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

* + 1. 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.

* + 1. 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.
3. All opinions shall be confidential and maintained by the Ethics Committee;
4. All opinions shall be binding upon the Committee, with regard to matters related to the specific request, until amended or revoked by the Committee
5. The Committee may initiate and/or receive, review and/or investigate complaints filed with the Committee.
6. The Committee ~~shall~~ **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.
   * 1. Retaliation Prohibited
7. 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.
8. 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.
   * 1. 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.

* + 1. 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.

1. Statute of Limitations

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

1. Administrative Hearings
   1. The Committee, in the capacity of a quasi-judicial body, ~~shall~~ **may** conduct administrative hearings on any alleged violation or noncompliance with this Ordinance.
   2. ~~The Committee shall act in the capacity of complainant on matters to be heard by the Committee.~~

~~3~~ 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.

~~4~~ 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 ~~5~~ **30** days after the conclusion of the hearing and deliberations.

1. 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.

1. Appeals to Fort Berthold District Court
2. 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.
3. A notice of appeal shall be filed within ten (10) business days of the issuance of a written decision.
4. Committee’s Power as a Quasi-Judicial Body
5. The Committee ~~shall~~ **may** hold in contempt any person found disobeying any lawful order, process, writ, finding or direction of the Committee.
6. 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.
7. The Committee shall maintain a complete record of all hearings, including all testimony and documents presented as evidence.
8. The Committee shall not be bound by formal rules of evidence.
9. 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.
10. The Committee shall cause a copy of any order or decision to be delivered to the Tribal Business Council.
11. 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.

1. Independent Legal Counsel

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

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

~~M~~ N. Special Prosecutors

~~1.~~ ~~Notwithstanding any provisions in this ordinance, any Special Prosecutor appointed~~

~~pursuant to this Ordinance shall have the following powers and authority in~~

~~connection with any administrative proceeding under this Ordinance, exercisable in~~

~~the name of the MHA Nation, with respect to any matter within such Special~~

~~Prosecutor’s jurisdiction.~~

~~a.~~ ~~To file a complaint alleging a violation of this chapter by any person subject~~

~~thereto;~~

~~b.~~ ~~To prosecute the complaint and represent MHA Nation’s interest in any and all~~

~~proceedings thereon;~~

~~c.~~ ~~To exercise an unconditional right to intervene and be substituted as the~~

~~complainant in any proceeding pending under this ordinance, without regard to~~

~~the stage of such proceedings.~~

~~d~~. ~~To exercise any subpoena powers for the purpose of investigating any~~

~~complaints and alleged violations of this Ordinance upon all persons and~~

~~entities under the jurisdiction of the Three Affiliated Tribes.~~

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.**

~~2~~ 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.

~~N~~ 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.