

CHAPTER 6-14 VEHICLE, MANUFACTURED AND MOBILE HOME REMOVAL

6-14-1 Title

This Chapter shall be known as the Vehicle, Manufactured and Mobile Home Removal Chapter.

6-14-2 Legislative Declaration

It is the policy of the Business Council to regulate abandoned vehicles, junk vehicles, manufactured homes, and mobile homes on Colville Indian Country in order to protect the health, safety, security and general welfare of Colville Confederated Tribal members, the general public, and residents living on Colville Indian Country.

(Amended 10/13/11, Resolution 2011-754)
(Certified 10/25/11)

6-14-3 Jurisdiction

This Chapter shall apply to all persons, property, lands, highways and roads under the jurisdiction of the Colville Tribal Court and the Tribal Law and Order Code, as defined in Chapter 1-1-70.

(Amended 6/17/04, Resolution 2004-411)

6-14-4 Definitions

(a) "Abandoned" as it relates to a mobile home, manufactured home, or park model owned by a tenant in a mobile home park, mobile home park cooperative, or mobile home park subdivision or in a tenancy in a mobile home lot means the tenant has defaulted in rent or by absence or by words or actions reasonably indicates the change to or intention not to continue tenancy. Any mobile homes, manufactured homes, and motor homes left on Colville Indian Country, without a valid lease or other authorizing instrument shall also be deemed abandoned.

(b) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in the operators' possession for one hundred twenty (120) consecutive hours.

(c) "Abandoned vehicle report," means the document prescribed by the state that the towing operator forwards to the Department of Licensing after a vehicle has become abandoned.

(d) "Business Council" means the Colville Business Council, the governing body of the Confederated Tribes of the Colville Indian Reservation.

(e) "Chapter" means the Vehicle, Manufactured and Mobile Home Removal Chapter.

(f) "Colville Indian Country" means any land within the definition in 18 U.S.C 1151 over which the Colville Tribes exercises jurisdiction.

(g) "Chief of Police" shall refer to the Chief of the Colville Tribal Police department or his or her designee.

(h) "Disabled vehicle" means any motor vehicle that is temporarily disabled and located on a public street, property open to the public for purpose of vehicular travel or parking, a right-of-way to any road or highway, or property of another, and the vehicle owner or operator has notified the property owner or controller, the Chief of Tribal Police, or the Sheriff of the county, or the Chief of Police of the city or town in which the vehicle is located, and arranges for immediate assistance.

(i) "Department of Licensing" means the Washington State Department of Licensing.

(j) "Junk vehicle" means any motor vehicle that meets any three of the following requirements. The vehicle is:

- (1) Extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, missing wheels, tires, motor, or transmission;

- (2) Apparently inoperable;
- (3) Three years old or older;
- (4) Without a valid, current registration plate; and
- (5) Has a fair market value equivalent to the value of the scrap therein only.

(k) “Manufactured home” means a single-family dwelling built according to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act. A manufactured home also: (a) Includes plumbing, heating, air conditioning, and electrical systems; (b) is built on a permanent chassis; and (c) can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported, or when installed on the site is three hundred twenty square feet or greater;

(l) “Mobile home” means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States Department of Housing and Urban Development code, and acceptable under applicable state or tribal codes in effect at the time of construction or introduction of the home into the state;

(m) “Motor home” means a motor vehicle or trailer equipped with living space and amenities commonly found in a home. this shall include caravans, campers, and recreational vehicles.

(n) “Other law enforcement” means an officer or agent of any law enforcement department, from a county or local government, who is commissioned as a police officer.

(o) “Private impoundment” means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(p) “Public impoundment” means that a vehicle has been impounded at the direction of Tribal Police or public official having jurisdiction over the public property upon which the vehicle was located.

(q) “Public property” means all property within the boundaries of the Colville Reservation either owned in-fee by the Tribes or held in trust by the Bureau of Indian Affairs on behalf of the Tribes that is not subject to a leasehold interest.

