



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

A Resolution Entitled: *Tribal Business Council Adoption of Policy and Procedure for enacting tribal Codes, and providing for a public Comment Period for Tribal Codes.*”

**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 pursuant to said Act; and

**WHEREAS,** Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

**WHEREAS,** The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

**WHEREAS,** Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

**WHEREAS,** Article VI, Section VI, Section 3 of the Constitution grant the Tribal Business Council all necessary sovereign authority, both legislative and judicial for the purpose of exercising the jurisdiction granted by Article I of the Constitution; and

**WHEREAS,** pursuant to those powers the Tribal Business Council regularly adopts tribal codes, ordinances and laws but does not have any resolution, ordinance or other regulation that governs the process for adopting tribal codes and requiring public notice and input prior to the adoption of tribal codes, ordinances or laws; and

**WHEREAS,** The Tribal Business Council believes it should adopt a policy and procedure for adopting tribal codes and requiring public notice and input prior to the adoption of a tribal code, Ordinance or law.

## **Three Affiliated Tribes Procedure For Enacting Tribal Codes.**

- I. **Purpose:** The Purpose of this Policy is to provide procedures governing the enactment of tribal codes by the Tribal Business Council of the Three Affiliated Tribes to ensure that tribal codes are enacted in a uniform and consistent manner, to ensure an adequate review period by the Council prior to enactment of any proposed code, and to allow maximum public participation in the enactment of tribal codes by providing for a public notice and comment period.
- II. **Application:** The rules set forth in this Policy apply to the drafting, review and enactment of any tribal code and any amendments to a current tribal code. These rules may also be applied to the adoption of any policy adopted or considered for adoption by the Tribal Council at the option of the Tribal Council.
- III. **Definitions:**
  1. **Council:** means the Tribal Business Council of the Three Affiliated Tribes
  2. **Amendment:** means any change or proposed change to any provision of the Tribal Code.
  3. **Committee:** Means a Standing Committee of the Tribal Council as established by the Council including the Natural Resources, Judicial, Economic Development, Executive, and Health and Human, and Executive Committees.
  4. **Code:** means a law that is enacted by the Tribal Council and codified into the Three Affiliated Tribes Tribal Law and Order Code.
  5. **Enact:** means an action by the Council establishing a code as tribal law.

6. Policy: means a document setting forth general principles and rules governing the management of the Tribal government on any particular subject matter but that is not a tribal code.
7. Proposed Code: means a draft tribal code that is proposed for enactment, or any amendment to an existing tribal code that is proposed for enactment.
8. Read: means the formal action and process by which the Council or committee reviews a proposed code during a formal session.

IV. **Process for Drafting Tribal laws:** The following process shall be adhered to when proposing and drafting tribal codes.

1. Proposals for new tribal codes or amendments to existing codes may be made at the direction of the Tribal Council, a Committee, or any member of the Council or at the request of any tribal program or a tribal member.
2. When the Council directs that a tribal code or an amendment to a tribal code be drafted, the Council shall direct a tribal program or department to be responsible for drafting and submitting the code for approval to the proper Committee and Council for review, reading and enactment in accordance with this policy.
3. All proposed codes shall be drafted and enacted as tribal codes and codified as part of the Three Affiliated Tribes Tribal law and Order Code and shall be assigned a Title number or designated as part of a current tribal code Title. The Three Affiliated Tribes Tribal Code shall be organized according to titles, chapters and sections.
4. The Tribes Legal Department shall review and approve all proposed codes prior to submission to the Committee and Council.

V. **Reading and Committee and Council Review Requirements.**

1. All proposed codes shall be read by the Council a minimum of three times.
2. The first draft of a proposed code shall be submitted first to the Committee having jurisdiction over the subject matter of the code for the first reading.

The proposed code shall be clearly marked "first draft" The proposed code shall be submitted to each member of the Committee with a memorandum explaining the proposed code at least 5 days prior to the date of the Committee meeting at which the proposed Code will be read by the Committee. The Committee shall conduct the first reading of the proposed code at the meeting in which it has been properly placed on the Committee agenda.

