

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 Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS, Article VI, Section 5 (j) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to protect and preserve the property and natural resources of the Tribes; and
- WHEREAS, Abandoned motor vehicles constitute a hazard to the health and welfare of the people of the Three Affiliated Tribes in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens; and
- WHEREAS, Abandoned motor vehicles and other scrap metals also constitute a blight on the landscape of the Fort Berthold Reservation and therefore a detriment to the environment; and
- WHEREAS, The abandonment and retirement of motor vehicles and other scrap metals constitutes a waste of a valuable source of useful metal; and
- WHEREAS, It is the considered judgment of the Tribal Business Council that it would be in the public interest that the present accumulation of abandoned motor vehicles and other scrap metals be eliminated, that the future abandonment of motor vehicles be prevented, and that other acceptable and economically useful methods for the disposal of abandoned motor vehicles and other forms of scrap metal be developed; and
- WHEREAS, Upon the basis of its review and consideration of the provisions set forth in the proposed legislation entitled "Abandoned Motor Vehicles," the Tribal Business Council has deemed it to be in the best interest of the Three Affiliated Tribes to enact such legislation;

MOTOR VEHICLES, CHAPTER 4A
ABANDONED MOTOR VEHICLES, SUBCHAPTER 2A

SECTION 1.

Statement of the intent of the Tribal Business Council of the Three Affiliated Tribes concerning abandoned motor vehicles. Abandoned motor vehicles constitute a hazard to the health and welfare of the people of the Three Affiliated Tribes in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. Abandoned motor vehicles and other scrap metals also constitute a blight on the landscape of the Fort Berthold Reservation and therefore a detriment to the environment. The abandonment and retirement of motor vehicles and other scrap metals constitutes a waste of a valuable source of useful metal. It is therefore in the public interest and the intent of the Three Affiliated Tribes that the present accumulation of abandoned motor vehicles and other scrap metals be eliminated, that future abandonment of motor vehicles and other scrap metals be prevented, and that other acceptable and economically useful methods for the disposal of abandoned motor vehicles and other forms of scrap metal be developed.

SECTION 2.

Definitions. As used in this Subchapter, unless the context or subject matter otherwise requires:

- a. "Abandoned motor vehicle" means a motor vehicle that (1) has remained for a period of more than forty-eight (48) hours on public property illegally or is lacking vital component parts, or (2) has remained for a period of more than forty-eight (48) hours on private property without the consent of the person in control of such property (in those instances wherein the owner of the abandoned vehicle or members of his or her family do not control such property), or (3) is in an inoperable condition such that it has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building, or (4) due to its physical condition, constitutes a health hazard. It also means a motor vehicle voluntarily surrendered by its owner to a person duly licensed under Section 10. An antique vehicle and other motor vehicles, to include parts cars and special interest vehicles, shall not be considered abandoned motor vehicles within the meaning of this Subchapter.
- b. "Collector" means the owner of one or more special interest vehicles who collects, purchases, acquires, trades, and/or disposes of special interest vehicles or parts thereof for his or her own use in order to

restore, preserve, and maintain a special interest vehicle or antique vehicle.

- c. "Parts car" means a motor vehicle generally in non-operable condition which is owned by a collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
- d. "Service Unit" means the Fort Berthold Service Unit Sanitarian.
- e. "Special interest vehicle" means a motor vehicle which is at least twenty (20) years old and which has not been altered or modified from the original manufacturers' specifications and, because of its historic interest, is being preserved by a hobbyist.
- f. "Units of government" mean the Tribal Business Council of the Three Affiliated Tribes and its representative agencies.
- g. "Vital component parts" mean those parts of a motor vehicle which are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

SECTION 3.

Penalty for abandoning a motor vehicle. Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of such property, is guilty of a misdemeanor and is subject to a fine not to exceed One Hundred and 00/100 Dollars (\$100.00).

SECTION 4.

Custody of an abandoned motor vehicle. Units of government may take into custody and impound any abandoned motor vehicle.

SECTION 5.

Conditions under which an abandoned motor vehicle may be sold immediately. When an abandoned motor vehicle is more than seven (7) model years of age, is lacking vital component parts, and does not display a license plate currently valid in North Dakota or in any other state or foreign country, it shall immediately be eligible for disposition and shall be disposed of to a scrap iron processor licensed under Section 10, and shall not be subject to the notification, reclamation, or title provisions of this Subchapter.

SECTION 6.

