



SUSANVILLE INDIAN RANCHERIA

ORDINANCE NO. 2005-001

ORDINANCE OF THE TRIBAL BUSINESS COUNCIL OF THE SUSANVILLE INDIAN RANCHERIA PROHIBITING ABANDONED VEHICLES AND PROVIDING FOR THE ABATEMENT OF SAME

The Tribal Business Council ("Council") of the Susanville Indian Rancheria hereby ordains as follows.

SECTION 1. FINDINGS.

1.1 The presence of dismantled, wrecked and abandoned vehicles creates both a public and private nuisance, a safety and health hazard by obstructing traffic and visibility, visual blight, and the possible release of hazardous fluids associated with vehicles.

1.2 These conditions exist and must be remedied to protect the health, safety and general welfare of the Tribe, residents and visitors to tribal lands, and tribal members.

SECTION 2. ABANDONED VEHICLES.

No person who owns, controls or possesses a vehicle shall abandon or allow the abandonment of a wrecked, dismantled or inoperative vehicle or parts thereof on non-assigned tribal property, or public streets or highways on the Rancheria. Such wrecked, dismantled or inoperative abandoned vehicles are hereby declared a public nuisance. Their removal is authorized under the terms of this Ordinance or under any other legal authority, including, but not limited to, California Vehicle Code Sections 22523, 22658 and 22669

2.1. "Abandoned" means (1) any vehicle present on tribal street, highway alley or other non-assigned tribal lands for longer than seventy-two (72) consecutive hours or which lacks an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate said vehicle safely;

2.2. Contract or Franchise Authority.

The Council may contract with or grant a franchise to any person or persons for the removal and/or storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof. If such a contract or franchise is granted, such person or persons shall be authorized to enter public property, including unassigned tribal land, to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this Ordinance.

2.3. Administrative Costs.

The Council may from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or parts thereof) under this Ordinance. Said costs of administration may be expressed as a fixed sum per removal, or as a percentage of the actual cost of removal. When such fees have been fixed, no contract or franchised tow company shall release a vehicle which has been removed and stored pursuant to this ordinance to the owner or other person entitled to possession thereof, until that person has paid the administrative fee in addition to the fees charged by the tow company to tow and store the vehicle. Any company that removes and stores a vehicle as authorized by this Ordinance, shall have lien on the vehicle for its towing and storage charges and the administrative fee adopted by the Council. The company collecting the administrative fee shall remit the full amount thereof without deduction for any reason to the Council not less often than monthly.

4. Summary removal.

Without complying with subsection 5, below, an abandoned vehicle may be removed from a public street on the Rancheria or from unassigned tribal property in accordance with California Vehicle Code Section 22669, which generally authorizes a peace officer or any other employee of state or local government designated by the governing body of that jurisdiction to so act, who has reasonable grounds to believe that a vehicle has been abandoned, to remove the vehicle from a highway or from public or private property. The Tribe may use a private tow company for this purpose

No peace officer or employee of the City of Susanville or Lassen County may enter the Susanville Indian Rancheria for the purpose of enforcing Vehicle Code Section 22669, or take any action pursuant to that section, unless he or she has been requested to do so by a duly authorized Tribal Official or the Tribal Business Council.

If a tribal employee or a local government official authorizing the removal is not a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the California Penal Code, prior to the removal of the vehicle, he or she shall mail or personally deliver a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

Motor vehicles which are parked, resting, or otherwise immobilized on any highway or public right-of-way and which lack an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highways of this state, are hereby declared a hazard to public health, safety, and welfare and may be removed immediately upon discovery by a peace officer or other designated employee of the state, county, city, or Tribe.

5. Abatement Action.

As an alternative to the summary removal of abandoned vehicles authorized by Section 4, above, upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on public property on the Rancheria, the Council or its duly authorized representative shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

6. Notice Required.

A 10-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered mail to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following form:

**NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED OR INOPERATIVE
VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE.**

[Name and address of last registered and/or
legal owner of record of vehicle -- notice
should be given to both if different]

As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc.) you are hereby notified that the undersigned pursuant to Section 2 of Ordinance No. _____ of Susanville Indian Rancheria has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public property) and constitutes a public nuisance.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a hearing and if such a request is not received by the Council within such 10-day period, the Council or its designated representative shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice Mailed _____ s/ _____

6.1. Request for hearing; hearing unnecessary.

Upon request by the owner of the vehicle received by the Council or its designated representative within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the Council on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked dismantled or

inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the owner of the vehicle.

Notice of the hearing shall be mailed, by registered mail, at least 10 days before the hearing to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said 10 days after mailing of the notice of intention to abate and remove, the Council shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

6.2. Hearing.

All hearings under this Ordinance shall be held before the Council which shall hear all facts and testimony it deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the said public property. The Council shall not be limited by the technical rules of evidence.

The Council may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this Ordinance. It may delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the Council may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled, or is inoperative on public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the vehicle. The vehicle owners shall be jointly and severally liable for the costs and fees. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

6.3. Removal. Time limits.

Five days after adoption of the order pursuant to Section 6.2, above, declaring the vehicle or parts thereof to be a public nuisance or 10 days after the notice authorized by Section 6, above, if no appeal to the Tribal Business Council has been filed, the vehicle or parts thereof may be disposed of by removal to a scrap-yard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

6.4. Required Department of Motor Vehicles Notices.

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

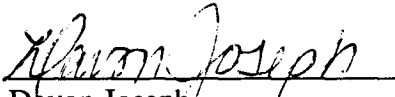
SECTION 3. EFFECTIVE DATE.

This Ordinance shall become effective 30 days after it is adopted by a majority vote of the Council. Within said 30 days the Ordinance shall be posted at 3 conspicuous locations on the Rancheria for 10 consecutive days.

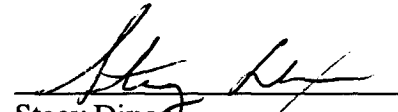
CERTIFICATION

We, the undersigned duly elected officials of the Susanville Indian Rancheria hereby certify that on February 16, 2005, the foregoing Abandoned Vehicle Ordinance was adopted at a duly called meeting of the Tribal Business Council with a quorum present by a vote of 7 for, 0 against, 0 abstaining, and 0 absent.

ATTEST;



Davon Joseph
Secretary/Treasurer



Stacy Dixon
Tribal Chairman