

Mandan, Hidatsa & Arikara Nation Ethics in Government Ordinance

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September 13, 2019 (Amended)

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Section I. TITLE PURPOSE AND DEFINITIONS

A. Title

This Ordinance may be cited as the “Mandan, Hidatsa & Arikara Nation (“MHA Nation”) Ethics in Government Ordinance”.

B. Legislative Purpose and Intent

1. Purpose. The primary purpose of this Ordinance is to comply with Article V of the Constitution and By-laws of the Three Affiliated Tribes which set procedures for the removal of members of the Tribal Business Council. Article V, Section 2 of the Constitution provides that the Tribal Business Council may remove a member for the cause if five or more members vote in favor of removal. Article V, Section 3 of the Constitution requires that the Tribal Business Council enact an ordinance setting forth what constitutes cause for removal of a Council member pursuant to Section of Article V. The purpose of this Ordinance therefore is to provide grounds or “cause” for removal of a member of the Tribal Business Council consistent with Article V.

In addition to complying with Article V of the Constitution, the Tribal Business Council believes that where government is founded upon the consent of the governed, the people are entitled to have complete confidence in the loyalty and integrity of their government. The purpose of this Ordinance, therefore, is to also require accountability to the people of the MHA Nation by their elected, appointed and assigned public officials and employees in exercising the authority vested or to be vested with them as a matter of public trust, by:

- a. Establishing and requiring adherence to standards of conduct to avoid such conflicts of interest as the use of public offices, employment or property for private gain, the granting and exchange of favored treatment to persons, businesses or organizations; and the conduct of activities by such officials and employees which permits opportunities for private gain or advantage to influence government decisions;
 - b. Requiring public officials and employees to abstain from using any function of their office or duties in a manner, which could place, or appear to place, their personal economic or special interests before the interests of the general public.
2. Intent. It is the intent of the Tribal Business Council that the provisions of this Ordinance be construed and applied in each instance, so as to accomplish its

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purposes of protecting the MHA Nation's People from government decisions and actions resulting from, or affected by, undue influences or conflicts of interest.

C. Definitions As used in this chapter:

1. **“Business”** includes but is not limited to any enterprise, organization, trade, occupation or profession whether or not operated as a legal entity for profit, including any business, trust, holding company, corporation, partnership, joint venture, or sole proprietorship, consultant, or other self-employed enterprise.
2. **“Business with which the person is associated”** includes any business in which the person or a member of the person's immediate family is a director, officer, partner, trustee or employee, holds any position of management or receives income in any form such as wages, commission, direct or indirect investment worth more than \$1,000 or holds any ownership, security or other beneficial interest, individually or combined, amounting to more than ten percent (10%) of said business.
3. **“Candidate for Public Office”** means any person who has publicly announced such intent, authorized promotion for, or filed a declaration of candidacy or a petition to appear on the ballot for election as a public official; and any person who has been nominated to serve in any public capacity or office.
4. **“Committee”** means Ethics and Rules Committee of MHA Nation.
5. **“Compensation”** or **“Income”** means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expenses, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof.
6. **“Confidential Information”** means information, which by law or practice is not available to the public at large.
7. **“Conflict of Interest”** means the reasonable foresee ability that any personal or economic interest of a public official, or employee, will be affected in any materially different manner from the interest of the general public, by any decision, enactment, agreement, award or other official action or function of any governmental body or political subdivision of the MHA Nation.
8. **“Consanguinity or affinity within the third degree”** means an individual who is relate by blood or marriage as a father, mother, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, great grandmother, great grandfather, great grandson, great granddaughter, uncle, aunt, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-

