

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

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes 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 Tribes 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 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 purpose of exercising the jurisdiction granted by the people of the Three Affiliated Tribes in Article I of the Constitution; and
- WHEREAS,** Article VI, Section 5(1) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt laws regulating the procedures of agencies and officials of the Three Affiliated Tribes; and
- WHEREAS,** In 1969, via Resolution No. 69-95, the Tribal Business Council of the Three Affiliated Tribes enacted Ordinance No. 69-1, titled "An Ordinance Providing for a Reservation Curfew", which regulatory law has never been consistently and comprehensively enforced and has become outdated and incapable of reasonable implementation and enforcement; and
- WHEREAS,** The absence of any meaningful curfew regulation on the Fort Berthold Reservation has resulted in a progressively critical problem involving a vast number of minor children traveling and being present in public places in the absence of a parent or other custodian during the early morning hours; and

WHEREAS, It is the considered judgment of the Tribal Business Council that it should exercise its legislative authority in an effort to minimize and ultimately eliminate such problematic conduct with the intent of protecting the health and welfare of the Tribal youth resident on the Reservation; and

WHEREAS, The Tribal Business Council has had the opportunity to review and comment on the draft of proposed legislative language designed to address this problem and approves the attached draft of the statutory provisions titled "Curfew";

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby formally enacts the attached statutory provisions titled "Curfew" and designates said provisions as Section 1000.13 of Chapter 2 of Title III of the Fort Berthold Tribal Code.

BE IT FURTHER RESOLVED, That Resolution No. 69-95, dated October 31, 1969, is hereby rescinded in its entirety and Ordinance No. 69-1, titled "An Ordinance Providing for a Reservation Curfew", is hereby repealed in all respects.

BE IT FURTHER RESOLVED, That the attached statutory provisions titled "Curfew" shall become effective immediately and shall supersede and replace, in addition to Ordinance No. 69-1, any and all other conflicting or inconsistent provisions included in the body of law of the Three Affiliated Tribes.

C E R T I F I C A T I O N

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 14th day of May, 1997; that the foregoing Resolution was duly adopted at such Meeting by the

SECTION 1000.13 CURFEW

SECTION I

VIOLATIONS: A person under the age of eighteen (18) years (“child”) is guilty of a curfew violation, if he/she is away from his/her home and is not accompanied by a parent, guardian or other adult having custody of or supervision over him/her, and is either:

1. in a public place; or
2. in a private place other than the place where he/she intends to spend the night with permission of the head of household therein and with a note from a parent, guardian or other adult having custody of or supervision over him/her; or
3. in a vehicle driving about

after the hour of 11:00 p.m. local time and before the hour of 6:00 a.m. local time, or other times as set by the government of the Three Affiliated Tribes.

EXCEPTIONS: This section shall not be applicable to those instances wherein a child:

1. is sixteen (16) years of age or older and has either graduated from high school or completed the high school equivalency requirements, is married, or is legally emancipated; or
2. is in attendance at or is travelling directly home from an organized school, church, tribal, community, or recreational function; for purposes of this section, "organized recreational function" means only formally organized and adult supervised activities, such as formal organized sports competitions and movie theater showings, and does not include informal recreational activities; or
3. is travelling directly home from a place where he/she is employed.

For purposes of this section, a child is not "travelling directly home" from any activity, if the child is not actually in transit between that place and home or if the child is at a place further from home than the child would be if he/she were making a direct route at reasonable progress toward home given the amount of time since the child left the activity or the time at which the activity ceased.

PROCEDURES: The following procedures shall apply when law enforcement personnel apprehend a child for violation of this section.

1. **FIRST APPREHENSION:** When a law enforcement officer (“officer”) apprehends a child whom the officer has probable cause to believe is in violation of or has violated this section, the officer shall both:

- (a) verbally warn the child that he/she is violating or has violated this section, and return the child immediately to his/her home or other household wherein the child may lawfully

spend the night, unless the child has been apprehended and is subject to being detained for an alleged violation of a federal law or a Tribal law other than this section; and

(b) advise the child's parent(s), guardian or other adult having custody that any subsequent violation(s) of this section by the child could result in charges being filed against that person so advised.

Should law enforcement not be able to make contact with the parent(s) or other person responsible for the child for the purpose of effecting the child's return, law enforcement may then notify Child Protection Services for placement.

2. **SECOND AND SUBSEQUENT APPREHENSIONS:** In the instance of the second and subsequent apprehensions of a child under this section, when an officer has probable cause to believe that the child is in violation of or has violated this section, the officer shall apprehend the child and shall either:

(a) return the child immediately to his/her home or other household wherein the child may lawfully spend the night, and issue a citation and summons to appear in court for violation of this section; or

(b) detain the child as necessitated and justified by the particular circumstances, and appropriately process the child for violation of this section.

DISPOSITION: A child adjudged as having violated this section shall be subject to the performance of community service, imposition of a fine not to exceed \$150.00, and/or detention for a period not to exceed thirty (30) days in a suitable juvenile facility. Probation may be utilized as appropriate.

SECTION II

VIOLATION: A parent, guardian, or other adult having custody of a child, who has been previously advised by law enforcement of a violation of this curfew law by such child, shall be subject to a charge of Contribution to Delinquency of a Minor (Tribal Code, Title III, Chapter 2, Section 1000.8), should the child be apprehended for a subsequent violation of this curfew law.

PENALTY: This offense is a Class II Misdemeanor, for which a maximum period of incarceration of ninety (90) days, a maximum fine of Three Hundred Dollars (\$300.00), or both, may be imposed.

Resolution No. 97-109-DSB

affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 14th day of May, 1997.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:

Austin Picotta
for Chairman, Tribal Business Council