

RESOLUTION NO. 60-67

RESOLUTION

THREE AFFILIATED TRIBES  
FORT BERTHOLD RESERVATION

WHEREAS, the Three Affiliated Tribes of the Fort Berthold Indian Reservation is an Indian Chartered corporation as defined by the Indian Reorganization Act of June 16, 1934, and authority is granted in the Constitution and By-Laws under Article 6, Section 3(L) to promulgate ordinances governing law enforcement on the reservation, NOW THEREFORE, BE IT HEREBY RESOLVED, that the following Sections and Subsections of the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Indian Reservation be and is hereby amended as follows:

Chapter I

Fort Berthold Indian Court

Section 2. Appointment of Judges. All of Section 2 is hereby repealed and in its place is substituted a new Section 2, entitled "Election and Appointment of Judges, which shall read as follows:

Section 2. Election and Appointment of Judges.

(a) The Fort Berthold Indian Court shall sit at Mandaree, North Dakota or may be convened, at the discretion of the Chief Judge, at Twin Buttes, North Dakota, or at Whitashield, North Dakota.

(b) There shall be one (1) Chief Judge and three (3) Associate Judges who shall be elected at large to such office(s) in the same manner as the members of the Tribal Business Council. The duration of their office

shall be from the first Wednesday of September in the year first elected and shall continue for a period of four (4) years or until their successor is elected or appointed. Following the first election of Judges of the Fort Berthold Indian Court all judges elected shall serve until the terms the Tribal Business Council expire, thereafter, the judges shall be elected at the same time as are members of the Business Council. (This section shall not become applicable until the annual election of 1962.)

(c) No person shall be elected or appointed a judge who is not a member of the Three Affiliated Tribes or has been convicted of a felony or who shall, when elected, have been convicted of a misdemeanor within twelve months last past.

(d) Candidates for the office of Chief Judge or Associate Judge, in addition to the above qualifications, shall possess an 8th grade school education; shall be at least thirty (30) years of age and be able to read and write the English language.

(e) Each judge duly elected and qualified shall be paid at a rate and from such funds as the Tribal Business Council shall designate.

(f) No judge shall be qualified to act as such in any case wherein he has any direct interest or wherein any relative by marriage or blood, in the first or second degree is a party. Whenever the Chief Judge is disqualified by this subsection, he shall appoint one of the Associate Judges to sit on the case. If one of the Associate Judges is disqualified by this subsection, the Chief Judge shall select one of the other Associate Judges to sit on the case.

(a) A judge may be disqualified on his own motion if he has spoken to either party to the action prior to its consideration by the Court. A judge may be disqualified by the filing of an affidavit of prejudice by either party to the action.

(b) In the event of a vacancy in any of the judicial positions herein provided for, the Tribal Business Council shall appoint a qualified person to fill the unexpired term existing. Such interim appointment shall only be until the next annual election for the filling of such positions.

Section 3. All of Section 3 is hereby repealed and in its place a new Section 3, entitled "Removal of Judges" is hereby adopted, and shall read as follows:

Section 3. Removal of Judges.

Judges elected and paid from funds of the Three Affiliated Tribes may be removed in the same manner as Council members under Article V of the Constitution and By-laws of the Three Affiliated Tribes.

Section 6. All of Section 6 is hereby repealed and in its place a new Section 6 entitled "Court Procedures" is hereby adopted and shall read as follows:

Section 6. Court Procedures.

(a) Sessions of the Fort Berthold Indian Court for the trial of cases shall be called by the Chief Judge or in case of his disability by one of the Associate Judges selected by him for the occasion.

(b) The time and place of court sessions not provided for all other details of judicial procedure not prescribed by the Code of Laws, shall be determined by Rules of Court recommended by the judges and approved by the Tribal Business Council. The judges shall from time to time make recommendations to the Tribal Business Council of any needed amendments or changes in the Rules of Court.

(c) Charges, rates, assessments and other incidental expenses pertaining to court procedures, not otherwise provided for in this Code, shall be fixed from time to time by the Tribal Business Council acting on recommendations from the judges of the court.