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- law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half-brother or half-sister.
9. **“Dependent business”** means any business, as defined herein, in which the persons or members of the person’s immediate family, individually or combined, have any direct or indirect ownership, investment, security or other beneficial interest amounting to more than ten (10%) of such business.
 10. **“Employee”** means any persons or entity working for, or rendering or exchanging any services or performing any act for on behalf of another person, organization or entity in return for any form of pay or other compensation or thing of value received or to be received at any time temporarily, permanently or indefinitely, in any capacity; whether as agent, servant, representative, consultant, advisor, independent contractor or otherwise.
 11. **“Employment”** means the status or relationship existing or created by and between a person designated or acting as an "employee" as defined herein and the person, organization, group or other entity for whom or on whose behalf any such work, acts, services or other benefits has been, is being or will be rendered or performed for pay or any other form of compensation.
 12. **"Economic Interest"** means an interest held by a person, members of the person's immediate family or a dependent business, which is:
 - a. Any ownership, income, investment, security or other beneficial interest in a business, or
 - b. Any employment or prospective employment for which negotiations have already begun.
 13. **"Gift"** includes any gratuity, special discount, favor, hospitality, payment, loan, subscription, economic opportunity, advance, deposit of money, services, or other benefit received without equivalent consideration and not extended or provided to members of the public at large.
 14. **"Governmental Body"** means the Tribal Business Council and any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency, and any establishment of the Executive, Administrative, Legislative or Judicial Branch of the MHA Nation, and certified segments and/or communities of the MHA Nation.
 15. **"Immediate Family"** includes spouse, children and members of the household of public officials, public employees and candidates for public office, as defined in this Ordinance.

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16. "**Ministerial Action**" means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or in the exercise of, the person's own judgment upon the propriety of the action being taken.
17. "**Official Discretionary Action**" means any official function of public office or employment, including any vote, decision, opinion, allocation, recommendation, approval, disapproval, finding, delegation, authorization, contract, commitment, settlement, disbursement, release or other action which involves the exercise of discretionary authority, for, on behalf of or in any manner affecting any interest or property of the MHA Nation, including any governmental body, political subdivision or member thereof.
18. "**Public Employee**" means any employee, as defined herein, temporarily, periodically, permanently or indefinitely in the employment of the MHA Nation, and/or any governmental body thereof as defined herein, including intergovernmental personnel.
19. "**Public Office**" means any elected or appointed office or position of permanent or temporary employment in any governmental body of the MHA Nation as defined herein.
20. "**Public Official**" means any person holding an elective or appointed office in any governmental body of the Mandan, Hidatsa & Arikara Nation as defined herein.

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SECTION II. STANDARDS OF CONDUCT AND RESTRICTED ACTIVITIES OF PUBLIC OFFICIALS AND EMPLOYEES

A. Conduct in Conformity with Applicable Rules and Laws

Public officials and employees shall at all times conduct themselves so as to reflect credit upon the Mandan, Hidatsa & Arikara people and government; and comply with all applicable laws of the Mandan, Hidatsa & Arikara Nation with respect to their conduct in the performance of the duties of their respective office or employment.

B. General Prohibitions; Conflicts of Interest

1. No public official or employee shall use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing their private economic gain or that of any special business interests with which they are associated, before those of the general public, whose paramount interests their office or employment is intended to serve.

2. No public official or employee shall use his/her position to coerce, threaten or intimidate any person employee to provide financial benefit or other personal gain to his/herself or any other person or for any other purpose.

3. It is the intent of this subsection (B) that public officials and employees of the MHA Nation avoid any action, whether or not specifically prohibited by the Standards of Conduct set out herein, which could result in, or create the appearance of

- a. Using public office for private gain;
- b. Giving preferential treatment to any special interest organization or person;
- c. Impeding governmental efficiency or economy;
- d. Losing or compromising complete independence or impartiality of action;
- e. Making a government decision outside official channels; or
- f. Adversely affecting the confidence of the people in the integrity of the government of the Mandan, Hidatsa & Arikara Nation.

C. Use of Confidential Information for Private Gain

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No public official or employee shall use or disclose confidential information gained in the course of or by reason of their official position or activities, to further their own economic and personal interest or that of anyone else.

