



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

A Resolution entitled, "Approval of the Three Affiliated Tribes—Heavy Vehicle Tax and Registration Ordinance"

WHEREAS, The Mandan Hidatsa and Arikara Nation ("MHA Nation") having accepted the Indian Reorganization Act of June 18, 1934 ("IRA"), and the authority under said Act and having adopted a Constitution and By-Laws pursuant to said Act; and

WHEREAS, The Constitution of the Nation generally 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 MHA Nation and of the enrolled members thereof; and

WHEREAS, Article III, Section 1 of the Constitution of the Nation provides that the Tribal Business Council is the governing body of the MHA Nation; and

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

WHEREAS, The MHA Tax Commission has been empowered to administer the tax laws of the MHA Nation and to formulate and submit for approval to the full Tribal Business Council recommendations as to Tribal Taxes; and

WHEREAS, The MHA Tax Commission has met and has forwarded to the Tribal Business Council for approval the Heavy Vehicle Tax and Registration Ordinance that includes a Heavy Vehicle Tax that shall be assessed against the activity of the use of tribal highways and roadways within the exterior boundaries of the Fort Berthold Reservation by heavy weight vehicles, defined as vehicles with gross weights equal to or exceeding 10,000 pounds; and

WHEREAS, The MHA Tax Commission has met and has forwarded to the Tribal Business Council for approval the Heavy Vehicle Tax and Registration Ordinance, which includes an annual Registration requirement and fee that shall be enforced and assessed on all commercial vehicles operating on tribal highways and roadways within the exterior boundaries of the Fort Berthold Reservation; and

WHEREAS, The proposed Heavy Vehicle Tax and Annual Registration Fee shall be assessed against the owner or operator of the vehicle on an annual basis; and



WHEREAS, The Tax Commission recommends the Heavy Vehicle Tax be assessed as an annual fee for the use of tribal highways and roadways within the exterior boundaries of the Fort Berthold Reservation by heavy weight vehicles; and

NOW THEREFORE BE IT RESOLVED, the Tribal Business Council hereby adopts and approves the "Heavy Vehicle Tax and Registration Ordinance" attached hereto and incorporated herein, to be assessed annually on heavy and/or commercial vehicles operating on tribal highways or roadways within the exterior boundaries of the Fort Berthold Reservation.

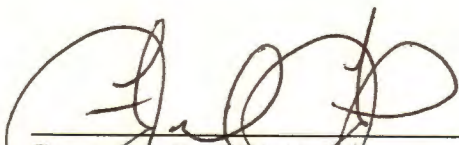
CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular meeting thereof duly called, noticed, convened and held on the 11th day of January, 2017, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

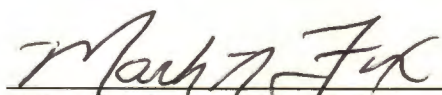
Chairman [] Voting. [] Not Voting.

Dated this 11th day of January, 2017.

ATTEST:



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



Tribal Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes

**THREE AFFILIATED TRIBES TAX CODE
CHAPTER TWELVE
HEAVY VEHICLE USE TAX**

Section 1. Short Title and Administration

This tax imposed by this Chapter shall be known as the Mandan Hidatsa & Arikara Nation, Three Affiliated Tribes (TAT) The Heavy Vehicle Use Tax shall be administered by the office of the Tax Commission. The Registration requirements of this chapter shall be administered by the Department of Transportation.

Section 2. Purpose and Scope

One of the primary responsibilities of the MHA Nation is to protect public safety, health, and welfare by ensuring safe and well-maintained roads for its community members, businesses, and visitors. However, due to a surge in use by heavy vehicles, the roads of the MHA Nation are in very poor condition and show continuing decline. There is considerable need for new funds to address the road repair needs of existing infrastructure and to address known traffic safety needs. A new revenue generating mechanism is necessary because the current roads and infrastructure budget is insufficient to address the multitude of problems.

The MHA Nation hereby finds and determines that the imposition of a tax on the ownership and use of heavy vehicles within the exterior boundaries of the Fort Berthold Indian Reservation is an effective way to regulate the presence and use of heavy weight vehicles, and that such regulation is vital to the economic security, political integrity and general welfare of the MHA Nation.

The purpose of this Ordinance is to assess and collect a tax upon use of heavy vehicles for commercial and/or industrial and farm and livestock uses within the exterior boundaries of the Fort Berthold Indian Reservation and to establish a vehicle registration process.

