



AMENDED

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

A Resolution Entitled: *“Establishment of Procedures for the Election of Chief Judge of the Fort Berthold District Court”*

- 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 3 of the Constitution provides that the Tribal Business Council is granted all necessary sovereign authority both legislative and judicial for the purpose of exercising the jurisdiction granted by Article I of the Constitution and authorizes the Tribal Business Council to delegate to the Tribal Court such judicial power and authority as may be necessary to realize the jurisdiction granted by Article I of the Constitution; and
- WHEREAS,** the Tribal Business Council, pursuant to its Constitutional authority adopted a Tribal Law and Order Code including Title I which establishes the Tribal Court under Chapter 1, Section 2 whereby the judicial power of the people is vested in the Fort Berthold Judiciary and the Fort Berthold District Court; and
- WHEREAS,** Title I, Chapter 1, Section 4.1 establishes the position of the District Judge for the Fort Berthold District Court and provides that the District Judge shall serve as the Chief Judge of the District Court and shall have authority to hear all civil and criminal matters, issue orders and handle all matters that arise before the Court;



WHEREAS, Title I, Chapter 1, Section 4.1 further provides that the District Judge shall be appointed by the Tribal Business Council for a term of two years and must be a licensed attorney with experience in federal Indian law; and

WHEREAS, the two year term of the current Chief Judge of the Fort Berthold District has expired, however a new Chief Judge has not been appointed and the Tribal Business Council believes that the position of Chief Judge should be subject to the popular vote of the People of the Fort Berthold Indian Reservation through an election as had been the practice of prior Tribal Business Council Administrations; and

WHEREAS, The Tribal Business Council believes that in order to conduct a fair, open and honest election for the position of Chief Judge of the Tribal Court, a Resolution should be adopted establishing the criteria for the position of Chief Judge and establishing procedures for the conduct of such election.

NOW, THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation pursuant to its Constitutional and statutory powers hereby determines that the position of Chief Judge of the Fort Berthold District Court shall be elected by the popular vote of the qualified voters of the Three Affiliated Tribes pursuant to an election conducted for such position; and

BE IT FURTHER RESOLVED, that the election for the position of Chief Judge of the Fort Berthold District Court shall be conducted according to the following election rules and procedures:

1. **Date of Election:** The first election held under this Resolution shall be held on August 5th, 2008. Each election thereafter shall be held on the Tuesday next after the first Monday in November in every even numbered year.
2. **Term:** The term of the Chief Judge elected at the first election held under this Resolution shall be for a two year term commencing November 5th, 2008 and ending after the next general election. Thereafter the term for the Chief Judge shall be for a period of two years beginning with the first day after each Tribal General Election and ending two years thereafter.
3. **Qualifications:** In order to be eligible to be a candidate for the position of Chief Judge of the Fort Berthold District Court the candidate must be a North Dakota licensed attorney or agree to become licensed in the state of North Dakota within 12 months of assuming office and have demonstrable knowledge,



experience and background in federal Indian law. The candidate does not need to be a resident of the Fort Berthold Indian Reservation.

