



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

A Resolution entitled, “Adoption of Proposed Amendments to Title XV of the Tribal Code”

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, 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 Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Pursuant to Article VI, Section 5(1) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Council, its Agencies and Officials; and

WHEREAS, The Tribal Business Council adopted Title XV of the Tribal Law and Order Code entitled “Law Enforcement”; and

WHEREAS, The Tribal Business Council previously approved amendments to Title XV of the Tribal Law and Order Code on November 6, 2007, through Resolution No. 07-208-VJB; and

WHEREAS, The Tribal Business Council has determined it appropriate to adopt additional amendments to Title XV to, among other things, clarify its authority over all law enforcement functions on the Reservation and its authority to establish separate divisions of law enforcement, which amendments are attached to this Resolution.

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council determines that an emergency exists making it appropriate to waive the first reading and review required by Resolution 08-56-MP (Procedure for Enacting Tribal Codes) and hereby adopts the attached amendments to Title XV, effective immediately.

(SIGNATURE PAGE TO FOLLOW)



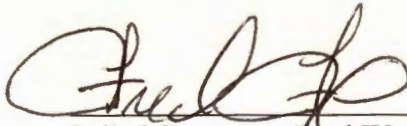
CERTIFICATION

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, 2018, 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.

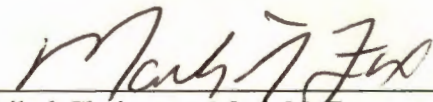
Chairman [X] Voting. [] Not Voting.

Dated this 11th day of January, 2018.

ATTEST:



Tribal Secretary, Fred W. Fox
Tribal Business Council



Tribal Chairman, Mark N. Fox
Tribal Business Council

TITLE XV LAW ENFORCEMENT

Chapter 1 General Provisions

Section 1.1 **Authority.** This Title is enacted by the Tribal Business Council of the Three Affiliated Tribes in accordance with Article VI, Section 3 of the Constitution and Bylaws of the Three Affiliated Tribes of The Fort Berthold Reservation.

Section 1.2 **Purpose.** The purpose of this Title is to establish a system of law enforcement and law enforcement oversight for the Three Affiliated Tribes in accordance with Article VI, Section 3 of the Constitution and Bylaws of the Three Affiliated Tribes of The Fort Berthold Reservation; to enforce the laws set out in the Three Affiliated Tribes Tribal Law and Order Code, the Tribal Constitution, and the applicable laws set out in Titles 18 and 25 of the United States Code; and to ensure performance of the Tribe's responsibilities set out within the Tribe's Public Law 93-638 Law Enforcement Contract with Bureau of Indian Affairs.

This Title is also intended to establish the reporting system for citizen complaints regarding suspected or alleged officer misconduct as required by The Tribes' Law Enforcement and Criminal Investigation Contracts with the Bureau of Indian Affairs.

Section 1.3 **Mission.** The mission of the Three Affiliated Tribes system of law enforcement shall be to recognize the statutory and judicial limitation of police authority; to recognize and protect the constitutional rights of tribal members and all persons within the jurisdiction of the Three Affiliated Tribes; to protect and uphold the sovereignty of the Three Affiliated Tribes through action and enforcement of the Tribe's laws and inherent authority; and to perform the function of law enforcement in a professional, fair and impartial manner.

Section 1.4 **Definitions.** The following definitions shall control this Title:

- 1.4.1 **Commission** shall mean the Tribe's Law and Order Commission
- 1.4.2 **Immediate Family** shall mean the spouse, children and members of the household of the Chief of Police, a Law Enforcement Officer, a Criminal or Special Investigator or a Law and Order Commission member.
- 1.4.3 **Reservation** shall mean the Fort Berthold Indian Reservation.
- 1.4.4 **Tribal Business Council** shall mean the duly elected governing body of the Three Affiliated Tribes.
- 1.4.5 **Tribal Employee** shall mean any individual employed by the Three Affiliated Tribes, its agencies or solely owned business enterprises.
- 1.4.6 **Tribal Law Enforcement Officer** shall mean any individual appointed or hired by the Tribe to enforce any law adopted by the Three Affiliated Tribes or the Federal Government, or a local

jurisdiction through cross-deputation agreements and includes any tribal uniformed police officer, criminal investigator, radio communication dispatcher or other law enforcement officer.

