



SUSANVILLE INDIAN RANCHERIA

ABANDONED VEHICLES ORDINANCE

ORDINANCE NO. 2005-001

AMENDMENT 1

A. TITLE

This Ordinance shall be titled "Susanville Indian Rancheria (SIR) Abandoned Vehicles Ordinance."

B. PURPOSE

The purpose of this ordinance is to regulate abandoned and nuisance vehicles within the boundaries of the Susanville Indian Rancheria and any other property owned by the Susanville Indian Rancheria, a federally recognized Indian Tribe ("Tribe"), or by the United States of America in trust for the Tribe. ("SIR Tribal Properties."). This ordinance establishes a procedure and penalties for abatement and removal of abandoned and nuisance vehicles within the exterior boundaries of SIR Tribal Properties.

C. AUTHORITY

The Susanville Indian Rancheria's General Council, via the Tribal Constitution, gave power to the Tribal Business Council to conduct business on behalf of the Susanville Indian Rancheria effective May 18, 2005. Specifically, Article VI, Section 2, subsections (f), (k), and (l) allows the Tribal Business Council to enact ordinances for the purpose of protecting tribal lands, water, minerals, and all other natural resources within tribal jurisdiction and to provide enforcement of these ordinances. This ordinance allows the Tribe to abate and remove abandoned and nuisance vehicles from SIR Tribal Properties.

D. JURISDICTION

The provisions of this ordinance shall apply to all SIR Tribal Properties.

E. FINDINGS

The Tribal Business Council of the Susanville Indian Rancheria hereby finds as follows.

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.

2. Hazardous materials may leak from abandoned vehicles and pollute the soil, surface water and groundwater. Trash and garbage deposited inside these vehicles attracts vermin, known vectors of disease, and is, thus a further source of public health concern.
3. These conditions exist and must be remedied to protect the health, safety, natural resources and general welfare of the Tribe, visitors to tribal lands, tribal members and the environment.

F. DEFINITIONS

Abandoned: Means 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.

Inoperative: Means, but is not limited to, a vehicle which is not currently and validly registered with CA department of Motor Vehicles.

Nuisance: Means vehicles, vehicle parts, or vehicle hulks that create a condition on SIR Tribal Properties that is patently dangerous, offensive, annoying, or that, by its mere presence, is either unpleasant or unhealthy.

Owner of the land: Means the land assignee, lessee or primary resident on which the vehicle, or parts thereof, is located.

Owner of the vehicle: Means the last registered owner and the last legal owner on record.

Roadway: Means a way or location, of whatever nature, that is publicly maintained and open to the use of the public for purposes of vehicular travel. A public roadway can include both highways and streets, whether privately-owned, Bureau of Indian Affairs (BIA)-owned, Tribally-owned, or state- or county-owned.

Vehicle: Means a device by which any person or property may be propelled, moved, or drawn upon a Roadway except a device moved by human power or used exclusively upon stationary rails or tracks.

G. PROHIBITIONS

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, or a vehicle creating a nuisance to be abandoned on tribal property, or roadways on the Susanville Indian Rancheria. Such wrecked, dismantled, nuisance vehicles 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.