4. Eligibility to Vote. In order to vote in an election for the position of Chief Judge, an individual shall meet the requirements for voting in elections set out in Article IV Sections 2 (a) and 2 (b) of the Constitution.
5. Election Procedures: The following procedures shall govern the conduct of elections for the position of Chief Judge:
 - a) Elections shall be conducted by the Three Affiliated Tribes Election Board established by the Three Affiliated Tribes Election Ordinance and in accordance with the Rules prescribed in this Resolution and the applicable Rules of the Three Affiliated Tribes Election Ordinance.
 - b) The Secretary of the Tribal Business Council shall give a Notice of Election to the eligible voters of the Tribes at least 60 days prior to the date of the election. The Notice shall set forth the date, time and location of the polling places, the qualifications for the position of Chief Judge, and the procedure and deadline for filing a Notice of Candidacy. The Notice of Election shall conform in all other matters to the applicable Rules set out in Part II, Section 2 of the Election Ordinance.
 - c) In order to be eligible to be a candidate in an election for the position of Chief Judge an individual meeting the qualifications for the position shall file a Notice of Candidacy with the Tribal Secretary on a form prescribed by the Secretary at least forty-five (45) days prior to the date set for the election along with a non-refundable twenty-five dollar filing fee. A copy of the Notice of Candidacy form can be secured by a prospective candidate from the Secretary's Office. The Secretary's Office shall promptly submit to the Tribal Election Board each Notice of Candidacy so filed.
 - d) After the deadline for filing the Notice of Candidacy, the Election Board shall convene and promptly review each Notice of Candidacy and rule on the eligibility of the respective candidates within three days after the deadline for submitting Notices of Candidacy and certify those candidate that are eligible as candidates for the Office of Chief Judge of the Fort Berthold District Court. The Election Board shall promptly give written notice to all candidates regarding the eligibility determination.
 - e) In the event a candidate is determined ineligible, the Election Board shall follow the rules prescribed in Part V, Section 2 B of the Election Ordinance.



- f) The Election Board shall publish a second Notice of Election at least thirty (30) days prior to the date set for the Election which shall list the candidates who have been certified by the Board as candidates for the office of Chief Judge. The Notice shall also include the date, time and polling place for the election as well as a statement regarding eligibility to vote in the election. The Notice shall be published in accordance with the rules prescribed by Part II, Section 2 of the Election Ordinance.
 - g) Voters shall register to vote in the election according to the rules prescribed in Article IV of the Election Ordinance.
 - h) The applicable Rules prescribed in Part II, Section 1, 2, 3, 4 and 5, Part IV, Part V, Part VI, Part VII, Part IX and Part X of the Election Ordinance shall govern the conduct of all elections for the position of Chief Judge.
6. Upon certification of the election results by the Election Board, the Chief Judge shall be sworn in by the Chairman of the Three Affiliated Tribes within three days of the date of the certification by the Election Board.
 7. Removal from Office: The Chief Judge may only be removed from office in accordance with the MHA Nation Ethics in Government Ordinance, provided that in addition to the Standards of Conduct and Restricted Activities of Public Officials, Section 2 of the Ethics Ordinance, which provides the grounds upon which public officials can be removed from office or otherwise sanctioned by the Ethics and Rules Committee, the Chief Judge may also be removed from office or sanctioned according to the Ethics in Government Ordinance for a violation of the North Dakota Judicial Rules of Conduct.
 8. Compensation: Compensation for the Chief Judge of the Fort Berthold District Court shall be established by the Tribal Business Council based on qualifications and experience but shall be no less than eighty thousand (80,000.00) dollars per year.
 9. Duties and responsibilities of the Chief Judge: The duties and responsibilities of the Chief Judge shall be as set out in the Tribal Code and the job description established by the Tribal Business Council. The Chief Judge shall be bound and abide by the North Dakota Rules of Judicial Conduct. The Chief Judge shall be under the immediate supervision of the Tribal Business Council or as determined by contract and shall be subject to the personnel policies and procedures manual of the Three Affiliated Tribes. Additional terms of employment shall be set by contract.



BE IT FINALLY RESOLVED, that this Resolution shall remain in full force and effect for all future elections for the position of Chief Judge of the Fort Berthold District court until it is rescinded or repealed by the Tribal Business Council and all prior statutes, rules, policies ordinances or resolutions, including specifically Tribal Business Council Resolution 86-219(C), and any inconsistent provisions set out in Title I, Chapter 1, § 4.6 of the Tribal Code, which conflict with or are inconsistent with this Resolution are hereby repealed and of no further force or effect.

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, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 16th day of Special 2008; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 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 [] voting. [] not voting.

Dated this 16th day of July 2008.

ATTEST:

Barry L. Benson
Acting Tribal Secretary, Barry L. Benson
Tribal Business Council
Three Affiliated Tribes

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