



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

***A Resolution Entitled: "Adoption of an Ordinance Providing Statutory Authorization for the Acquisition, Sale, Conveyance, Transfer, Exchange and Encumbrance of Tribal Lands Acquired in Fee for Public Purposes."***

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and
- WHEREAS,** Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes 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 VI, Section 5 (I) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and
- WHEREAS,** Article IX, Section 1 of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council shall have authority to manage, lease and otherwise deal with Tribal lands and resources in accordance with law; and
- WHEREAS,** Article IX, Section 2 of the Constitution provides that all lands acquired by the Tribes shall be held as tribal lands and no such lands shall be mortgaged, sold, or ceded *except as permitted by law* and then only with the consent of the Secretary of Interior; and
- WHEREAS,** Article IX, Section 6 of the Constitution provides that the Tribal Business Council has the power to acquire by purchase, exchange of Tribal lands, relinquishment or otherwise any lands or interests in lands for and on behalf of the Three Affiliated Tribes; and
- WHEREAS,** The Secretary of Interior, through its Agency representative, has advised the Tribe that the Secretary and/or the Bureau of Indian Affairs does not exercise authority over acquisitions or other transactions involving lands held in fee by the Tribes whether the acquired fee lands are within or outside the exterior boundaries of the Fort Berthold Indian Reservation; and
- WHEREAS,** There exists an extreme shortage of housing on the Fort Berthold Reservation and the unmet housing needs of the Tribe have not been adequately addressed through the United States Department of Housing and Urban Development through the Indian Housing Programs; and



- 1.9 Applicability of the Ordinance:** This Ordinance shall apply to the Tribe and all of its programs and business entities and the Fort Berthold Housing Authority.



community centers, detention facilities and other government facilities subject to mortgages. A duly authorized representative is either a Tribal program or entity or a chartered corporation wholly or partially owned by the Tribes. Authorization to act on behalf of the Tribal Business Council may only be granted by Resolution of the Tribal Business Council.

- 1.4 Sales, transfers, conveyances, exchanges and encumbrances of Tribal lands for residential, commercial or governmental purposes:** Any tribal land acquired for residential, commercial or governmental purposes pursuant to the terms of this ordinance may be sold, transferred, exchanged, conveyed or encumbered upon specific authorization of the Tribal Business Council. Tribal Business Council authorization shall be in the form of a resolution specific to the project, sale, transfer, conveyance or encumbrance. All transactions including purchase agreements, deeds, mortgages and other encumbrances shall be executed by the Tribal Chairman and witnessed and attested to by the Secretary of the Tribal Business Council. Conveyances of tribal lands for residential purposes shall be in the form of individual lots established by a plat approved by the Tribal Business Council. Sales of such lots shall not be for less than the land's fair market value based on an appraisal. Tribal members may exchange their interests in individual trust allotments for a residential lot provided that their interest in such individual allotment is equal to the value of the lot.
- 1.5 Restrictions:** The authorizations set out in this Ordinance are limited to tribal lands held in fee and do not apply to any lands held in trust status by the United States on behalf of the Tribe.
- 1.6 Secretarial Approval:** Unless otherwise provided by law, because the Secretary of the Interior/Bureau of Indian Affairs generally do not exercise authority over transactions involving tribal lands held in fee status regardless of whether such land is located within the exterior boundaries of the Reservation or outside of the Reservation boundaries, the approval of the Secretary of the Interior shall not be required for any transaction made pursuant to this Ordinance.
- 1.7 Ratification of Prior Transactions:** Any and all prior sales, conveyances or encumbrances of tribal fee lands authorized by the Tribal Business Council or the Fort Berthold Housing Authority to date and made for public purposes such as residential housing development for tribal members, public facilities such as community centers, detention facilities and other government facilities are hereby authorized and ratified by the enactment of this Ordinance. The Tribal Business Council hereby specifically ratifies any sales, conveyance, mortgages or encumbrances of tribal fee lands set aside for the Tribe's Dreamcatcher Project, North Segment Community Building, Gerald "Texx" Fox Detention Facility, and the Northern Lights and Breslin Subdivisions.
- 1.8 Land into Trust:** Nothing in this ordinance shall be construed to prohibit land sold or acquired under this Ordinance from being put into trust for the owner of the land.