(r) “Registered operator” or “operator” means any currently registered tow truck operator, garage keeper, or other person engaged in the business of removing, storing, or disposing of vehicles, abandoned vehicles, junk vehicles, and abandoned manufactured homes, and abandoned mobile homes.

(s) “Tribal Court” means the Colville Tribal Court of the Colville Confederated Tribes.

(t) “Tribal police officer” means an employee of the Colville Tribal Police Department who is commissioned to be a police officer.

(u) “Unauthorized vehicle” means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

(v) Public Locations:

(A) Where the vehicle constitutes an accident or a traffic hazard, the vehicle is subject to immediate removal;

(B) Where the vehicle is on a highway and tagged as described in this section

and section 6-14-20, the vehicle is subject to removal after twenty-four (24) hours from the date and time of the sticker;

(C) Where the vehicle is in a publicly owned or controlled parking facility, and the facility has posted signs indicating:

- (i) no parking;
- (ii) unauthorized vehicles will be towed;
- (iii) name, physical address, and telephone number where the vehicle can be recovered.
- (iv) the vehicle is subject to immediate removal.

(D) Where the vehicle is on public residential property owned or controlled by Colville Indian Housing Authority or Public Works, the vehicle is subject to removal after twenty-four (24) hours from the date and time the sticker is attached to the vehicle pursuant to section 6-14-20;

(E) Where a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person is parked in a stall or space clearly and conspicuously marked for disabled parking, the vehicle is subject to immediate removal.

(2) Private Locations:

(A) Where the vehicle is on residential property, the vehicle is subject to immediate removal;

(B) Where the vehicle is on commercial property that has posted signs indicating:

- (i) no parking;
- (ii) unauthorized vehicles will be towed;
- (iii) name, physical address, and telephone number where the vehicle can be recovered.
- (iv) the vehicle is subject to immediate removal.

(C) Where the vehicle is on commercial property that does not have the posted signs indicated in subsection (B) above, the vehicle is subject to removal after twenty-four (24) hours.

(Amended 10/13/11, Resolution 2011-754)
(Certified 10/25/11)
(Amended 6/17/04, Resolution 2004-411)

DISABLED VEHICLE

6-14-10 Disabled Vehicle—Unauthorized Removal

(a) No person shall have the right to tow, impound or otherwise disturb any vehicle that is parked, stalled, or otherwise temporarily disabled where the owner or operator of such vehicle has notified proper authorities, has permission from the property owner or controller, and arranges for the vehicle's prompt removal.

(b) For the purpose of this Chapter, the fact that a vehicle has been so left without permission or notification creates a rebuttable presumption that the vehicle has been abandoned.

6-14-11 Liability

No person, other than a registered tow truck operator shall act to tow, impound, or otherwise disturb any vehicle that may be subject to impoundment as provided for in this Chapter. Any such person who so interferes shall be liable to the owner or operator of the vehicle for any consequential and incidental damages arising from such interference.

(Amended 6/17/04, Resolution 2004-411)

UNAUTHORIZED VEHICLE

6-14-15 Unauthorized Vehicle—Authority to Remove

(a) Notwithstanding any other provision of law, the Colville Tribal Police, officials having jurisdiction over the public property, persons having control or possession of the private property, Colville Indian Housing Authority (CIHA), Public Works, or their officials having jurisdiction over property which either CIHA or Public Works controls or operates, or any other person authorized by the Business Council may remove unauthorized vehicles from said property according to this Chapter.

(b) The procedures specified in sections 6-14-75 through 6-14-81 shall be followed when disposing of junk vehicles.

6-14-16 Unauthorized Vehicle

(a) Public Location: no person shall willfully leave an unauthorized vehicle on a public street, property open to the public for purposes of vehicular travel or parking, upon or within the right-of-way of any road or highway or public residential property owned or controlled by CIHA or Public Works without notification to the Chief of Tribal Police, or the Sheriff of the county, or the Chief of Police of the city or town in which the vehicle is located providing a reason for leaving the vehicle in such a place.

