



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

**A Resolution Entitled: “*Amendment to Title V, Chapter 5-18, Part 7 of the Three Affiliated Tribes Domestic Violence Code*”**

**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 3 of the Constitution grants the Tribal Business Council all legislative authority necessary for the purpose of exercising the jurisdiction granted by Article I of the Constitution; and

**WHEREAS,** pursuant to the authority set out in the Constitution, the Tribal Business Council adopted Resolution 05-92NH which enacted various provisions and amendments to the Tribe’s Domestic Violence Code; and

**WHEREAS,** pursuant to Resolution 05-92NH the Tribal Business Council enacted Chapter 5-18, Part 7 Firearms Disqualification, including Section 5-18-706 which prohibits any person who has been convicted in tribal, state or federal court from possessing, owning, selling, trading or having immediate access to a firearm if such person has been convicted of a crime of domestic violence which involved the use or attempted use of physical force, or the threatened use of physical force, or threatened use of physical force, or the threatened use of a deadly weapon against a household or family member; and

**WHEREAS,** Chapter 5, Section 5-18-706 essentially prohibits any individual who has been convicted of an offense involving domestic violence in tribal, state or federal court from ever owning or possessing a firearm regardless of the nature and circumstances of the offense; and



**WHEREAS,** the Judicial Committee of the Tribal Business Council has reviewed Section 5-18-706 of the Tribal Code and found that it is too restrictive and has recommended that it be amended; and

**WHEREAS,** the Tribal Business Council concurs with the Judicial Committee that Section 5-118-706 should be amended.

**NOW THEREFORE BE IT RESOLVED,** that Chapter 5-18, Part 7 of the Three Affiliated Tribes Domestic Violence Code is hereby amended as follows:

## **CHAPTER 5-18. DOMESTIC VIOLENCE CODE**

### **PART 7. FIREARMS DISQUALIFICATION.**

#### **Section 5-18-702. Purpose.**

It shall be the purpose of this part to prohibit any person who has been convicted of certain offenses involving domestic violence under tribal, state or federal law, or any person who is subject to an order for protection based upon a finding that the person represents a credible threat of violence to the victim, under tribal, state or federal law to possess, own, sell, trade, or have immediate access to a firearm.

#### **Section 5-18-704. Definitions.**

For purposes of this part, "offense of domestic violence" means an offense committed by a person that has, as an element, the use or attempted use of physical force, or the threatened use of physical force, or the threatened use of a deadly weapon against a family or household member as defined in section 5-18-106 of this chapter.

#### **Section 5-18-706. Firearm Possession, Dealing, and Access Prohibited.**

1. It shall be unlawful for any person to possess, own, sell, trade, or have immediate access to a firearm who:

- a. Is subject to any court order from a court of competent jurisdiction that restrains such person from assaulting, harassing, stalking, or threatening a family or household member as defined in section 5-18-106 or engaging in any other conduct that would place a family or household member in reasonable fear of bodily injury to the household or family member, except that this paragraph shall apply only to an order that:

- (i.) Was issued after a hearing of which such person received actual notice and



- had the opportunity to participate;
- (ii.) Included a finding that the person represented or represents a credible threat to the physical safety of a household or family member; and
  - (iii.) By its terms explicitly prohibits the use or attempted use or threatened use of physical force against another family or household member.
- b. Has been convicted in tribal, state, or federal court of an offense of domestic violence which involved the use or the threatened use of a deadly weapon against a household or family member or the infliction of serious bodily injury against a household or family member as defined in section 5-18-106.
- c. Has been convicted in tribal, state or federal court of any offense involving domestic violence which is not covered by sub-section (b) of this section, provided that the restrictions on firearm ownership and possession set out in this section shall apply only for a period of six months from the date of such conviction if the individual does not have any prior convictions involving domestic violence in tribal, state or federal court and if the individual does not have any domestic violence offense convictions during the six month period.

**Section 5-18-708. Penalties for Violation, Forfeiture of Firearms.**

1. A violation of section 5-18-706 shall constitute a class II misdemeanor offense for a violation other than that specified in subsection 2.
2. Pursuant to subchapter 4B-01 of chapter 5 of the Criminal Code of the Three Affiliated Tribes, if the firearm immediately accessible, possessed, owned, sold, or traded is a pistol and the person has been convicted within the last ten years of an enumerated offense as specified in that section, a violation of section 5-18-706 is a class A misdemeanor.
3. In addition, the court may order all firearms and Tribal licenses owned or possessed by the person found in violation of section 5-18-706 to be forfeited to law enforcement and disposed of in accordance with Tribal law.

**BE IT FURTHER RESOLVED**, that it is the intent of the Tribal Business Council that these amendments shall have a retroactive effect and shall apply to any applicable case wherein an individual has been previously determined to have been disqualified from possessing or owning a firearm pursuant to Section 5-18-706; and

**BE IT FINALLY RESOLVED**, that the amendments to Chapter 5-18, Part 7 herein enacted shall become effective upon adoption and certification of this Resolution by the Tribal Business Council.



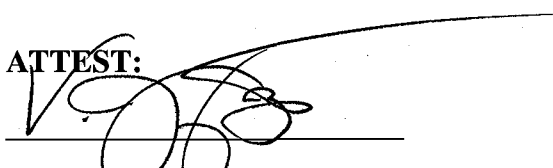
### CERTIFICATION

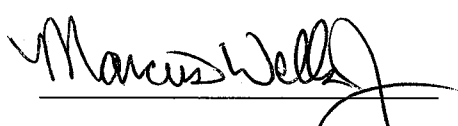
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 14<sup>th</sup> day of November 2006; 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 14<sup>th</sup> day November 2006.

ATTEST:

  
Secretary, V. Judy Brugh  
Tribal Business Council

  
Chairman, Marcus Wells, Jr.  
Tribal Business Council