



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

**A Resolution Entitled, *“Mandating the Use of Face Masks within the Exterior Boundaries of
The Fort Berthold Indian Reservation”***

WHEREAS, The Mandan Hidatsa and Arikara Nation (MHA Nation), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the Constitution) under said Act, and

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

WHEREAS, The Constitution 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 I of the Constitution of the Three Affiliated Tribes expressly provides that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands, including lands held in fee, within the exterior boundaries of the Fort Berthold Reservation; and

WHEREAS, Article VI, Section 3 of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council all necessary sovereign authority – legislative and judicial – for the purposes of exercising the jurisdiction granted by the people of the Three Affiliated Tribes in Article I of the Constitution; and

WHEREAS, Pursuant to Article VI, Section 5(1) of the Constitution, the Tribal Business Council has the power to adopt Resolutions regulating the procedures of the Tribal Business Council, its agencies and officials; and

WHEREAS, The health, safety, and welfare of all persons within the Fort Berthold Indian Reservation is the greatest priority of the Tribal Business Council; and

WHEREAS, The Tribal Business Council adopted Chapters 1 through 3 of Title XXI pertaining to quarantine and other laws regarding communicable disease on May 14, 2020 by way of Resolution No. 20-104-FWF; and

WHEREAS, The Fort Berthold Reservation and the Tribal membership continues to be affected by the threat of transmission of COVID-19, Coronavirus, on an



individual and community level, which is an imminent threat of substantial harm to the people of the Three Affiliated Tribes; and

WHEREAS, A high number of people on the Fort Berthold Reservation are considered high risk due to preexisting health conditions, who are susceptible to experiencing dangerous symptoms if infected with COVID-19, including death; and

WHEREAS, The Tribal Business Council has determined that additional mandates and policies must be adopted to reduce risk of exposure and transmission of COVID-19 to the people of the Three Affiliated Tribes; and

WHEREAS, As recommended by the Centers for Disease Control and Prevention (“CDC”) and the North Dakota Department of Health, the use of personal protective equipment, specifically the use of face masks, will minimize the risk of exposure and transmission of COVID-19; and

WHEREAS, As recommended by the CDC and other medical experts, a mask is a covering designed to filter one’s breathing through both the nose and mouth to prevent the wearer from breathing unfiltered air and from expelling respiratory droplets. A mask may either be commercially-made or a homemade face cloth; and

WHEREAS, Tribal Business Council is aware of the scientific and medical evidence that viral load peaks in the days before COVID-19 symptoms begin and that speaking is enough to expel virus-carrying droplets, as well as evidence which makes it clear that masks can help prevent the spread of COVID-19 and that people wearing masks will significantly reduce the infection rate; and

WHEREAS, The Three Affiliated Tribes has the authority to regulate “activities of nonmembers who enter consensual relationship with the tribe or its members” and shall “retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” pursuant to *Montana v. United States*, 450 U.S. 544, 564-65 (1981); and

WHEREAS, Based upon the science and medical studies, including recommendations of the CDC, North Dakota Department of Health, and in order to protect the health and welfare of the people of the Three Affiliated Tribes, the Tribal Business Council has determined that a mandate for use of a face mask that helps prevent the wearer from breathing unfiltered air and from expelling respiratory droplets is necessary to reduce the exposure and transmission of COVID-19 within the exterior boundaries of the Fort Berthold Indian Reservation, and

WHEREAS, The Three Affiliated Tribes is under a state of emergency due to the COVID-19 pandemic, and the failure to wear a mask during the time that the state of



emergency exists is conduct that directly threatens or has a direct effect on the health and welfare of the people of the Three Affiliated Tribes.

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby mandates all individuals two (2) years of age and older present within or entering the exterior boundaries of the Three Affiliated Tribes shall wear a mask at all times while in or preparing to enter public indoor places. Public indoor places shall include all indoor businesses, public indoor spaces, and while waiting outside to enter the public indoor space or business. Violations of such mandate will result in:

First offense - a warning citation

Second offense – a citation and fine of \$50

Third and subsequent offenses – a citation and fine of \$100

BE IT FURTHER RESOLVED, that all businesses operating within the exterior boundaries of the Fort Berthold Indian Reservation shall enforce the mask mandate and shall require their patrons to wear a mask; failure by a business to enforce the use of a mask within their entity shall be subject to:

First offense – a citation and fine of \$100

Second offense - a citation and fine of \$200

Third and subsequent offenses – civil fine of \$500 per day for each day such business shall fail to enforce the use of a mask and potential suspension of business or licensing permit and closure of business, pursuant to Tribal Business Law and Ordinances.

BE IT FURTHER RESOLVED, that all entities or businesses operating within the exterior boundaries of the Fort Berthold Indian Reservation shall comply and cooperate with applicable Tribal Regulatory and Compliance Departments and its representatives. Failure to comply or cooperate shall be subject to a civil fine of \$500 per day for each day of non-compliance and non-cooperation and potential suspension of business or licensing permit, pursuant to Tribal Business Law and Ordinances.

BE IT FINALLY RESOLVED, the mandate for use of face masks is hereby effective immediately and shall remain in effect until such time that the Tribal Business Council declares that the State of Emergency is over.



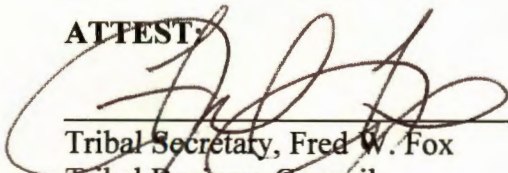
CERTIFICATION

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, 5 were present at a Special Meeting thereof duly called, noticed, convened and held on the 22nd day of October, 2020, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

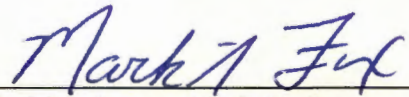
Chairman [X] Voting. [] Not Voting.

Dated this 22nd day of October, 2020.

ATTEST:



Tribal Secretary, Fred W. Fox
Tribal Business Council



Tribal Chairman, Mark N. Fox
Tribal Business Council