
Big Pine Paiute Tribe of the Owens Valley

ABANDONED AND JUNK VEHICLE ORDINANCE

1. Findings, Declaration of Intent, and Authority

The Big Pine Paiute Tribal Council (Tribal Council), as the federally recognized governing body for the Big Pine Paiute Tribe of the Owens Valley (Tribe), after careful review, has determined there is a need for Tribal governmental regulation of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof.

In 1998, the Tribe adopted the Land Assignment Ordinance. As Stated in Article 6 section 3 of that ordinance: *Assignments, houses, improvements, and fixtures on the assignment shall be maintained in a manner so as not to be considered a public nuisance or environmental hazard. Assignments shall not be used for unlawful purposes; assignees will comply with applicable Federal Regulations and Tribal Codes and Ordinances. Violating this section may result in the cancellation of the assignment.*

The Tribe completed a Solid Waste Plan (Plan) in 2008. The Plan states it is the responsibility of the Tribe to manage solid waste in a manner that protects the environment while contributing to the economic prosperity and social progress of the community.

It is commonly the role of local government to regulate the accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles on behalf of its citizens.

The Tribal Council finds the accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on land assignments within the boundaries of the Big Pine Indian Reservation (Tribal lands) to create a public nuisance and environmental hazard. Such vehicles: leak hazardous fluids into the soil or nearby water source; create fire hazards; constitute a hazard to minors who may be attracted to them; promote blight and degrade property value; harbor rodents and insects; and interfere with emergency access to properties.

2. Purpose

The purpose of this ordinance is to regulate abandoned or junk vehicles and junk on Tribal lands.

2. Definitions

(1) "Vehicle" shall mean any device by which any person or property may be propelled, moved, or drawn upon a road, street, or highway. Vehicles include trailers, buses, all-terrain vehicles, off-road vehicles, and snowmobiles. Vehicle does not include a device moved by human power or used exclusively on stationary rails or tracks.

(2) "Abandoned Vehicle" shall mean a vehicle left unattended on Tribal lands and not having a valid license plate, current registration, or legal proof of ownership.

(3) "Junk Vehicle" shall mean any wrecked, dismantled, inoperative, or discarded vehicle, or parts thereof. It includes a vehicle which is dismantled, in whole or in part, or which is unable to be operated on a public street as the result of a physical or mechanical defect, malfunction or absence of properly functioning required safety equipment such as doors, windows or lights. A mechanical defect or malfunction includes, but is not limited to, one or more deflated or missing tires, or a motor vehicle resting on supports other than inflated tires. The absence of minor and nonessential parts such as antennas, ornaments, or hub caps, etc., shall not cause a motor vehicle to be deemed dismantled and thus disabled.

(4) "Owner of vehicle" or "Vehicle owner" shall mean the legal owner of record or last registered owner.

(5) "Assignment holder" shall mean current person to whom the Tribe has assigned the land.

(5) "Tribal lands" shall mean: All land within the exterior boundaries of the Big Pine Indian Reservation, including trust land, fee patented land, and rights-of-way running through the reservation.

3. Exemption, Issuance of Permit

The Tribe, upon written application, may exempt from the provisions of this ordinance for any reasonable period of time, any junk vehicle that may reasonably be regarded as a historic or classical vehicle, which is in the process of restoration or repair, or any vehicle by reason of special circumstance deemed to warrant such exemption. The Tribal Council, upon making findings, may issue a conditional use permit, which may, at the Tribal Council's discretion and consistent with the provisions of this ordinance, place conditions on the location, storage, and use of the vehicle(s).

4. Requirements

(1) All vehicles on Tribal lands shall be properly licensed and insured in accordance with state guidelines. Owners of vehicles shall maintain legal records of ownership

and registration. Owners of vehicles shall make reasonable efforts to maintain vehicles in working order.

(2) No resident of Tribal lands shall permit any abandoned or junk vehicle to be parked, placed or allowed to remain on their assignment in violation of the provisions of this ordinance.

(3) Junk vehicles shall not be permitted on rights-of-way, streets, roads, or alleys of the Tribal lands; provided, however, that this prohibition shall not apply to the towing or similar transportation of such vehicles; and provided further, that a reasonable time (not to exceed 14 days from the time of disability) shall be permitted for the removal or servicing of the wrecked, disabled, or inoperative vehicle.