1.4.7 **Tribal Official** shall mean any person elected or appointed to the Tribal Business Council, or any board or commission created under this Title.

1.4.8 **Tribe** shall mean the Three Affiliated Tribes of the Fort Berthold Indian Reservation.

Section 1.5 **Severability.** Any provision or application of this Title determined to be invalid upon review by a competent court shall not render invalid any other provision of this Title.

Section 1.6 **Amendments.** Amendment to this Title shall be made in accordance with the Constitution and By-laws of the Three Affiliated Tribes

Section 1.7 **Sovereign Immunity.** Nothing in this Title shall act, or be interpreted to act, as a waiver of the sovereign immunity of the Three Affiliated Tribes. No manager, officer, or employee of the Tribal Law Enforcement Service, the Law and Order Commission or the Tribe shall be authorized, nor shall they attempt, to waive the immunity of the Tribe.

Chapter 2 Tribal Law Enforcement Service

Section 2.1 **Establishment of Tribal Law Enforcement Service.** The Tribal Business Council shall establish the Three Affiliated Tribes Law Enforcement Service to provide law enforcement and public safety services on the Reservation. The Tribal Business Council and the Law Enforcement Service shall ensure the Reservation has continuous law enforcement protection. The Law Enforcement Service shall be comprised of such agencies and divisions as the Tribal Business Council determines are necessary and proper to protect the health, safety, and welfare of all persons on the Reservation.

Section 2.2 **Authority of Tribal Law Enforcement Service.** The Tribal Business Council has the final authority over law enforcement functions on the Reservation. The Tribal Business Council authorizes the Tribal Law Enforcement Service to provide law enforcement on the Reservation and to exercise the following powers and duties:

- 2.2.1 To prevent, investigate, and aid in the prosecution of all crimes occurring within the exterior boundaries of the Fort Berthold Indian Reservation.
- 2.2.2 To enforce all tribal and federal laws, ordinances, and traffic regulations, including Title 18, Chapter 35 of the United States Code, provided that the tribal officer has received the BIA Special Law Enforcement Commission.
- 2.2.3 To execute warrants and other criminal and civil process
- 2.2.4 Assist the BIA and other federal local and state law enforcement officials in the investigation of tribal, state or federal offenses that occur on the Reservation.
- 2.2.5 To keep the peace and suppress disorder and civil disobedience.

- 2.2.6 To make arrests according to law.
- 2.2.7 To Provide assistance to citizens on a non-law enforcement basis on interventions aimed at reducing crime through programs such as neighborhood watches.
- 2.2.8 To Provide road safety, accident prevention, and traffic control within the Reservation.
- 2.2.9 Any other duty that may be necessary to the efficient execution of law enforcement on the Reservation.

Section 2.3 **Organization of Tribal Law Enforcement Service.** The Tribal Law Enforcement Service shall consist of a Chief of Police; regular, special or reserve Law Enforcement Officers; Criminal and Special Investigators; and all other necessary administrative staff as may be appointed from time to time as the budget allows.

Section 2.4 **Chief of Police, Law Enforcement Officers.** The Tribal Business Council shall select a Chief of Police and Law Enforcement Officers in a manner consistent with all Tribal policies and procedures.

2.4.1. The Chief of Police shall report directly to the Tribal Business Council and shall advise the Tribal Law and Order Commission of all activities of the Police Department and shall cooperate with other Divisions of the Tribal Law Enforcement Service established by the Tribal Business Council.

