

**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 Three Affiliated Tribes of the Fort Berthold Indian Reservation is organized under Constitution and Bylaws adopted by the Tribal people on May 15, 1936; and approved by the Secretary of the Interior June 29, 1936; 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 all residents of the Fort Berthold Reservation; and
- WHEREAS,** Article VI, Section 3 of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to exercise all necessary sovereign powers for the purpose of enforcing the jurisdiction granted to the Tribal Council by the people in Article I of the Constitution; and
- WHEREAS,** Article I of the Constitution expressly provides that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands, including lands held in fee, within the exterior boundaries of the Fort Berthold Reservation; and
- WHEREAS,** 18 U.S.C., Section 1161 provides that the Three Affiliated Tribes may adopt a ordinance that regulates the introduction, use and sale of liquor on the Fort Berthold Indian Reservation; and
- WHEREAS,** The Tribal Business Council recognizes the adverse social and economic effects and costs inflicted by the use of alcoholic beverages by the residents of the Fort Berthold Indian Reservation; and
- WHEREAS,** The introduction, sale, and use of alcoholic beverages within the exterior boundaries of the Fort Berthold Indian Reservation has substantial impacts on the social, economic, and health values of the residents of the Fort Berthold Indian Reservation; and

**THREE AFFILIATED TRIBES
ALCOHOLIC BEVERAGES CONTROL LAW**

CHAPTER I. GENERAL PROVISIONS

Section 1. Definitions: In this Ordinance,

(1.) "Alcohol" shall mean neutral spirits distilled at or above 190o proof, whether or not such product is subsequently reduced, for nonindustrial use.

(2.) "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.

(3.) "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.

(4.) "Distilled spirits" shall mean any alcoholic beverage that is not beer, wine, sparkling wine or alcohol.

(5.) "Licensed premises" means the premises on which beer, liquor, or alcoholic beverages are normally sold or dispensed and shall be delineated by diagram or blueprint which shall be included with the license application or the license renewal application.

(6.) "Liquor" shall mean any alcoholic beverage except beer.

(7.) "On-Sale" shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.

(8.) "Off-Sale" shall mean the sale of any alcoholic beverage for consumption off the premises where sold.

(9.) "Sale" shall mean the transfer of bottled or canned alcoholic beverages for currency exchange of title to such alcoholic beverages.

(10.) "Sparkling wine" shall mean wine made effervescent with carbon dioxide.

(11.) "Transport" shall mean the introduction of alcoholic beverages onto the Fort Berthold Reservation by any means of conveyance for the purpose of sale, or distribution, to any licensed retailer.

(12.) "Tribal council" shall mean the governing body of the Three Affiliated Tribes.

(13.) "Wine" shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.

(14.) The terms, "the provisions of this Ordinance" as provided in this Ordinance, or similar terms, shall include all rules and regulations established by the Tribal Legal Department, and approved by Council, to aid in the administration or enforcement of this Ordinance.

Section 2. Public Policy Declared

This Ordinance shall be cited as the "Three Affiliated Tribes Alcoholic Beverages Control Law" and, pursuant to the constitutional and inherent sovereignty of the Three Affiliated Tribes, shall be deemed an exercise of the Tribes' powers for the purpose of protecting the welfare, health, peace, morals and safety of all people residing on the Fort Berthold Reservation. All the provisions of this Ordinance shall be liberally construed to accomplish the above declared purpose. It is the Three Affiliated Tribes' declared intent in enacting this Ordinance to prohibit all traffic in liquor on the Fort Berthold Indian Reservation except to the extent allowed and permitted under the express terms of this Ordinance.

Section 3. Exceptions:

Nothing contained in this title shall be construed to apply to the following articles, when they are unfit for beverage purposes:

(1.) Denatured alcohol produced and used pursuant to acts of Congress, and the regulations thereunder;

(2.) Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations;

(3.) Flavoring extracts, syrups, and food products; nor to the manufacture or sale of said articles containing alcohol. This title shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use.

Section 4. General Prohibition:

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, or transport alcoholic beverages on the Fort Berthold Reservation except upon the terms, conditions, limitations, and restrictions specified in this Ordinance.

CHAPTER II. RETAIL LICENSING

Section 1. Tribal Retail License Required

No person shall engage in the sale of alcoholic beverages at retail without first securing an appropriate license from the Three Affiliated Tribes as provided herein.