3. Upon submission to the Committee having jurisdiction over the proposed code ,the Committee shall conduct the first reading of the proposed code and vote to move it forward to the Tribal Business Council or it may vote to make amendments to the first draft. Any amendments to the first draft made by the Committee shall be incorporated into the second draft by the program or department responsible for drafting the proposed code.
4. Upon approval by the Committee, the second draft of the proposed code shall be placed on the Agenda for the next regular Tribal Business Council meeting under the standing Committee's agenda. The Council shall then conduct the second reading of the proposed code and may vote to make further amendments to the proposed code at that time. Any amendments made by the Council to the second draft of the proposed code shall be incorporated into a third draft. Upon approval of second or third draft by the Council the proposed code shall be referred for public notice and comments as set forth in Section VI of this Policy. The Council may also vote to table the code for further action, information or amendments.
5. The proposed code shall then be published and be opened for a thirty day public comment period. The published draft shall be the final draft and be clearly marked as such.

**VI. Public Notice and Comment Period.**

1. The final draft shall be published in the MHA times and may also be posted on the Tribe's Website and on the Tribes email system for a thirty day period with a notice in the following form:

Date:

To the members of the Three Affiliated Tribes:

Please take Notice that the Tribal Business Council of the Three Affiliated Tribes has approved the following Draft Code to be considered for enactment by the Tribal Business Council at its regularly scheduled Tribal Business Council Meeting on \_\_\_\_\_. The Tribal Business Council is taking comments from the public on the proposed Code and will consider your comments when it takes final action on the enactment of the Code. You shall have thirty days from the date of this publication to submit comments. Written Comments should be submitted to the Office of the Tribal Secretary by either hard copy or by electronic transmission via the Tribal email system. Comments must be in writing and be signed by the individual submitting the comments. Comments shall be received until \_\_\_\_\_.

2. The Code and Notice may also be published in local and segment tribal offices.
3. All comments must be in writing and be signed by the individual submitting the comments.
4. Comments shall be submitted to the Office of the Tribal Secretary in a sealed envelope and be identified on the outside of such envelope as comments on the proposed Code. Comments may also be submitted via electronic transmission via the Tribal email system to the Tribal Secretary's Office.
5. Copies of the comments shall be provided to the Legal Department or to the program or individual responsible for drafting the code. Originals of all comments shall be maintained by the Secretary's Office.
6. The final draft shall not be acted upon by the Tribal Business Council until the comment period has closed.
7. The program/individual responsible for drafting the Code shall ensure that the proposed code is placed on the Tribal Council Agenda in accordance with the date set out in the Notice and shall also ensure that each member of the Tribal Council is furnished with copies of the Comments and the final draft of the code at least seven days prior to the date set for enactment of the Code.

8. The Tribal Business Council shall conduct the final reading of the proposed code and may take any comments into consideration when making a final decision to enact the code or use the comments to make amendments to the final draft. Comments shall not be binding on the Council. If the Council votes to make amendments to the final draft the amendments shall be incorporated into the final enacted draft and the proposed code may be enacted at that time.
9. The final code draft shall be adopted by resolution of the Tribal Business Council and shall become effective immediately upon its enactment unless a later date is indicated by the Tribal Council.
10. In the event of an emergency as determined by the Tribal Council, any provision of this Policy may be waived by the Tribal Council.
11. Copies of the final adopted Code shall be forwarded to the Tribal Court and other tribal agencies as appropriate by the Legal Department.
12. The (legal, tribal court or Secretary's office) shall be responsible for maintaining the tribal code. This should be addressed as it has been an issue.

**This Policy was adopted by the Tribal Business Council on  
Pursuant to Tribal Business Council Resolution 08 MP**



**NOW, THEREFORE BE IT RESOLVED**, that the Tribal Business Council hereby adopts the Attached policy and procedure governing the adoption of tribal codes by the Tribal Business Council which is herewith attached to this Resolution and made a part hereof.


**CERTIFICATION**

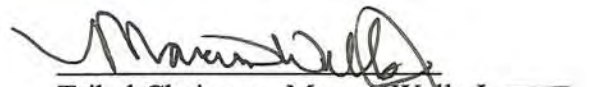
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 3rd day of April 2008; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ **X** ] voting. [ ] not voting.

Dated this 3rd day of April 2008.

**ATTEST:**

  
Acting Tribal Secretary, Mervin Packineau  
Tribal Business Council  
Three Affiliated Tribes

  
Tribal Chairman, Marcus Wells Jr.  
Tribal Business Council  
Three Affiliated Tribes