2.4.2 The duties of the Chief of Police shall be as follows:

- a. To be responsible for and have charge over all tribal law enforcement functions of the Police Department on the Reservation in cooperation with such other divisions of the Tribal Law Enforcement Service as are established by the Tribal Business Council;
- b. To ensure that the Police Department meets its responsibilities and obligations set out in the Program Statement of Work set out in the Tribes Law Enforcement Contracts with the Bureau of Indian Affairs, unless otherwise assigned by the Tribal Business Council.
- c. To be in command of all Tribal law enforcement officers and employees including administration within the Police Department and make recommendations for hiring, discipline, promotion, and evaluation of all law enforcement personnel within the Police Department;
- d. To instruct, train, and advise Tribal law enforcement officers within the Police Department in the functions, duties, and responsibilities of police officers for the efficient maintenance of law and order on the Reservation;
- e. To report to and advise the Tribal Business Council on law enforcement activities of the Police Department;
- f. To provide law enforcement officers to the Tribal Court to perform bailiff service, transportation of prisoners, and service of Court papers;

- g. To adopt reasonable regulations for law enforcement officers to serve as a standard of conduct to ensure the efficient maintenance of law and order.
- h. To ensure cooperation with other tribal, state and federal law enforcement agencies;
- i. To meet the reporting and the record keeping requirements of the Tribe's Law Enforcement Contracts with the BIA.
- j. To do such other law enforcement related activities as the Tribal Business Council shall direct;
- k. To designate an acting Chief of Police to serve as Chief of Police in his or her absence.

Section 2.5 Tribal Law Enforcement Officer. The Tribe shall utilize Tribal Policies and Procedures to recruit and hire Tribal Law Enforcement Officers upon terms and conditions as provided by the Tribal Business Council. The Tribal Human Resource Department shall receive recommendations from the Chief of Police and the Chiefs of other divisions within the Tribal Law Enforcement Service prior to employing any individual as a Tribal Law Enforcement Officer.

2.5.1 Qualifications. The qualifications of a Tribal Law Enforcement Officer shall be as follows:

- a. The individual be of sound physical and mental condition and of sufficient size and strength to perform the required duties;
- b. Must be a US citizen.
- c. Must be at least 21 years of age upon initial appointment to a law enforcement position.
- d. Must not have been convicted of a misdemeanor crime of domestic violence as defined in Title 18 of the United States Code or of any offense as defined in Title 18 of the United States Code which would constitute a disability from possessing or receiving a firearm.
- e. Must not have been convicted of a crime the essential elements of which constitute a felony.
- f. Must not have been convicted of an offense involving a child, a sex crime or a drug felony.
- g. Must possess a high school diploma or its equivalent;

- h. Must successfully complete the approved Basic Police Officer Training Program conducted at the Indian Police Academy or equivalent training as determined by the Indian Police Academy, the Deputy Bureau Director of Law Enforcement Services, or such other federal law enforcement agency identified by the Tribal Business Council. Training standards must be met within the end of the first year of training.
- i. Must meet all other Personnel Standards and requirements set out in the Tribe's Law Enforcement Contracts with the Bureau of Indian Affairs. All supervisory law enforcement positions must complete a supervisory law enforcement training program prior to or within one year of appointment to a supervisory law enforcement position.
- j. The individual be willing and able to attend the required law enforcement training courses as required by the Tribe and shall be a condition to initial and continuing employment;
- k. Must, if required by their job duties, be eligible for and obtain a Special Law Enforcement Commission (SLEC) from the Bureau of Indian Affairs, Office of Law Enforcement Services.
- l. The Individual must be of high moral character and pass an extensive background investigation that is consistent with all applicable federal and tribal laws and regulations including but not limited to Three Affiliated Tribes Personnel Policies and Procedures Manual; the Indian Child Protection and Family Violence Prevention Act; the Indian Country Law Enforcement regulations; the Bureau of Indian Affairs Law Enforcement and Corrections Handbook; and the Tribe's Supplemental Background Investigation Policy For Law Enforcement Officers. Background investigations of commissioned officers shall be updated every five years.
- m. Indian Preference in hiring and promotion shall be utilized wherever possible.

