

UPPER SIOUX COMMUNITY – PEJUHUTAZIZI OYATE
ABANDONED MOTOR VEHICLES
TRIBAL CODE

1.1 Purpose. Abandoned Motor Vehicles constitute a hazard to the health, safety and welfare of the citizens of the Upper Sioux Community Reservation in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the health, safety and well-being of children. Abandoned Motor Vehicles and other scrap metals also constitute blight on the landscape of the Reservation and, therefore, a detriment to the environment. It is in the public interest that the present accumulation of abandoned Motor Vehicles is eliminated and that future abandonment of more vehicles be prevented.

1.2 Definitions. As used in this Code, the terms defined in this Section shall have the meanings as given to them in this Section:

Abandoned Motor Vehicle. An unlicensed motor vehicle; a motor vehicle lacking vital component parts, a motor vehicle which is in an inoperable condition; a motor vehicle which has remained for a period of more than forty-eight (48) hours on the Reservation illegally; a motor vehicle which has remained on the Reservation for more than 48 hours without the consent of the person in control of such property; or a motor vehicle voluntarily surrendered by its owner to and accepted by the Community. A vehicle shall not be determined to be abandoned when kept in an enclosed garage or enclosed storage building if it is being actively worked on and the premises in which the work is being done is maintained in an orderly manner; provided, that no more than two (2) such vehicles are in a condition that would otherwise qualify them as abandoned at any one time. A motor vehicle with pioneer, classic car, collector or street rod license shall be considered an abandoned vehicle if it meets the definition of an abandoned vehicle.

Community. The Upper Sioux Community – Pejuhutazizi Oyate.

Reservation. The interior boundary of the Upper Sioux Community – Pejuhutazizi Oyate; lands held in trust by the United States of America for the benefit of the Upper Sioux Community – Pejuhutazizi Oyate.

Unlicensed Motor Vehicle. A motor vehicle that does not possess a current license and registration; a motor vehicle whose license and registration have expired; a vehicle with no license plate.

Vital Component Parts. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle including, but not limited to, the motor, drive train, and wheels.

1.3 Custody of Abandoned Vehicles. The Community shall take into custody and impound any abandoned motor vehicle that is violation of this Code.

1.4 Notice.

A. Purpose of Notice: The Community shall give notice of a taking. The Notice shall:

1. Set forth the date and place of the taking, the year, make and model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and place where the vehicle is being held;
2. Inform the owner and any lien holders (if known or if possible) of the potential taking.
3. State that failure of the owner or lien holders to exercise their right to remove the vehicle shall be deemed a waiver by them of all right, title and interest in the vehicle and its contents and consent to the removal of the vehicle at their expense.

B. Procedure of Serving Notice: The Notice shall be sent by certified return mail to the registered owner, or residence of abandoned vehicle, and all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the resident owner and other concerned parties, the notice shall be published once in a newspaper of general circulation in the City of Granite Falls. Published notices may be grouped together for convenience and economy.

1.5 Disposal Authority. The Community may contract with others or may utilize its own equipment and personnel for the collection of abandoned vehicle information, removal and transportation of abandoned motor vehicles.

1.6 Violation.

- A. Any person who abandons a motor vehicle on any Community or private property, or otherwise violates this Code, shall reimburse the Community for the removal, storage, transportation and disposal of an abandoned motor vehicle.
- B. No person shall permit more than two (2) abandoned vehicles to remain on his or her premises at any time.
- C. No person shall permit any abandoned vehicles to remain on his or her premises for more than ninety-six (96) hours or four (4) days.

1.7 Dispute Resolution. Any individual who may have a dispute with the provisions contained within this Code, may bring forth such a written grievance as per the Dispute Resolution system as adopted by the Board of Trustees (Tribal Council) on 9 September 1998 and included here as part of this Code.

A. Dispute Resolution System. The Upper Sioux Community shall use the following Dispute Resolution System to fairly and promptly settle any dispute with the Upper Sioux Community with the operation of this Code.

This system shall be periodically reviewed as necessary to insure fairness and to prevent recurring problems.

Any person, who may have a dispute with the functions of this Code, may bring such grievance to the Upper Sioux Community Board of Trustees for formal resolution in writing.

The Tribal Council, when necessary and appropriate under the circumstances, shall consider all evidence, hear all witnesses and receive all exhibits in keeping with the goal of making a just and equitable determination. The Tribal Council will then make an appropriate and equitable decision, *in writing*, on the basis of the preponderance of evidence and credibility of evidence and witnesses.

Any person who disagrees with the written determination made by the Tribal Council, must, within ten (10) working days of the written determination, appeal to the Upper Sioux Community Tribal Court.

1.8 Severability. If any provision of any part of this Code, or the application thereof of any party, person, or entity or to any circumstances, shall be held invalid for any reason whatsoever, the remainder of the part of the policy shall be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

1.9 Amendments; or Repeal of Ordinance. This document, known as the Upper Sioux Community – Pejuhutazizi Oyate Abandoned Vehicles Tribal Code, may be amended or repealed only by a majority vote of the Board of Trustees, governing body of the Upper Sioux Community, at a duly called meeting.

This Code supersedes and replaces all preceding ordinances, resolutions or policies regarding abandoned vehicles on the Upper Sioux Community Reservation Proper.

1.10 Sovereign Immunity. Nothing in this Code is intended nor shall be construed as a waiver of sovereign immunity of the Upper Sioux Community.

1.11 Reserved for Future Use.

CERTIFICATION

We, the undersigned members of the Tribal Council of the Upper Sioux Community, known as its Board of Trustees, do hereby certify and adopt the foregoing instrument known as the *Upper Sioux Community-Pejuhutazizi Abandoned Motor Vehicles Tribal Code* on **August 12, 2002** by a vote of _____ For, _____ Against, _____ Abstentions and _____ Absent and Excused.

Helen M. Blue, Tribal Chairman
Upper Sioux Board of Trustees

L. Alan Olson, Vice Chairman
Upper Sioux Board of Trustees

Linda J. Blue, Tribal Treasurer
Upper Sioux Board of Trustees

Tom V. Ross, Member at Large
Upper Sioux Board of Trustees

Attest and Certify:

Brad Lerschen, Tribal Secretary
Upper Sioux Board of Trustees

Dated: _____

SEAL of the
SECRETARY