D. Restrictions Against Incompatible Interests or Employment

1. Public officials and employees shall not:
 - a. Have direct or indirect financial or other economic interests nor engage in such other employment or economic activity which, as determined in accordance with the provisions of this Ordinance and other applicable laws of the MHA Nation, necessarily involves inherent substantial conflict, or appears to have such substantial conflict, with their responsibilities and duties as public officials or employees of the MHA Nation; nor
 - b. Engage in, directly or indirectly, financial or other economic transactions as a result of, or primarily depending upon, information obtained through their public office or employment; nor
 - c. Acquire any economic or other financial property, contractual or other economic interest at a time when they believe or have reason to believe, that it will directly and substantially affect or be so affected by their official actions or duties.
2. Subject to the restrictions and conditions set forth in this Ordinance, public officials and employees are free to engage in lawful financial transactions to the same extent as the general public. Governmental bodies and agencies of the government of the MHA Nation may, however, adopt further approved restrictions upon such transactions or employment as authorized herein and by other applicable laws of the MHA Nation, in light of special circumstances or their particular duties.
3. No business or other entity shall employ a public official or employee if such employment is prohibited by or otherwise violates any provision of this Ordinance.
4. The term "employment", within the meaning of this section, includes professional services and any other services rendered by a public official or employee, whether rendered as an employee, consultant, independent contractor (including subcontractors) or other entity

E Abstention from Official Action

1. When a public official or employee is required to take official action on a matter in which such public official or employee has a personal economic interest, they should first consider eliminating that interest. If that is not feasible nor required under Subsection (D) above, such public official or employee shall:

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- a. Prepare and sign a written statement describing the matter requiring action and the nature of the potential conflict, as soon as such public official or employee is aware of such conflict and they shall deliver copies of such statement to the responsible party for inclusion in the official record of any vote or other decision or determination and also to the Ethics and Rules Committee;
- b. Abstain from voting, sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal economic interest in such matter; and
- c. Abstain from voting or otherwise participating in the official decision or determination of such matter, unless otherwise directed by the authorized presiding official of the governmental body making such decision or determination, or otherwise legally required by law, (such as the vote of an elected representative delegate which is cast on behalf of his or her electorate constituents), or unless such person's vote, position, recommendation or participation is contrary to their personal economic interest.

2. Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body, agency or commission to take such action or vote upon such matter.

3. Public employees shall also deliver a copy of such statement to the Committee and to their immediate superior, if any, who shall assign the matter to another. If such employee has no immediate superior, he or she shall take such steps as the Committee shall prescribe or advise, to abstain from influencing actions and decisions in the matter.

4. In the event that a public official's or employee's participation is otherwise legally required for the action or decision to be made, such person and the presiding official or immediate superior requiring such participation shall fully report the occurrence to the Committee.

F. MHA Nation Government Contracts; Restrictions and Bid Requirements

1. No public official or employee or any member of such person's immediate family shall be a party to, nor have an interest in the profits or benefits of, any governmental contract (including subcontracts thereto, leases and/or assignments thereof) of the MHA Nation or of any investment of funds of the MHA Nation, unless the contract or the investment meets the following requirements:

- a. The contract is let by notice and competitive bid or procurement procedures as required under all applicable laws, rules, regulations and policies of the MHA Nation, for necessary materials or services for the governmental agency or entity involved;

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- b. If the continuous course of a business commenced before the public official or employee assumed his or her current term of office or employment;
- c. The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the public official or employee or a member of his or her immediate family;
- d. The public official or employee has taken no part in the determination of the specifications, deliberations or decision of a governmental agency or has been privy to the cost estimate with respect to the public contract; and
- e. The public official or employee is not a member, office holder, employee or otherwise directly associated with the same governmental agency or entity primarily responsible for letting, performing, receiving, regulating or otherwise supervising the performance of the contract.