Section 2. Qualifications for License

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

(1.) The applicant, other than corporate, must be a legal resident of the United States and a resident of the Fort Berthold Indian Reservation and be a person of good moral character.

(2.) If the applicant is a corporation then the manager of the licensed premises and its officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must also be properly registered with the Three Affiliated Tribes as entitled to do business on the Fort Berthold Reservation.

(3.) The applicant or manager must not have been convicted of an offense determined by the Tribes to have a direct bearing upon an applicant's or manager's ability to serve the reservation public as an alcoholic beverage retailer.

(4.) The Tribes may also require the applicant to set forth such other information in this application as is necessary to enable them to determine if a license should be granted.

Section 3. License Fees.

The fee for an annual on and off sale liquor license shall be set by Tribal resolution at not less than fifty dollars nor more than two hundred dollars. The fee for an annual on and off sale beer license shall be set by Tribal or resolution at not less than fifty dollars nor more than one hundred dollars.

Section 4. Special Permit Authorized

The Three Affiliated Tribes may by special permit authorize an on sale, off sale,, or on or off sale alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events on licensed premises as may be designated by the permit. A fee for the special permit may be set by resolution at not more than twenty-five dollars. The permit shall not be valid for a period greater than three consecutive days.

Section 5. Disposal Prohibited on Certain Days

No person shall dispense or permit the consumption of alcoholic beverages on licensed premises after 1 a.m. on Sundays, before 8 a.m. on Mondays, or between the hours of one a.m. and eight a.m. on all other days of the week; or on Memorial Day, Good Friday, Thanksgiving Day, Christmas Day, or after 6 p.m. on Christmas Eve, or between the hours of 1 a.m. and 8 p.m. on the day of any Tribal special, primary, or general election.

Section 6. Prohibitions as to Persons Under Twenty-One Years of Age

No licensee shall dispense alcoholic beverages to a person under twenty-one years of age or permit such person to remain on the licensed premises while alcoholic beverages are being sold or displayed. Any person under Twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed, if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area or if (1) employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of a person twenty-one or more years of age, and not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages, or (2) if the person is a law enforcement officer entering the premises in the performance of official duty. Any establishment where alcoholic beverages are sold may employ persons from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person over twenty-one years of age.

CHAPTER III. WHOLESALE LICENSING

Section 1. Tribal Wholesale License

No person shall engage in the sale of alcoholic beverages at wholesale without first securing an appropriate license from the Three Affiliated Tribes as provided herein. Such a license shall allow sale only to licensed retailers.

Section 2. Qualifications for License

No such license shall be issued unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

(1.) Applicant other than corporate must be a legal resident of the United States and a person of good moral character. If the applicant is a corporation, the manager of the licensed premises must be a citizen of the United States and a person of good moral character, and the officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must also be registered with the Three Affiliated Tribes as entitled to do business on the Fort Berthold Reservation.

(2.) The Tribal Council may require the applicant to set forth such other information as is necessary to enable it to determine if a license should be granted.

Section 3. License Fees

The fee for an annual wholesale license shall be set by Tribal resolution at not less than one hundred dollars nor more than two hundred dollars.

CHAPTER IV. TRANSPORT LICENSING

Section 1. Tribal Transport License Required

No person shall engage in the transport for sale, or distribution to licensed retailers of alcoholic beverages on the Fort Berthold Reservation without first securing an appropriate license from the Three Affiliated Tribes as provided herein. Such a license shall allow the delivery, or distribution, of alcoholic beverages only to licensed retailers.

Section 2. Qualifications for License

No such license shall be issued unless the applicant shall file a sworn application, accompanied by the required fee showing the following qualifications:

(1.) Applicant other than corporate must be a legal resident of the United States and a person of good moral character. If the applicant is a corporation, the manager of the licensed premises must be a citizen of the United States and a person of good moral character, and the officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must also be registered with the Three Affiliated Tribes as entitled to do business on the Fort Berthold Reservation.

(2.) The Tribal Council may require the applicant to set forth such other information as is necessary to enable it to determine if a license should be granted.

Section 3. License Fees.

The fee for a transport license shall be set by tribal resolution at not less than one hundred dollars and no more than two hundred dollars.

CHAPTER V. PENALTIES IMPOSED FOR VIOLATIONS OF ORDINANCE

Section 1. General Penalties

Anyone violating this ordinance shall be subject to civil penalties and/or the suspension or revocation of their tribal license according to a schedule of penalties established by the Tribal Legal Department and approved for publication by the Tribal Council.