Section 3. Reservation of Right

The MHA Nation hereby fully reserves the right to amend, alter, increase or decrease the tax imposed herein, or repeal the provisions of this ordinance, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 4. Definitions

The following words, terms and phrases, when used in this Ordinance, have the meaning ascribed to them unless otherwise required by context:

- (1) "Business" includes any activity engaged in by any person or caused to be engaged in by him with object of gain, benefit, or advantage, either direct or indirect;

- (2) “Commercial Motor Vehicle” means a motor vehicle that is used or maintained primarily for business purposes, including for the transportation of persons for hire, compensation, or profit and for the transportation of property, equipment, and waste.
- (3) “Gross Weight” means the sum of the actual unloaded weight of the vehicle fully equipped for service, the actual unloaded weight of any semitrailers or trailers fully equipped for service customarily used in combination with the vehicle, and the weight of the maximum load customarily carried on the vehicle and on any semitrailers or trailers customarily used in combination with the vehicle.
- (4) “Motor Vehicle” means any vehicle propelled by means of its own motor, whether such motor is powered by gasoline, diesel fuel, special motor fuels, electricity, or otherwise.
- (5) “Owner” means not only the titled owner of a motor vehicle but also any person, firm, partnership, association, or corporation renting a motor vehicle or having the exclusive use by a lease or otherwise, as well as any person operating or driving a motor vehicle upon any highway or road within the exterior boundaries of the Fort Berthold Indian Reservation.
- (6) “Person” includes any individual, municipality, local government, firm, partnership, joint venture, association, corporation, municipal corporation, cooperative, estate, trust, business trust, receiver, or any group or combination acting as a unity, and plural as well as the singular in number;
- (7) “Registration” means the process of registering and the requirement to register a motor vehicle with the MHA Nation Department of Transportation;
- (8) “Use” means the exercise by any person of any right or power over a motor vehicle incident to the ownership or possession of such a vehicle,

Section 5. Imposition of Heavy Vehicle Use Tax

- (1) For the tax years beginning on or after January 1, 2017, an annual Heavy Vehicle Use Tax is imposed on taxpayers who own or operate a Heavy Vehicle on streets owned or maintained by the MHA Nation. For the purposes of this tax, a heavy vehicle is any motor vehicle with a gross weight over 10,000 pounds.
- (2) The Heavy Vehicle Use Tax is assessed annually on heavy vehicles operating on tribal roads at registered gross weights equal to or exceeded 10,000 pounds.
- (3) The gross taxable weight of a vehicle is determined by adding:
 - (a) The actual unloaded weight of the vehicle fully equipped for service, and
 - (b) The actual unloaded weight of any trailers or semitrailers fully equipped for service customarily used in combination with the vehicle, and
 - (c) The weight of the maximum load customarily carried on the vehicle and on any trailers or semitrailers customarily used in combination with the vehicle.

(4) The schedule of the heavy vehicle use tax is as follows:

Gross Vehicle Weight	Assessed Tax
10,001-15,000	\$354
15,001-20,000	\$482
20,001-26,000	\$591
26,001-30,000	\$746
30,001-35,000	\$874
35,001-40,000	\$1,024
40,001-45,000	\$1,125
45,001-50,000	\$1,272
50,001-54,999	\$1,393
55,000-60,000	\$1,571
60,001-65,000	\$1,716
65,001-70,000	\$1,870
70,001-75,000	\$2,204
75,001-80,000	\$2,271

Section 6. Incidence of the Tax

The incidence of the tax imposed by this Chapter is declared to be on the owner or the operator of the motor vehicle.

Section 7. Exemptions from the Heavy Vehicle Use Tax

The following are specifically exempted from taxes imposed in this Ordinance:

- (1) The government of the Tribes or any subdivision or enterprise of the government of the Tribes, to the extent of the Tribes' ownership.

- (2) Charity, church or school groups.
- (3) Persons engaged primarily in the sale of food stuffs.
- (4) First responders and/or emergency response crews.
- (5) Motor vehicles owned by a public utility or a licensed contractor of a public utility while necessary for the construction, installation, or repair of any public utility.

Section 8. Administration and Enforcement of Tax

- (1) The provisions of Chapter 3, "Assessment, Collection and Non-Compliance Penalties" of the Tribal Tax Code of the Three Affiliated Tribes shall govern the assessment, administration, and enforcement of the tax on the use of tribal roads by heavy vehicles imposed herein.
- (2) Upon a taxpayer's remittance of the Heavy Vehicle Use Tax to the Tax Commission, the Director of the Tax Commission shall provide the taxpayer with a receipt of payment.
- (3) The MHA Nation's law enforcement services, TERO Compliance Officers, DOT Motor Carriers and Game and Fish Department officers shall have authority to stop, inspect, and investigate all commercial motor vehicles using tribal roadways for compliance with this Ordinance. Upon finding a person in violation of this Ordinance, the officer shall take the person's name, address, license number of the vehicle, the driver's license number of the person, and the name and address of the person's employer and forward this information to the Tax Commission and to the TERO Commission for consideration of the employer's TERO License.

Section 9. Imposition of Vehicle Registration Fee

The MHA Nation hereby adopts a commercial vehicle registration fee, which will be calculated based on the motor vehicle's gross weight. Trailers and semitrailers customarily used in combination with motor vehicles for a commercial use are taken into account in determining the taxable gross weight of the motor vehicle.

Section 10. Application for Commercial Registration

- (a) Application for original registration and for renewal of registration shall be made to the MHA Nation Department of Transportation upon forms prescribed by the Director of the Department of Transportation and shall be accompanied by the required fee.
- (b) Registration of a motor vehicle shall occur on an annual, (January through December) calendar-year basis. The registration fee may be prorated based on the month of registration.