2. The requirement of subsection (F)(1)(a) shall not apply to the negotiation, execution, award, transfer, assignment or approval of mineral or no mineral leases, permits, licenses and like transactions other than contracts involving the investment, award or payment of government funds; provided, that such leases, permits, licenses and like transactions shall be subject to all other provisions of this section and to all other applicable laws, rules and regulations of the MHA Nation and its governmental bodies; and provided further that subsection (F)(1)(a) shall likewise fully apply to all contracting and other activities, conducted hereunder, which are subject to this Ordinance. Provisions in accordance with the purposes and intent of this Ordinance shall be incorporated as part of the rules, regulations and guidelines applicable to the negotiation, approval and assignment of such leases, permits, licenses and like transactions.

3. In the absence of bribery or a purpose to defraud, a public official or employee or a member of his or her immediate family shall not be considered as having an interest in a public contract or the investment of public funds, when such a person has a limited investment interest of less than ten percent (10%) of the ownership of net assets, or an interest as creditor of less than ten percent (10%) of the total indebtedness of any business or other entity which is the contractor on the public contract involved or in which public funds are invested, or which issues any security therefore.

G. Restrictions on Assisting or Representing other Interests before Governmental Bodies for Compensation

No public official or employee except an employee of a governmental body duly established and authorized for such purposes by the MHA Nation shall represent or otherwise assist any person or entity other than the MHA Nation or a governmental body or political subdivision thereof, for compensation, before any governmental body where the matter before the governmental body is of a non-ministerial nature. This section shall not be construed to prohibit the duties of elected or appointed public officials to represent their constituents' interests before government agencies or entities nor the performance of ministerial functions, including but not limited to the filing or amendment of tax returns, applications for permits and licenses, and other documents or reports. It does, however, prohibit representation of such other interests for any fee or compensation in

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seeing to obtain any legislation, contract, payment or any claim or any other governmental benefit.

H. Restrictions on Assisting or Representing Other Interests Subsequent to Termination of Public Office or Employment

1. No former public official or employee nor partner, employee or other associate thereof shall, with or without compensation, after the termination of such public office or employment, knowingly act as agent or attorney for or otherwise represent any other person or entity (except the MHA Nation, its governmental bodies or political subdivisions) by formal or informal appearance nor by oral or written communication, for the purpose of influencing any governmental body of the MHA Nation or any officer or employee thereof, in connection with any proceeding, contract, claim, controversy, investigation, charge or accusation, in which such former public official or employee personally and substantially participated, through approval, disapproval, recommendation, rendering of advice, investigation or otherwise, while so acting or employed.
2. With respect to any such matter which was actually pending among such former public official's or employee's responsibilities, but in which such person did not participate as set forth in subsection (H) (1) above, the prohibitions set forth hereunder shall apply for the period of two (2) years following the termination of such public office or employment.
3. Nothing in this chapter shall prevent a former public official or employee from appearing and giving testimony under oath, nor from making statements required to be made under penalty of perjury, nor from making appearances or communications concerning matters of a personal and individual nature which pertain to such former public official or employee or are based upon such person's own special knowledge of the particular subject involved, not otherwise privileged from disclosure by other applicable law; and provided further, that no compensation is thereby received other than that which is regularly provided for witnesses by law or regulation.
4. The MHA Nation, its governmental bodies and political subdivisions shall not enter into any contract with, nor take any action favorably affecting or economically benefiting in any manner differently from members of the public at large, any person, business, governmental or other entity, which is assisted or represented personally in the matter by a former public official or employee whose official act, while a public official or employee, directly contributed to the making of such contract or taking of such action by the MHA Nation or any governmental body or political subdivision thereof.
5. Nothing contained in this subsection shall prohibit a former public official or employee from being retained or employed by the governmental entity, which he or she formerly served.

I. Unauthorized Compensation or Benefit for Official Acts

1. No public official or employee shall accept or receive any benefit, income, favor or other form of compensation for performing the official duties of their office or employment, beyond the amount or value which is authorized and received in his or her official capacity for performing such duties.