Section 7. All of Section 7 is hereby repealed and in its place a new Section 7 entitled Appellate Procedures is hereby adopted and shall read as follows:

Section 7. Appellate Procedures.

Not less than three (3) judges of the reservation shall sit together, at such times and places as they may find proper and necessary for the dispatch of business to hear appeals from judgments made by any judge at a trial session. There shall be established by Rules of Court the location, if any, to be placed upon the right of appeal both as to the type of cases and the manner in which appeal may be granted. In the absence of such Rules of Court, any party aggrieved by a decision of a trial court may appeal to the Appellate Court upon giving notice of such appeal at the time of judgment and upon giving proper assurances to the trial judge, through the posting of bond or any approved manner, that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right of appeal as established herein or under Rules of Court the judgment of the trial court shall not be executed until after final determination of the case by the Appellate Court. The Appellate Court may render judgment upon a majority vote of the judges sitting.

Section 8. All of Section 8 is hereby repealed and in its place a new Section 8 entitled Juries is hereby adopted and shall read as follows:

Section 8. Juries.

- (a) All persons accused of an offense against the Code of Laws shall have the right to a jury trial as provided for in Section 5 of this Code.
- (b) A list of eligible jurors shall be prepared by the Tribal Business Council every two (2) years.
- (c) In any case a jury shall consist of not less than six (6) qualified jurors whose names shall be drawn from the jury list of eligible jurors by the Clerk of the Court. Any party to the case may challenge not more than three (3) members of the panel after the jury has been qualified by the judge sitting on the case.
- (d) In order to be eligible to serve on a jury panel called for trial a person must be an enrolled member of the Three Affiliated Tribes; have reached the age of 21 years; be a permanent resident of the Part Borthold Reservation; be of sound mind; and never have been convicted of a felony.
- (e) The judge shall instruct the jury in the law governing the case and the jury shall bring in a verdict for the complainant or the defendant. The judge shall render judgment in accordance with the verdict and existing law. A verdict shall be by unanimous vote. In the event the jury does not reach a verdict by unanimous vote such jury shall be dismissed by the trial judge and a new jury selected in accordance with the preceding sections and a new trial ordered.
- (f) Each juror who serves upon a jury shall be entitled to a fee of \$6.00 per day for each day his services are required by the Court. In addition, each juror shall be entitled to travel mileage at the rate of \$ .10 per mile for one round trip from his permanent residence on the Reservation to

the place of trial. All persons called to serve on a jury panel shall be entitled to receive a fee of \$6.00 per day plus mileage at the rate of \$.10 per mile for one round trip from his permanent residence on the reservation to the place of trial. All such fees shall be paid from funds on deposit to the credit of the Fort Berthold Indian Court.

(g) All jury trials shall be held at the principal place of business of the Court which is hereby designated as Mandaree, North Dakota.

Section 9. Witnesses. is hereby amended by deleting the words "\$5.00 for each day" and substituting the following language, to wit, "\$6.00 per each day plus mileage at the rate of \$.10 per mile for one round trip between his permanent residence on the reservation and the place of trial."

Section 11. Clerks. All of Section 11 is hereby repealed and in its place a new Section 11, entitled, "Clerks" is hereby adopted and shall read as follows:

Section 11. Clerks.

- (a) The Tribal Business Council shall appoint such clerical help to assist in the conduct of the business of the Court as may be required.
- (b) The Clerk of the Fort Berthold Indian Court shall render assistance to the court, to the police force of the reservation, and to the individual members of the Three Affiliated Tribes in the drafting of complaints, subpoenas, warrants and commitments and other documents incidental to the lawful functions of the Court. It shall be the further duty of said Clerk to attend and keep a written record of all proceedings of the Court; to administer oaths to witnesses; to collect fines and fees authorized by this Code. The Clerk shall make an accounting of the fines and fees collected

to the Tribal Business Council. The Clerk shall deposit daily, with the Tribal Treasurer, all monies collected by the Court.