- (c) Motor vehicles to be registered for the first time with the MHA Nation must be registered and filed in person. Applications for original registration of a vehicle shall contain the following information:
- (1) The name of the owner.
 - (2) The address of the owner.
 - (3) A description of the vehicle, including make, model, vehicle identification number, and any other information with the MHA Nation may reasonably require for proper identification of the vehicle.
 - (4) The gross weight of the vehicle plus the heaviest load that will be transported on the vehicle.
 - (5) Receipt of the payment of the Heavy Vehicle Use Tax, if applicable to the vehicle.
 - (6) Proof of Financial Responsibility (Insurance).
 - (7) Such further information as the Director may reasonably require to enable her/him to determine whether the vehicle is by law entitled to registration or to enable her/him to determine the proper registration fee for the vehicle.

Section 11. Annual Commercial Registration Fees

- (a) A registration fee as set forth herein shall be paid for all motor vehicles used for a commercial purpose, not exempted by Section 7 of this Chapter, using the public streets or roads of the Fort Berthold Reservation for each calendar year on the following basis:
- (1) Motor vehicles with no more than two axles and a gross weight of more than 4,000 pounds, \$50.00 per year.
 - (2) Motor vehicles with three or more axles and a gross weight of 0-5,000 pounds, \$100.00 per year.
 - (3) Motor vehicles with three or more axles and a gross weight of 5,001-10,000 pounds, \$200.00 per year.
 - (4) Motor vehicles with three or more axles and a gross weight of more than 10,000 pounds, \$500.00 per year.

Section 12. Issuance and display of certificates of registration; issuance of duplicate certificate.

- (1) The Director of Transportation upon registering a vehicle shall issue and deliver to the owner a certificate of registration. The certificate shall contain the name and address of the owner, a brief description of the vehicle, the registration number assigned and the date of expiration of registration. The certificate shall be in such form and may contain such additional information as the Director deems advisable.
- (2) The Director shall issue a duplicate certificate of registration or commercial motor vehicle sticker upon application thereof by any person in whose name the vehicle is registered and upon payment of a fee of \$2.50.

- (3) The certificate shall be carried in the vehicle and be subject to examination upon demand by any officer of MHA Nation.

Section 13. Issuance of Weight Decal Sticker

- (1) The Transportation Department, in consultation with the Tax Commission, shall design and make available a set of distinctive weight decals that reflect the declared gross combined weight reported to the Department at the time of initial registration, registration renewal, or when a weight change is reported to the Department. A new decal shall be issued one each renewal or when the weight is changed.
- (2) The Director, or his or her designee, shall issue two weight decal stickers for each motor vehicle required to be registered under this Ordinance. The stickers shall be securely fastened to the door of each motor vehicle in a conspicuous place.

Section 14. Compliance with Ordinance Required.

Every Owner or Operator of a commercial motor vehicle using the roads of this Reservation, whether engaged in business wholly in this Reservation, or partly in this Reservation and partly in an adjoining jurisdiction, shall comply with the provisions of this Ordinance.

Section 15. Penalties

Every Person who fails to register or to remit payment for the taxes imposed by this Ordinance shall be liable for the full amount of the tax owed plus interest at the statutory rate until paid. Additional penalties as described in Section 311 of the Tribal Tax Code of the Three Affiliated Tribes shall be applicable.

Failure to pay any fine may result in further legal proceedings including reporting the person to the company the person is employed with and further reporting such company to the TERO Commission for consideration of suspension of the companies TERO License.

Section 16. Revenue Distribution

All revenues derived from taxes, penalties and interest from this Ordinance and received by the MHA Nation shall be expended only to improve the quality and durability of existing roads or to construct new roads and supporting infrastructure.

Section 17. Administrative Appeal

Any appeals from assessments and denials of refund must be made first to the Tax Commission according to its procedures under Section 503 of the Tribal Tax Code of the Three Affiliated Tribes. Appeals from final actions of the Tax Commission, including, but not necessarily limited to assessments, denial of refund, and suspension orders, shall be made only to the Fort Berthold District Court.

Section 18. Rescission of Prior Law

By passage of this Ordinance, all other Resolutions or Ordinances establishing or relating to any of the Nation's transportation impact fees, vehicle registration, regulation of heavy vehicles and vehicle excise taxes are hereby repealed and superseded. This Ordinance expressly amends and supersedes, in part, to the fullest extent necessary to accomplish the purposes set forth in this Ordinance. Further, if there is any inconsistency or conflict between this Ordinance and any prior Ordinances or resolutions, the terms of this Ordinance shall control.

Section 19. Severability

If any section or any part of this Ordinance, or the application thereof to any party, person or entity or to any circumstance, shall be held invalid for any reason whatsoever, the remainder of the section or Ordinance shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

Section 20. Sovereign Immunity

Nothing in this Ordinance shall mean or be construed to be a waiver of the MHA Nation's sovereign immunity.

Section 21. Effective Date

This ordinance shall be effective immediately upon the passage of this Ordinance by Resolution.