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2. This section shall not be construed to prohibit the receipt of authorized compensation for the performance of other distinct and lawful public duties by public officials or employees.
3. No public official or employee, however, shall accept any benefit, income, favor or other form of compensation for the performance of the duties of any other office or employment not actually performed or for which such official or employee is not otherwise properly authorized or entitled to receive.

J. Unauthorized Personal Use of Property or Funds of the MHA Nation

No public official or employee shall use any property of the MHA Nation or any other public property of any kind for other than as authorized and approved for official purposes and activities. Such persons shall properly protect and conserve all such property; equipment and supplies, which are so, entrusted, assigned or issued to them.

K. Staff Misuse Prohibited

No public official or employee shall employ, with funds of the MHA Nation, any unauthorized person(s) nor persons who do not perform duties commensurate with such compensation, and shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.

L. Anti-nepotism

No public official or employee shall employ, appoint, or otherwise cause to be employed, nor nominate, nor otherwise influence the appointment or employment to any public office or position with the MHA Nation or any governmental or political subdivision thereof, any person or persons related by consanguinity or affinity within the third degree, nor any member of the same household as said public official or public employee except that this Section shall not apply to the political appointees of the officials of the MHA Nation's government. Assignment of such persons to duties, positions, governmental offices or other entities shall in all instances be made in strict compliance with the current provisions of the Personnel Policies and Procedures of the MHA Nation, as amended from time to time.

M. Restrictions Against Gifts or Loans to Influence Official Acts

Except as otherwise provided herein or by applicable rule or regulation adopted hereunder by the Ethics and Rules Committee of the MHA Nation, or by other

applicable law, no public official or employee shall solicit or accept for himself/herself or another, any gift, including economic opportunity, favor, service or loan (other than from a regular lending institution on generally available terms) or any other benefit of an aggregate monetary value of one hundred dollars (\$100.00) or more in any calendar year, from any person, organization or group which:

1. Has, or is seeking to obtain, contractual or other business or financial relationship or approval from any governmental office or entity with which the public official or employee is associated or employed; or

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2. Conducts operations or activities which are regulated or in any manner supervised by any governmental office or entity with which the public official or employee is associated or employed; or

3. Has any interest which, within two (2) years, has been directly involved with, or affected by, the performance or non-performance of any official act or duty of such public official or employee or of the government office or entity with which the public official or employee is associated or employed or which the public official or employee knows or has reason to believe is likely to be so involved or affected.

N. Permitted Gifts, Awards, Loans, reimbursements and Campaign Contributions

Subsection (M) shall not be construed to prohibit:

1. An occasional non-pecuniary gift, insignificant in value;

2. Gifts from and obviously motivated by family or social relationships, as among immediate family members or family inheritances;

3. Food and refreshments customarily made available in the ordinary course of meetings where a public official or employee may properly be in attendance;

4. An award or honor customarily and publicly presented in recognition of public service and specifically including customary gifts or honors ; and/or

5. A political campaign contribution, in accordance with all applicable election laws and provided that such gift or loan is actually used in the recipient's political campaign for elective office of a governmental body or political subdivision thereof and provided further that no promise or commitment regarding the official duties of office or employment is made in return for such contribution.

O. Adoption of Supplemental Codes of Conduct for Official and Employees of Governmental Entities of the MHA Nation

1. The chief executive or administrator of every governmental entity of the MHA Nation which is subject to the provisions of this ordinance is authorized to submit for approval and adoption by the Tribal Business Council such supplemental rules, regulations and standards of conduct for the public officials and employees of such entity, which are necessary and appropriate to the special conditions relating to their particular functions, purposes and duties and not in conflict with the purposes and other provisions of this ordinance. Upon adoption, such supplemental standards, rules and regulations shall be implemented in the same manner and to the extent applicable, as are all other standards, rules and regulations provided and adopted in accordance with the provisions of this ordinance.

2. Other MHA Nation Political Governing Bodies.

a. Other political governing bodies of the MHA Nation are authorized and directed to draft, adopt, implement and administer standards of conduct, disclosure requirements and other procedures, rules and regulations in conformity with the purposes and provisions of this chapter.