(c) The Tribal Business Council shall make appropriate provision for the bonding of the Clerk of Court or such other provision for the safeguarding of the funds collected as it deems appropriate.

Section 12. Records. All of Section 12 is hereby repealed and in its place a new Section 12, entitled, Records is hereby adopted and shall read as follows:

Section 12. Records.

(a) The Fort Berthold Indian Court shall be required to keep a record of all proceedings of the Court. This record shall contain the title of the case, the names of the parties involved, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the Court or jury and the judgment and any other facts or circumstances deemed of importance. These records shall be open to inspection by duly authorized officials.

(b) The records shall be public records with the exception of matters pertaining to juveniles and delinquency. Such excepted records may be examined by duly authorized persons.

(c) All records of the Fort Berthold Court shall be maintained at Mandaree, North Dakota. Copies of the proceedings of the Court in civil and criminal matters shall be furnished the Fort Berthold Agency.

Section 14. Complaints. This section is hereby amended by placing a period after Court in the last line and deleting all that follows.

Section 15. Warrants to Apprehend. This section is hereby amended by deleting all of the last sentence or paragraph herein.

Section 23. Forms. All of section 23 is hereby repealed and in its place a new section 23, entitled Forms is hereby adopted and shall read as follows:

Section 23. Forms.

The authorized forms for the conduct of the business of the Fort

Bartbold Indian Court shall be devised by the Court and no others shall

be authorized. All forms prepared by the Court shall be approved by the

Tribal Business Council.

CHAPTER III

SENTENCES

Section 1. Nature of sentences. This section is amended by deleting the words and figures \$1 in subsection (b) at line three (3) and substituting therefor the figures \$2 and in line 4, placing a period after the word each and deleting the remainder of the sentence. In addition the Amendment enacted on February 13, 1947, is repealed in its entirety and in its place the following paragraph is added to subsection (b):

When imprisoned for unwillingness to work and the convicted Indian is confined in the Agency jail he may be required to perform work not to exceed eight (8) hours per day, Sunday excepted, the work to be done by the prisoner shall be restricted to the upkeep, maintenance, and improvement of city and all Tribal property. Personal labor for employees or members of the Tribe will not be permitted. A prisoner refusing to work



under this section, although he is physically able, shall be kept in his cell or a restricted area not injurious to his health and will not be permitted visitors. He shall be permitted an hour exercise daily when placed under this special confinement.

Section 4. Juvenile Delinquency. This section is amended by deleting all of the last sentence of Section 4 and substituting therefore the following sentence:

The Court may, in its discretion, compel the attendance of the parent or guardian at said private hearing.

Section 5. Deposit and Disposition of Fines. This section is hereby amended by deleting all of the last paragraph which deals with fines paid by commodities.

#### CHAPTER IV

#### INDIAN OFFENSES

Section 1. Carrying Concealed Weapons. This section is amended by deleting all of subsection (b).

Section 6. Subornment. This section is amended to delete all the language following the word exceed in line 4 and substituting therefore the following language, one (1) year or to a fine not to exceed \$500, or both such imprisonment and fine, with costs. The remainder of the section remains.

Section 9. Forgery. This section is amended by deleting the words six months following the word exceed in the last line and substituting therefore the following language:

eight (8) months in jail and in addition to restitution to the injured party the Court may fine the guilty party not to exceed \$500 or both the sentence and the fine.

Section 13. Disorderly Conduct. This Section is amended by deleting all that follows the word exceed in the last line and substituting therefore the following language:

cinety (90) days or to a fine not to exceed \$100 or to both such fine and imprisonment, with costs.

Section 14. Reckless Driving. This Section is repealed in its entirety. All other numbered Sections which follow are hereby re-numbered to conform to the deletion of Section 14.

Section 16. Trespass. This Section is amended by deleting the figures \$5 and substituting therefore the figures \$50 in line 7.

Section 18. Leaving Gates Open. This Section is hereby amended by deleting all language following the word to in line 4 and substituting therefore the following language:

labor for a period not to exceed 30 days or to a fine of not to exceed \$25 or to both such labor and/or fine.