5. Administration and Enforcement.

In the enforcement of this ordinance, the Tribal Council may designate an official to act on behalf of the Tribal Council and may direct Tribal staff or a designee to enter upon an assignment or unassigned property to examine a vehicle or parts thereof, record observations, take photographs, and/or obtain information as to the identity of a vehicle.

It is not required that an investigation carried out by the Tribe identify the vehicle owner. If a vehicle is located on an assigned lot, the assignment holder will be held responsible for complying with this ordinance. A vehicle parked or placed outside of the boundaries of an assignment that is determined to be abandoned, junk, or a public nuisance may be removed by direction from the Tribal Council and by means consistent with this ordinance.

If a vehicle has remained on an assignment for a period of time so that it appears to the Tribe to be an abandoned or junk vehicle, or to otherwise constitute a public nuisance in violation of this ordinance, the Tribal Council, or a designated official acting on behalf of the Tribal Council, shall direct Tribal staff or a designee to, by registered or certified mail, issue a Notice to the assignment holder requiring that the abandoned or junk vehicle be removed or brought into compliance with this ordinance within 15 days. The Notice shall be in substantially the following form:

“NOTICE OF ORDER TO ABATE OR REMOVE AN ABANDONED, WRECKED, DISMANTLED, INOPERATIVE, OR DISCARDED VEHICLE OR PARTS THEREOF, WHICH HAVE BEEN DETERMINED TO BE IN VIOLATION OF THE BIG PINE PAIUTE TRIBE’S ABANDONED AND JUNK VEHICLE ORDINANCE”

(Name and address of Assignment holder)

As assignment holder of the land located at (address), you are hereby notified that the undersigned pursuant to the Big Pine Paiute Tribe’s Abandoned and Junk Vehicle Ordinance has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled, discarded, or inoperative vehicle, described as follows [insert information identifying the vehicle, such as VIN, license plate number, make, model, color, description]. The Tribal Council has determined that this vehicle (/vehicle part) constitutes a public nuisance.

You are hereby notified to abate said nuisance of said vehicle (or said parts of a vehicle) within 15 (fifteen) calendar days from the date of mailing of this notice.

As assignment holder of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within fifteen days after the mailing of this Notice, request a public hearing in front of the Tribal Council and if such a request is not received by the Tribal Council within the fifteen day period, the Tribal Council or its designated official shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance without a public hearing and charge the costs to you as assignment holder, in accordance with [Tribal Junk Vehicle Ordinance]. You may submit a sworn written statement within the fifteen day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on your assignment, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at the hearing. At the hearing, the Tribal Council reserves the right to make findings and a determination on whether to remove said vehicle (or parts thereof) and on the person(s) responsible for paying the costs of removal.

Date Notice Mailed _____

(Signed by Tribal Administrator)

The vehicle owner or assignment holder may request a public hearing before the Tribal Council within fifteen days of mailing of the Notice. The vehicle owner or assignment holder may submit a sworn written statement within the fifteen day period, and such statement shall be construed as a request for hearing at which the statement's author's presence is not required. The Tribal Council may schedule the public hearing at its discretion, and the Tribal Council, upon hearing and weighing the evidence, may make findings and a determination on whether to remove said vehicle (or parts thereof) and on the person(s) responsible for paying the costs of removal.

Any person with reasonable interest in the vehicle or assignment may provide input at the hearing.

If fifteen days pass with no abatement and no request for a hearing, the Tribal Administrator or designated official shall have the authority to abate and remove said vehicle (or said parts of a vehicle) in compliance with the intent and provisions of this ordinance. The Tribal Administrator or designated official will assess and assign all costs for removal. Costs may include staff time associated with vehicle removal, incidental expenses such as communication and fuel costs, the cost of towing and storage, and any charges for research and investigation.

The Tribe will use the best available means to remove the vehicle from the Tribal lands in a timely and orderly manner. The vehicle will be hauled to a designated site and impounded and notice shall be provided to the California Department of Motor Vehicles.

Costs associated with vehicle removal and impoundment will be assessed as described above, and a bill shall be sent to the vehicle owner or, if none, the assignment holder. Failure to pay such costs within thirty (30) days from mailing of the bill shall result in a withholding of the assessed party's Indian Gaming Revenue Sharing Trust Fund Distribution (IGRSTFD) and/or in cancellation of the land assignment.

7. No Appeal

In the case of a hearing, whether or not the interested party was present, the Tribal Council may make a decision duly passed by majority vote. Within five days of the Tribal Council's decision, the assignment holder shall be sent via registered or certified mail, a written statement of the decision. The Tribal Council's decision shall be final with no provision to appeal.