee determines that a violation of this Ordinance occurred.

I. Appeals to Fort Berthold District Court

1. The Fort Berthold District Court shall have jurisdiction to hear appeals from final decisions. Appeals shall be limited to questions of law and a review of the record to ensure that the findings of the Committee are consistent with the evidence provided at the hearing. The decision of the Fort Berthold District Court shall be final.
2. A notice of appeal shall be filed within ten (10) business days of the issuance of a written decision.

J. Committee's Power as a Quasi-Judicial Body

1. The Committee may hold in contempt any person found disobeying any lawful order, process, writ, finding or direction of the Committee.
2. The Committee is authorized to administer oaths and issue subpoenas to compel attendance and testimony of witnesses, or to produce any documents relevant to the matter before the Committee.
3. The Committee shall maintain a complete record of all hearings, including all testimony and documents presented as evidence.
4. The Committee shall not be bound by formal rules of evidence.
5. The Committee shall generally conduct all hearings in open session. All records, transcripts, and other documents in the possession of the office shall remain confidential unless such information is submitted by the office as evidence.
6. The Committee shall cause a copy of any order or decision to be delivered to the Tribal Business Council.

K. Committee Conflict of Interest

No Committee member shall hear matters before the committee, which involve a member of his/her immediate family and/or personal economic interest and shall be subject to all applicable provisions of this Ordinance.

L. Independent Legal Counsel

Subject to all applicable laws, the Committee may obtain independent legal counsel to assist and advise the Committee.

M. Investigator

1. The Committee may hire an Investigator to investigate complaints and report written findings to the Committee.

N. Special Prosecutors

1. If the Committee has not dismissed the Complaint, and the Complainant is no longer available, the Committee may hire a special prosecutor to pursue and present the Complaint.
2. The Special Prosecutor may utilize the Investigator to further pursue investigation and presentation of the Complaint.
3. The Committee shall not receive additional information or findings from the Investigator after a special prosecutor has been appointed, other than receipt of testimony at a hearing.
4. In the event of any administrative proceeding under this Ordinance in which the MHA Nation, through a Special Prosecutor, is a complainant against a person, any other complaint filed against such person hereunder (whether filed before or after the date on which the MHA Nation became complainant) shall abate and shall be dismissed without prejudice, as to any common allegation of prohibited conduct.

O. Other Relief Not Barred

Nothing herein shall be construed as foreclosing the right of the MHA Nation, through a Special Prosecutor or otherwise, to initiate proceedings to secure the relief and sanctions referred to in Section 4(B) and Section 4(C) of this Ordinance.