2.5.2 **Duties.** The duties of a Tribal Law Enforcement Officer shall be:

- a. To obey promptly all orders of the Chief of Police or other division Chiefs under which the officer serves, ranking police or law enforcement officers, or an official of the Tribal Court when assigned to Court duty;
- b. To report and investigate all violations of any law or regulation coming to his or her attention;
- c. To arrest all persons for violation of any law and regulations when there exists sufficient cause for doing so;

- d. To lend assistance to other officers as needed;
- e. To prevent, whenever possible, violations of the law;
- f. To be informed of Tribal laws and regulations and any other law or regulations applicable to the Reservation, and to attend such training sessions as the Chief of Police, Division Chief or Tribal Business Council may direct;
- g. To become familiar with and practice at all times principles of good police procedure;
- h. To use only the level of force necessary and to refrain from the use of violence in effectuating an arrest, search, or seizure;
- i. To abstain from the use of controlled substances without a valid prescription, or excessive use of alcohol, and to refrain from engaging in any act which would reflect discredit on the Tribe or the Tribal Law Enforcement Service;
- j. To refrain from the use of profane, vulgar, insolent, or offensive language;
- k. To report to a superior officer all deaths or accidents of a serious nature or other events or impending events of importance;
- l. To keep all equipment assigned and furnished by the Tribe or any other government agency in good repair and working order and to immediately report the loss or damage of any or all of such property;
- m. To obey all regulations that the Tribal Business Council shall adopt, including but not limited to the MHA Nation Ethics in Government Ordinance.

2.5.3 **Dismissal.** Any Tribal Law Enforcement Official may be suspended or terminated from employment for non-compliance with this Title or for any other violations of applicable regulations or neglect of duty as provided for in the Tribal Personnel Policy and Procedures Manual.

2.5.4 **Gifts and Rewards.** No Tribal Law Enforcement Officer shall accept or receive from any person while in custody or after such person shall be discharged, or from any such person's friends or family, any gratuity, reward or gifts, directly or indirectly, or any article or thing as compensation or damages sustained in the discharge of his or her duty.

2.5.5 **Witness Fees.** All witness fees for appearances by members of the Tribal Law Enforcement Service in their official capacity before any

court shall be paid to the Three Affiliated Tribes for deposit into the Tribe's general fund.

Section 2.6 Criminal and Special Investigators. The Tribe shall utilize Tribal Policies and Procedures to recruit and hire Criminal and Special Investigators upon terms and conditions as provided by the Tribal Business Council. The Tribal Human Resource Department shall receive recommendations from the Chief of Police and relevant Division Chiefs prior to employing any individual as a Criminal or Special Investigator. The Criminal or Special Investigator shall report directly to the Chief of Police or relevant Division Chief to which assigned.

2.6.1. Qualifications. The Chief of Police or Division Chief shall recommend to the Tribe any education, training and work experience required for the positions of Criminal and Special Investigator within their respective agencies. Any individual who is recommended for employment as a Criminal or Special Investigator shall meet the minimum requirements for a Tribal Law Enforcement Officer and the requirements of the Tribe's PL 93-638 Contract for Criminal Investigations.

2.6.2 Duties. The duties of the Criminal or Special Investigator shall incorporate all the duties of a Tribal Law Enforcement Officer and shall also include:

- a. Conducting investigations of alleged violations of all applicable law and regulations and to provide assistance to all Law Enforcement Officers with investigative matters;
- b. Provide technical and investigatory assistance to tribal and federal prosecutors as needed;
- c. Provide testimony at tribal and federal hearings and trials;
- d. Maintenance, control and supervision of all property and evidence taken, maintained, released or disposed of by Law Enforcement Services during and subsequent to any investigation.

Chapter 3. Law and Order Commission

Section 3.1 The Tribal Business Council may establish a Law and Order Commission by separate Resolution with defined duties and identified oversight roles.