Section 21. Maintaining a Public Nuisance. This Section is amended by deleting all language following the word exceed in line 5 and substituting therefore the following language:

ten (10) days and the nuisance shall be ordered removed by the Court, the costs and expenses of such removal to be assessed against the guilty party if the party refuses to comply with the orders of the Court to remove the nuisance.

Section 72. Liquor Violations. This Section is repealed in its entirety and a new Section is entitled, Penalty for Violation of North Dakota Liquor Law is hereby adopted and shall read as follows:

Section 22. Penalty for violation of North Dakota Liquor Law.

Any Indian who shall manufacture, sell, use, or possess any intoxicating liquor in violation of North Dakota State laws shall be guilty of an offense and upon conviction shall be sentenced to labor for a period of not to exceed ninety (90) days or to a fine of not to exceed \$300 or to both such labor and/or fine.

Section 23. Cruelty To Animals. This section is amended by deleting the words thirty days following the word exceed and substituting therefore the following language:

sixty (60) days or to a fine of not to exceed \$90 or to both such fine and/or imprisonment.

Section 26. Failure to Support Dependent Persons. This section is amended by deleting all after the word for in line 5 and substituting therefore the following language:

a period of not to exceed ninety (90) days or to a fine of not to exceed \$180 or to both such fine and/or imprisonment.

Section 37. Failure to Send Children To School. This Section is repealed in its entirety and a new Section 37 entitled, Failure to Send Children To School is hereby adopted and shall read as follows:

Section 37. Failure to Send Children to School.

(a) Any Indian who shall, without good cause, neglect or refuse to send his children, or any children under his care, to school shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed ten (10) days for the first offense. If

such offender shall be an habitual offender, meaning two or more offenses within a one (1) year period he shall, upon conviction be sentenced to a period of labor not to exceed sixty (60) days or to a fine of not to exceed \$120 or to both such fine and/or imprisonment.

(b) It shall be the duty of the Reservation Principal, to report such failure to send children to school to the Agency Special Officer, who shall cause an investigation to be made to determine if an offense has been committed. If such investigation reveals cause for filing of a complaint under this Section, such complaint shall be filed and a report of the investigation filed with the Court to be used in determining the matter.

(c) The age for school attendance shall be that as prescribed by the laws of the State of North Dakota.

Section 40. Perjury. This Section is amended by deleting the period at the end of line 6 and substituting therefore the following language:

or to a fine of not to exceed \$120, or to both such fine and imprisonment.

Section 43. Narcotics. This Section is repealed in its entirety. All other sections which follow are hereby remembered to conform to the deletion of this Section.

The following new sections shall be added to the Code of Laws:

Section 31. Aiding or Abetting Fugitives From Justice.

(a) Any Indian who aids or abets any fugitive from justice shall, upon conviction thereof be sentenced to labor for a period of not to exceed ninety (90) days or to a fine of not to exceed \$180 or to both such fine and imprisonment.

(b) Any Indian who incites in the performance of a peace officer's duties in apprehending fugitives as described above shall upon conviction thereof be sentenced to a period of labor not to exceed six months.

Section 53. Issuing check or draft without an account or without sufficient funds or credit.

(a) Every Indian, firm or corporation who shall issue any check, draft or order upon any bank or other depository, for the payment of money, not having an account with such bank or other depository, or knowing at the time of such issuance that there are not sufficient funds to his or her credit with such bank or other depository for the payment, in full, upon presentation of such instrument, shall upon conviction thereof be sentenced to labor for a period of not to exceed thirty (30) days or to a fine of not to exceed \$50, or to both such fine and imprisonment.

(b) The issuance of a check, draft, or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds on credit with such drawee.

(c) If, within ten (10) days from the receipt of written notice of dishonor, the issuer shall have deposited with the drawee, or paid or caused to be paid sufficient money to pay such instrument, no prosecution shall be had under this section. The making of a postdated check, knowingly so dated as such, shall not constitute a violation of this section.