Notice to owner of an abandoned motor vehicle.

- a. When an abandoned motor vehicle does not fall within the provisions of Section 5, the unit of government having taken it into custody shall give notice of the taking within a period of ten (10) days from the date of the taking. The notice (1) shall set forth

the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle and the place where the vehicle is being held, (2) shall inform the owner and any lienholders and secured parties of their right to reclaim the vehicle under Section 7, and (3) shall state that the failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle shall be deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the sale of the vehicle at a public auction or sale conducted pursuant to Section 8.

- b. The notice shall be sent by certified mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy.

SECTION 7. Right of the owner to reclaim an abandoned motor vehicle.

- a. The owner, any secured party, and any lienholder of an abandoned motor vehicle shall have the right to reclaim such vehicle from the unit of government which took it into custody upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within fifteen (15) days after the date of receipt of the notice prescribed by Section 6.
- b. Nothing in this Subchapter shall be construed to impair any lien of a garagekeeper under the laws of the Three Affiliated Tribes or the State of North Dakota or the right of any lienholder or any secured party to foreclose. For the purposes of this Section "garagekeeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.

SECTION 8. Public sale -- Disposition of proceeds.

- a. An abandoned motor vehicle not more than seven (7) model years of age taken into custody and not reclaimed under Section 7 shall be sold to the highest bidder at a public auction or sale, following reasonable published notice thereof. The purchaser shall be given a receipt in a form prescribed by the

Service Unit which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership.

- b. From the proceeds of the sale of an abandoned motor vehicle, the unit of government shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all notice and publication costs incurred pursuant to this Subchapter. Any remaining balance of the proceeds of the sale shall be held for the owner of the vehicle or lienholder or secured party for a period of ninety (90) days, after having been deposited in the Treasury of the Three Affiliated Tribes.

SECTION 9. Disposal of motor vehicles not sold. In the instance wherein no bid has been received for an abandoned motor vehicle at a public auction or sale, the unit of government may dispose of it under contract pursuant to Section 10.

SECTION 10. Contracts for disposal -- Issuance of licenses by the Service Unit -- Reimbursement to units of government for costs.

- a. A unit of government may contract with any qualified licensed scrap iron processor for the collection and storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal. Such contract may authorize the contracting scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for such vehicle, if it is voluntarily surrendered and delivered to the scrap iron processor. For the purposes of this Section, the owner of an abandoned motor vehicle shall mean only the person who has owned and operated the vehicle for his or her personal or business use.
- b. The Service Unit may issue a license to any qualified scrap iron processor desiring to participate in such a contract who meets the requirements for solid waste disposal established by the Service Unit.
- c. Where a unit of government enters into a contract with a scrap iron processor duly licensed by the Service Unit, the Service Unit may review the contract to determine whether it conforms to the Service Unit's plan for solid waste disposal. A contract that does so conform may be approved by the

Service Unit. Where a contract has been approved, the Service Unit may reimburse the unit of government for the costs incurred under the contract, including incentive payments authorized and made under the contract, subject to the limitation of legislative appropriations.

- d. The Service Unit may demand that a unit of government contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the Service Unit's plan for solid waste disposal. Where the unit of government fails to so contract within a period of one hundred eighty (180) days from the date of the demand, the Service Unit, on behalf of such unit of government, may contract with any scrap iron processor duly licensed by the Service Unit for such disposal.

SECTION 11. **Abandoned Motor Vehicle Disposal Fund.** There is hereby established in the Treasury of the Three Affiliated Tribes a special fund which shall be known as the Abandoned Motor Vehicle Disposal Fund. All moneys derived from the investment of the Fund monies shall be credited to the Fund.

SECTION 12. **Storage of vehicles by a collector -- Limitations.** A motor vehicle collector may store unlicensed, operable or inoperable, vehicles and parts cars on his or her property provided that the vehicles and parts cars and the outdoor storage area are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or by other appropriate means.

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby formally approves and adopts the legislative provisions entitled "Abandoned Motor Vehicles," a true and correct copy of which provisions is attached hereto and made part hereof.

BE IT FURTHER RESOLVED, That the attached legislative provisions entitled "Abandoned Motor Vehicles" shall become effective immediately and shall be designated as Subchapter 2A of Chapter 4A of the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation.

CERTIFICATION

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 3 day of June, 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 3 day of June, 1986.

Joh Chazy
Secretary, Tribal Business Council

ATTEST:

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Chairman, Tribal Business Council