## Title XII ACQUISITION AND DISTRIBUTION OF TRIBAL FEE LANDS

### Chapter 1: Acquisition, sale and encumbrance of Tribal fee lands for public purposes.

**1.1 Authority:** This Chapter is adopted by the Tribal Business Council of the Three Affiliated Tribes pursuant to the authority granted by Article IX, Section 1 of the Constitution of the Three Affiliated Tribes which grants the Tribal Business Council the authority to manage and lease and otherwise deal with Tribal lands and resources in accordance with law and Article IX, Section 6 which grants the Tribal Business Council the authority to acquire by purchase, exchange of Tribal land, relinquishment or otherwise any lands or interests in lands for and on behalf of the Three Affiliated Tribes.

**1.2 Purpose:** The purpose of this Chapter is to provide a statutory mechanism in conformance with Article IX, Section 2 of the Constitution of the Three Affiliated Tribes, whereby the Tribe may acquire lands in fee simple by purchase, gift, exchange or otherwise for public purposes such as residential housing development for tribal members, public facilities such as community centers, detention facilities and other government facilities. The Tribal Business Council has determined that there exists an extreme shortage of housing on the Fort Berthold Reservation for tribal members and their families and that the federal government has failed to meet its Treaty and trust obligations to adequately meet the Tribes' housing needs and that federal funding through the U.S. Department of Housing and Urban Development for Indian housing continues to be inadequately funded.

The Tribal Business Council has a duty and the power to provide for the general welfare of its members; this includes providing for housing development and public facilities. The Tribal Business Council has established the Tribal Housing Division of the Three Affiliated Tribes for the purpose of housing development. The Tribal Business Council finds that it can best meet the short and long term housing needs of the Tribe by creating and providing homeownership opportunities for its members through its Tribal Housing Division. In order to meet these goals, it is necessary to acquire lands in fee simple status for development purposes and to have a statutory mechanism in place that will authorize the sale of acquired tribal fee lands to individual tribal members for housing and other public purposes and to authorize the encumbrance of such tribal lands through mortgage, easements, rights of ways and otherwise in order to finance such residential and commercial development projects. This Chapter and the authorizations provided for herein apply strictly to tribally acquired fee lands and are not applicable to any tribal trust or restricted lands.

**1.3 Authority to acquire lands for public purposes:** The Tribal Business Council or its duly authorized representative shall have the authority to acquire lands located within or without the boundaries of the Fort Berthold Reservation for public purposes such as residential housing development for tribal members, public facilities such as

**WHEREAS,** To address this unmet housing need for the members of the Three Affiliated Tribes, the Tribal Business Council has established the Tribal Housing Division whose primary purpose is to provide homeownership opportunities for tribal members through the various tribal, federal and state housing development resources available to the Tribes and its members; and

**WHEREAS,** The Tribal Business Council finds that homeownership opportunities and projects are the most viable means of addressing the long term housing needs of the Tribes and its members and the Tribal Business Council must be able to play a central role in creating such opportunities; and

**WHEREAS,** The Tribal Business Council also finds that there is a need to acquire lands for public purposes such as residential housing development for tribal members and public facilities (i.e. community centers, detention facilities and other governmental facilities) and that such development may require the encumbrance of such lands in order to finance these projects; and

**WHEREAS,** It is the intent of this Resolution and the Ordinance adopted hereby to create a statutory mechanism in conformance with Article IX, Section 2 of the Constitution whereby the Tribe may acquire lands in fee status and authorize the sale, exchange, conveyance, transfer or encumbrance of such lands for residential, commercial and governmental development purposes.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the attached Ordinance entitled "*Acquisition and Disposition of Tribal Fee Lands.*"

**BE IT FURTHER RESOLVED,** that this Ordinance shall be adopted and codified into the Three Affiliated Tribes Tribal Code as Chapter 1 of Title XII which is hereby designated and reserved for all statutes, ordinances, laws and other enactments regulating Tribal Fee Lands.

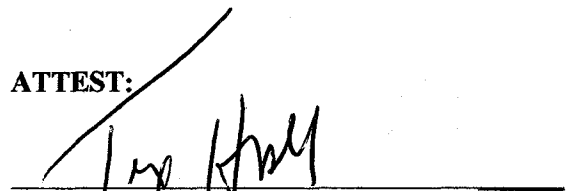
**CERTIFICATION**

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, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 22 day of August 2005; 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  voting.  not voting.

Dated this 22nd day of August 2005.

  
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Secretary, Nathan Hale  
Tribal Business Council

**ATTEST:**  
  
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Chairman, Tex Hall  
Tribal Business Council