CHAPTER IV-A

MOTOR VEHICLE CODE

Section 1. Applicability. The North Dakota Motor Vehicle Code, North Dakota Revised Code of 1943, Title 39, shall be effective on the Fort Berthold Indian Reservation with the following exceptions:

A. Chapter 39-01. Definitions and General Provisions.

Section 39-0102  
Section 39-0103  
Section 39-0104  
Section 39-0105  
Section 39-0106  
Section 39-0108  
Section 39-0109

B. Chapter 39-02. Registrar.

In its entirety

C. Chapter 39-03. Highway Patrol.

In its entirety

D. Chapter 39-04. Motor Vehicle Registration.

Section 39-0402  
Section 39-0404  
Section 39-0406  
Section 39-0424  
Section 39-0427  
Section 39-0428  
Section 39-0429  
Section 39-0430  
Section 39-0431  
Section 39-0432  
Section 39-0433  
Section 39-0434  
Section 39-0435  
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Section 39-0439

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Section 39-0444  
Section 39-0445  
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Section 39-0456  
Section 39-0457  
Section 39-0458  
Section 39-0459  
Section 39-0460  
Section 39-0461  
Section 39-0462  
Section 39-0463  
Section 39-0464  
Section 39-0465  
Section 39-0466  
Section 39-0467

Indian owners of farm trucks used exclusively on the farm as a tractor for hauling hay, wood, and water shall be exempt from registration or title records.

Chapter 39-05. Title Registration.

Section 39-0531  
Section 39-0534

Chapter 39-06. Operator's Licenses.

No exceptions.

Chapter 39-07. General Regulations Governing Traffic.

No exceptions.

Chapter 39-08. Regulations Governing Operators.

No exceptions.

Chapter 39-09. Other Regulations.

No exceptions.

J. Chapter 39-10. General Rules of the Road.

No exceptions

K. Chapter 39-11. Equipment of Vehicles.

No exceptions

L. Chapter 39-12. Size, Width, and Height Restrictions.

No exceptions

M. Chapter 39-13. Traffic Signs.

No exceptions

N. Chapter 39-14. Financial Responsibility of Owners and Operators.

No exceptions

O. Chapter 39-15. Guest Law.

No exceptions

Section 2. Penalty.

Where no penalty is provided under the laws of the State of North Dakota, the Fort Berthold Indian Court shall have the power and authority to impose the following maximum penalty for violations of this Chapter by any Indian violator:

Upon conviction of a violation each offender shall not be sentenced to a period of labor to exceed six (6) months or to a fine of not to exceed \$300, or to both such fine and/or imprisonment.



Chapter V

DOMESTIC RELATIONS

MARRIAGE

Section 4. Age Limit. This section is amended by changing age limits and reads as follows:

Section 4. Age Limit.

Any male Indian eighteen (18) years old and upward and any female Indian sixteen (16) years old and upward, not otherwise disqualified under the provisions of this Chapter, are capable of consenting to and consummating marriage, provided; that males under twenty one (21) years of age and females under eighteen (18) years of age must have the written consent of their parents or guardians before applying for a license to marry. Such parents or guardians must assume, in writing, the responsibility of providing for the minor or minors and the children born until such time as such minors are able to provide for themselves but not beyond the attainment of the age of twenty one (21) by the husband. No marriage license shall be issued when the male is under eighteen (18) years of age or the female, under sixteen (16) years of age.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation Corporation hereby certify that the Tribal Business Council of the Corporation is composed of ten members of whom eight (8), constituting a quorum, were present at a special meeting thereof duly and regularly called, noticed, convened, and held this twenty fifth (25) day of November, 1960; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of eight (8) members, with none opposing, and no abstentions; and that said resolution has not been rescinded or amended in any way.  
Dated this twenty fifth day of November, 1960.

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Thomas Blue Stone, Acting Secretary  
Tribal Business Council

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David Little Swallow, Vice Chairman  
Tribal Business Council

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Romer M. Gilliland, Superintendent  
Fort Berthold Agency