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b. Any lawful authorization for any sponsorship or conduct of participation or involvement in any business activity by any political subdivision of the MHA Nation shall be conditioned upon its prior adoption of such provisions, and enforcement thereof, as approved by the Tribal Business Council.

3. The MHA Nation Legal Department shall provide such assistance as needed and requested by such governmental entities and political governing bodies of the MHA Nation, in the preparation and drafting of such supplemental and implementing provisions as authorized and which are not in conflict with the purposes and provisions of this ordinance.

SECTION III. IMPLEMENTATION AND COMPLIANCE WITH ETHICS ORDINANCE; DUTIES AND RESPONSIBILITIES OF ETHICS AND RULES COMMITTEE; INVESTIGATIONS; HEARINGS; FINDINGS; AND APPEALS

A. Establishment of the Ethics and Rules Committee of the MHA Nation

There is hereby established an Ethics and Rules Committee which shall be appointed by majority vote of the Tribal Business Council and shall consist of three (3) licensed attorneys who are not employed by the MHA Nation of any of its subdivisions or entities. Members of the Ethics and Rules Committee shall be appointed to four (4) year terms and shall only be subject to removal during such term for failing to fulfill duties under this Ordinance or for cause. A violation of this Ordinance shall constitute cause for removal.

B. Powers and Duties of Ethics and Rules Committee

The Committee shall have the specific duties, responsibilities and authority to:

1. Ensure that all appropriated measures are taken for protecting the confidentiality of all statements, records, documents, other materials, and information designated as such by this Ordinance or by any other applicable rules or regulations of the MHA Nation or other competent jurisdiction.
2. Provide written advisory opinions to guide the conduct and address specific questions when requested by officials and employees who are subject to this Ordinance.
 - a. All opinions shall be confidential and maintained by the Ethics Committee;
 - b. All opinions shall be binding upon the Committee, with regard to matters related to the specific request, until amended or revoked by the Committee
3. The Committee may initiate and/or receive, review and/or investigate complaints filed with the Committee.
4. The Committee may conduct Administrative Hearings to determine violations or non-compliance with this Ordinance. All Committee hearings shall follow Rules of Procedures established and adopted by the Committee. The Committee may employ a special prosecutor to present the charges presented under any complaint filed under this Ordinance.

C. Retaliation Prohibited

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1. Retaliation against any party or witness to a complaint shall be prohibited. Retaliation shall include any form of adverse or punitive action. This protection shall also be afforded to any person(s), including Committee members, the prosecutor, staff, or anyone offering testimony or evidence or complying with directives of the Committee.

2. Any violations shall be subject to penalties under this Ordinance, as well as obstruction and contempt violations of both the civil and criminal codes of the MHA Nation.

D. Complaints

Any individual may file a written complaint with the Ethics Committee for an alleged violation of this Ordinance. The complaint shall include the name of the individual alleged to have violated this Ordinance, the facts surrounding the alleged violation and the section of this Ordinance alleged to have been violated. The complaint shall be signed and dated.

E. Dismissals

The Committee may summarily dismiss without hearing any complaint which the Committee determines has insufficient facts to constitute a violation or non-compliance to this Ordinance; or if there is insufficient evidence to support the allegations; or if the Committee lacks personal and subject matter jurisdiction.

F. Statute of Limitations

No action shall be brought under this chapter more than two (2) years after the alleged act took place.

G. Administrative Hearings

1. The Committee, in the capacity of a quasi-judicial body, may conduct administrative hearings on any alleged violation or noncompliance with this Ordinance.
2. The Committee may impose or recommend any sanctions, civil damages, restitution, or other penalties provided in this chapter, or refer their findings to other appropriate entities for action.
3. Upon completion of the administrative hearing, the Committee shall immediately deliberate in executive session and by memorandum render its findings of facts, conclusions of law and orders regarding sanctions. The memorandum shall be issued no later than 30 days after the conclusion of the hearing and deliberations.