Section 2. Hearing on Alleged Violations

Anyone having information that a person has violated any provisions of this ordinance may file with the tribal Legal Department an affidavit specifically setting forth such violation. Upon receipt of such affidavit, the Legal Department shall set the matter for hearing not later than the next regular meeting of the Tribal council. A copy of the affidavit and notice of hearing shall be mailed to the affected person by registered mail not less than five days before such hearing. A record of such hearings will be made by stenographic notes or by the use of an electronic recording device. The person shall have the right to be represented by counsel, question witnesses and examine the evidence against him as well to present evidence and witnesses in his own defense.

Section 3. Suspension or Revocation of License

If after such hearing the Tribal Council finds the violation set forth in the affidavit has been proved by the evidence, an order shall be served on the licensee revoking or suspending his license for a period of time and imposing such other civil penalties as are consistent with a policy established by the Tribal Legal Department and approved by Council. Such action may be appealed to the Tribal Court, except that the order revoking or suspending the license, or imposing other penalties shall be effective while the appeal is pending

Section 4. Other Penalties

The Tribal Council may impose such other civil penalties, according to a policy established by the Tribal Legal Department and approved by Council, for any violation of this ordinance including the failure to apply for or to possess the appropriate tribal license. Such tribal action imposing such penalties on any person may be appealed to Tribal Court, except that the imposition of the penalties shall be effective while the appeal is pending.

Section 5. Powers of Tribal Chairman

The Tribal chairman, or his designee, at a hearing under this Ordinance shall have the power to administer oaths and subpoena and examine witnesses.

Section 6. Effect of Findings on Tribal Court

The Tribal Court, in any matter heard on appeal under this ordinance, shall give substantial weight to the findings of fact made by the Tribal Council.

CHAPTER VI. MISCELLANEOUS PROVISIONS

Section 1. Agreement by Licensee to Grant Access for Inspection Purposes

Every licensee under this Ordinance, as a condition of the grant of a tribal license, consents to the inspection of his premises, including all buildings, safes, cabinets, lockers and storerooms thereon. Such inspection shall be available upon the demand of the Tribal Council. These inspections shall be conducted by a duly appointed designee of the Tribal Council, or tribal or federal police. All books and records dealing with the sale or ownership of alcoholic beverages shall be open for inspection purposes by the duly authorized tribal authorities.

Section 2. Recovery of Damages Resulting from Intoxication

Every spouse, child, parent, guardian, employer, or other person who is injured by any intoxicated person, or in consequence of intoxication, shall have a right of action in Tribal Court against any person who caused such intoxication by disposing, selling, bartering, or giving away alcoholic beverages for all damages sustained and in the event death ensues the survivors of the decedent may prosecute such an action in their own name.

Section 3. Surety bond Required

(1.) Every application for a license under this Ordinance, unless exempted by the Tribal Council, must be accompanied by a bond, which shall become operative and effective upon the issuance of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of \$10,000.00 and must be in a form approved by the council and it shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this Ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Three Affiliated Tribes when due all license fees payable by it under the provisions of this Ordinance and also any costs and penalties assessed against it in any determination that he violated the terms of this Ordinance.

(2.) All bonds required by this Ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account with a bank.

Section 4. Severability

If any section of this Ordinance, or any part thereof, is held to be invalid or inapplicable for any cause whatsoever, the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof had been declared invalid.

Section 5. All Prior Ordinances and Resolutions Repealed

All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent with any provision of this Ordinance are hereby repealed.

WHEREAS, The Tribal Business Council has chosen to regulate the introduction, sale and use of alcoholic beverages herein in order to protect the health, welfare, and social standards of the residents of the Fort Berthold Indian Reservation; and

NOW, THEREFORE, BE IT RESOLVED, That the Three Affiliated Tribes Business Council adopts the Three Affiliated Tribes Liquor Control Ordinance.

NOW, THEREFORE, BE IT FURTHER RESOLVED, That the Secretary of the Tribal Council is hereby directed to submit this Ordinance to the Secretary of the Interior for publication in the Federal Register as required by law.

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 11 members of whom 7 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 8 day of October, 1986; 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.

Dated the 8 day of October, 1986.

Jah Chasing
Secretary, Tribal Business Council

ATTEST:

Alyce Spotted
Chairman, Tribal Business Council