H. ENFORCEMENT AND ADMINISTRATION

1. In 2006, the tribe adopted the SIR Residential Land Assignment Ordinance which includes provisions under Section 6 -Procedures for Termination of Land Assignment 6.1.7 "Failure to maintain assignment in a decent, safe, sanitary condition. Allowing accumulations on the assignment of trash, abandoned vehicles, or other waste or junk, causing or permitting other environmental damage to occur on the assignment, and causing or permitting other safety hazards to exist thereon, such as uncontrolled animals, fire hazards, and other conditions that may be detrimental to the safety and well being of the community". As stated in section (6), subsection (6.2) of that ordinance: "It shall be the duty of the Secretary/Treasurer to report any violation to the Tribal Business Council. In any event, it shall be the Secretary/Treasurer's duty to report to the Tribal Business Council at intervals not more than one year apart as to whether or not there are any instances of failure to comply with this ordinance".
2. The Tribal Business Council will be charged with the responsibility to designate a representative who will be charged with the task of conducting investigations, including inspections of relevant properties, for violations of this ordinance. The Tribe's designated representative(s), while performing enforcement and/or administration of this ordinance, may enter upon any SIR Tribal Properties, whether or not subject to assignment, lease or other right of use by an individual or entity other than the Tribe, to examine a vehicle or parts thereof, or to obtain information as to the status of a vehicle and to remove or cause the removal of a vehicle or parts thereof as provided in this ordinance. Upon discovering the existence of an abandoned vehicle or nuisance vehicle, wrecked, dismantled or inoperative vehicle, or parts thereof, on SIR Tribal Properties, the Tribal Business Council or its duly authorized representative shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein. The authorized representative shall have the authority to issue a certified letter to the owner of the land and the owner of the vehicle declaring such a vehicle, or part(s) thereof, to be abandoned and a nuisance subject to abatement. The removal procedure outlined below will be followed:

2.1 NOTICE(S) REQUIRED

A ten (10) day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by certified mail to the last registered and/or legal owner on record of the vehicle, unless the vehicle is in such condition that identification numbers are not

available to determine ownership, and to the owner of the Land. 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 and/or Owner of the Land – 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.), and/or Owner of the Land, you are hereby notified that the undersigned pursuant to Section (G) of Ordinance No. 2005-001 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 ten (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), and or Owner of the Land, you are hereby notified that you may, within ten (10) days after the mailing of this notice of intention, request a hearing and if such a request is not received by the Tribal Business Council within such ten (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.

2.2 REQUEST FOR HEARING.

Upon request by the owner of the vehicle or owner of the land received by the Tribal Business Council or its designated representative within ten (10) days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the Tribal Business 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 and/or the owner of the land..

Notice of the hearing shall be mailed, by registered mail, at least ten (10) days before the hearing to the owner of the vehicle and the owner of the land, 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 ten (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.

2.3 HEARING

All hearings under this Ordinance shall be held before the Tribal Business 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 property. The Council shall not be limited by the technical rules of evidence.

The Tribal Business 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 SIR Tribal Properties 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 and/or Owner of the Land. The vehicle owners and/or Owner of the Land 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.

3. The SIR Tribal Business 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 SIR Tribal Properties, 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 as stated in section (3.1) and (3.2) below.

3.1 SUMMARY REMOVAL

Without complying with section (H) subsection (2.1; 2.2 and 2.3), above, 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.

3.2 REMOVAL: TIME LIMITS

Five (5) days after adoption of the order pursuant to Section (H) above, declaring the vehicle or parts thereof to be a public nuisance or ten (10) days after the notice authorized by Section (H), 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.

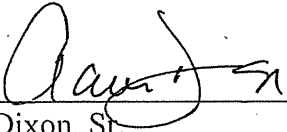
J. EFFECTIVE DATE

This ordinance shall become effective thirty (30) days after it is adopted by a majority vote of the Tribal Business Council. Within said thirty (30) days the ordinance shall be posted at three (3) conspicuous locations on the Susanville Indian Rancheria for ten (10) consecutive days.

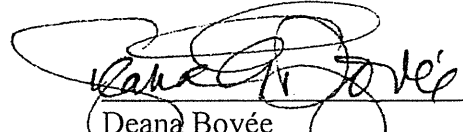
CERTIFICATION

We, hereby certify that the Abandoned Vehicles Ordinance No. 2005-001, Amendment 1 was adopted by the Susanville Indian Rancheria Tribal Business Council at a duly called meeting held September 19, 2017 with a vote of 5 for, 0 against, 0 abstain.

ATTEST;



Aaron Dixon, Sr.
Secretary/Treasurer



Deana Bovée
Tribal Chairwoman