H. Notice of Final Decision of Committee

The individual who is the subject of a complaint shall be given notice of the Committee's final decision along with a copy of the memorandum within three days of entry of the findings of fact, conclusions of law and order. The notice shall include notice of the right to appeal to the Fort Berthold District Court if the Committee determines that a violation of this Ordinance occurred.

I. Appeals to Fort Berthold District Court

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1. The Fort Berthold District Court shall have jurisdiction to hear appeals from final decisions. Appeals shall be limited to questions of law and a review of the record to ensure that the findings of the Committee are consistent with the evidence provided at the hearing. The decision of the Fort Berthold District Court shall be final.

2. A notice of appeal shall be filed within ten (10) business days of the issuance of a written decision.

J. Committee's Power as a Quasi-Judicial Body

1. The Committee may hold in contempt any person found disobeying any lawful order, process, writ, finding or direction of the Committee.

2. The Committee is authorized to administer oaths and issue subpoenas to compel attendance and testimony of witnesses, or to produce any documents relevant to the matter before the Committee.

3. The Committee shall maintain a complete record of all hearings, including all testimony and documents presented as evidence.

4. The Committee shall not be bound by formal rules of evidence.

5. The Committee shall generally conduct all hearings in open session. All records, transcripts, and other documents in the possession of the office shall remain confidential unless such information is submitted by the office as evidence.

6. The Committee shall cause a copy of any order or decision to be delivered to the Tribal Business Council.

K. Committee Conflict of Interest

No Committee member shall hear matters before the committee, which involve a member of his/her immediate family and/or personal economic interest and shall be subject to all applicable provisions of this Ordinance.

L. Independent Legal Counsel

Subject to all applicable laws, the Committee may obtain independent legal counsel to assist and advise the Committee.

M. Investigator

1. The Committee may hire an Investigator to investigate complaints and report written findings to the Committee.

N. Special Prosecutors

1. If the Committee has not dismissed the Complaint, and the Complainant is no longer available, the Committee may hire a special prosecutor to pursue and present the Complaint.

2. The Special Prosecutor may utilize the Investigator to further pursue investigation and presentation of the Complaint.

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3. The Committee shall not receive additional information or findings from the Investigator after a special prosecutor has been appointed, other than receipt of testimony at a hearing.

4. In the event of any administrative proceeding under this Ordinance in which the MHA Nation, through a Special Prosecutor, is a complainant against a person, any other complaint filed against such person hereunder (whether filed before or after the date on which the MHA Nation became complainant) shall abate and shall be dismissed without prejudice, as to any common allegation of prohibited conduct.

O. Other Relief Not Barred

Nothing herein shall be construed as foreclosing the right of the MHA Nation, through a Special Prosecutor or otherwise, to initiate proceedings to secure the relief and sanctions referred to in Section 4(B) and Section 4(C) of this Ordinance.

SECTION IV. SANCTIONS AND PENALTIES

A. Administrative Sanctions

1. Upon finding that there has been violation of any provision of this ordinance, the Committee may impose any or all of the following penalties or sanctions:

- a. Recommend the removal, discharge or termination from public office or employment of the defendant in accordance with applicable MHA Nation law and procedure.
- b. Recommend suspension from public office or employment and forfeiture of all compensation and benefits accruing there from, for not less than thirty (30) days nor for more than one (1) year.
- c. Issuance of a written public reprimand, which shall be entered into such person's permanent record of employment or office and upon the permanent record of the public office or entity of which such person is a member or employee, according to provision of applicable MHA Nation law and procedures.
- d. Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.
- e. Imposition of restitution or such other civil penalties as hereinafter provided under Section 4(B).

2. No sanctions or penalty provided herein shall limit any other powers of the Tribal Business Council or the Fort Berthold District Court, or of any other entity or administrative officials or employees under other applicable law, rules, regulations or procedures.

B. Recommendation for Removal From Office By the Tribal Business Council Under Article V of the Constitution of the Three Affiliated Tribe

Upon the finding of a violation of this Ordinance by a member of the Tribal Business Council, the Committee may recommend removal from office of such member to the Tribal

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Business Council in accordance with Article V, Section 2 of the Constitution of the Three Affiliated Tribes.

C. Other Civil Damages

1. A person found in violation of this Ordinance shall be further subject to, and personally liable for the following provisions, without regard to the imposition of any administrative sanction or criminal conviction:

a. Any public official or employee who violates any economic disclosure or reporting requirement of this ordinance may be held liable to the MHA Nation for civil damages in an amount not to exceed the value of any interest not properly reported.

b. Any public official or employee who realizes an economic benefit as a result of violation of any prohibition or restriction set forth in Section 2 of this ordinance shall be liable to the MHA Nation for civil damages in an amount not exceeding the amount or value of the benefit or benefits so obtained.

2. If two (2) or more persons are responsible for any violation, each of them shall be liable to the MHA Nation for the full amount of any civil damages prescribed herein, the full amount of which may be imposed upon and collected from each of them individually.

3. Any civil penalties imposed hereunder shall be collected in any manner authorized for recovery of debts or obligations owed to the MHA Nation and shall be paid into the General Fund of the MHA Nation.

4. No imposition of any or all civil damages provided herein shall be a bar to institution of any civil, criminal or misdemeanor action, liability, judgment, conviction or punishment otherwise applicable hereto, nor shall determination of any such civil damages be barred thereby.

D. Misdemeanor Violations; Punishments

The MHA Nation, through the Office of the Prosecutor and the Fort Berthold District Court shall be responsible for the enforcement of the following subsections:

1. Any person who is convicted or found guilty of knowingly and willfully violating any provision of Section 2 of this ordinance is guilty of a misdemeanor and for a first offense shall be fined not more than \$500.00 and may be sentenced to imprisonment for not more than 180 days, or both.

2. Any person knowingly and willfully filing any complaint authorized under this chapter or by any other applicable law, without just cause and with malice or other improper purpose, including personal, political or other harassment or embarrassment, shall be guilty of a misdemeanor and for a first offense shall be fined not more than \$500.00 and may be sentenced to imprisonment for not more than 180 days, or both.

3. Upon conviction of any subsequent offense prescribed in subsection (1) or (2) of this section, such person shall be fined not less than \$500.00 and shall be sentenced to imprisonment of not less than 30 days nor more than 180 days.

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4. A person convicted of a misdemeanor under this ordinance shall not be a candidate for elective public office, nor be eligible for any appointive office of the MHA Nation, nor any of its governmental entities or political governing bodies or businesses for five (5) years following the date of conviction.

5. A plea of *nolo contendere* shall be deemed a conviction for purposes of this ordinance.

6. No criminal or misdemeanor action, judgment, conviction or punishment hereunder shall operate to bar any action for civil damage or penalty or imposition of any administrative sanction provided hereunder, nor be barred thereby.

SECTION V. MISCELLANEOUS PROVISIONS

A. Severability

If any provision of this ordinance or the application of such provision to any person, firm, association, corporation or circumstances shall be held invalid, the remainder of the ordinance and the application of such provision to persons, firms, associations, corporations or circumstances other than those as to which it is held invalid shall not be affected thereby.

B. Effective Date

The effective date of all provisions of this MHA Nation Ethics in Government Ordinance shall be the 1st day of fiscal year after its enactment unless supplemental appropriations are approved to carry out its intent and purposes.

C. Prior Inconsistent Law Superseded

Upon the effective date of this MHA Nation Ethics in Government Ordinance, all prior inconsistent enactments, laws, rules, policies, ordinances and regulations of the MHA Nation and all branches, divisions, departments, offices and political subdivisions thereof, are superseded hereby and/or amended to comply herewith.

E. No Retrospective Application

This Ordinance shall not in any manner be applied to any prior actions or omissions by any individual that may or could be construed to be a violation of this Ordinance and shall only be applied prospectively to actions or omissions that occur after its enactment.