(b) Private Location: no person shall willfully leave an unauthorized vehicle on private property without the permission of the person having the right to control or possession of the property.

6-14-17 Owner Presumed Liable—Exception

(a) When any vehicle of any type is left on a public street, property open to the public for purpose of vehicular travel or parking, public residential property owned or controlled by CIHA or Public Works, upon or within the right-of-way of any road or highway, or property of another there is a rebuttable presumption that the last registered owner on record is responsible for such action and thus liable for any costs incurred in removing, storing and disposing of any such vehicle.

(b) A registered owner transferring the vehicle shall be relieved from personal liability if within five (5) days of the transfer, he submits the proper transfer form to the proper authorities.

UNAUTHORIZED VEHICLE—NOTIFICATION STICKER

6-14-20 Notification Stickers

(a) A Tribal Police officer who discovers an apparently unauthorized vehicle shall attach a readily visible notification sticker to the vehicle, unless the vehicle is subject to immediate removal pursuant to sections 6-14-25 and 6-14-4(q). The sticker shall contain the following information:

- (1) The date and time the sticker was attached;
- (2) The identity of the officer;

(3) A statement that if the vehicle is not removed within twenty-four (24) hours from the time the sticker is attached, the vehicle shall be taken into custody and stored at the owner's expense; and

(4) The address and telephone number where additional information may be obtained.

(b) If the vehicle has current license plates, the officer shall ascertain from the Washington State Department of Licensing, Tribal Police or other agency the identity of the last registered owner. The Tribal Police shall make a reasonable effort to contact the registered owner by telephone to provide information on the notification sticker. If the vehicle is not removed within twenty-four (24) hours from the time the notification sticker is attached, the vehicle may be taken into custody and moved to a registered operator's place of business or storage yard.

(c) A vehicle that does not pose a safety hazard may remain in place for more than twenty-four (24) hours, if the owner or operator is unable to remove it from the place where it is located and so notifies Tribal Police or other law enforcement and requests assistance.

WHAT CONSTITUTES IMMEDIATE IMPOUNDMENT—REMOVAL

6-14-25 Officers Authorized—Immediate Impoundment—Removal

(a) Whenever the driver of a vehicle is arrested for a violation under Chapter 3-3-1 Driving Under the Influence (RCW 46.61.502), Physical Control of Vehicle Under the Influence (RCW 46.61.504), or Section 3-3-4 and Section 3-3-5, the vehicle is subject to immediate impoundment at the discretion of and under the jurisdiction of either Tribal Police or other law enforcement;

(b) Whenever Tribal Police finds a vehicle standing or left unattended upon the roadway or highway where the vehicle constitutes a traffic hazard, blocks traffic, otherwise threatens public safety or has been involved in an accident the officer may provide for the immediate removal of the vehicle;

(c) Whenever Tribal Police finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(d) Whenever the driver of a vehicle is arrested and taken into custody by Tribal Police the officer may provide for the removal of the vehicle or allow the driver or other person in charge of the vehicle to make other arrangements for its removal;

(e) Whenever Tribal Police discovers a vehicle that the officer determines to be a stolen vehicle, the officer may take the vehicle into custody until the owner is notified that the vehicle has been recovered;

(f) Upon determining that a person is operating a vehicle without a valid driver's license or with a license that has been expired for ninety (90) days or more the officer may take the vehicle into custody or allow the driver or other person in charge of the vehicle to make arrangements to have another licensed driver take control of the vehicle;

(g) Whenever Tribal Police discovers that a driver is operating a vehicle using an Occupational Driver's Permit issued under section 3-3-71 that has been cancelled or revoked, the officer may take the vehicle into custody or allow the driver or other person in charge of the vehicle to make arrangements to have another licensed driver take control of the vehicle;

(h) Whenever Tribal Police discovers a vehicle parked inside the 4th of July Celebration Grounds that is in violation of section 3-7-41(a)(5) the officer may provide for the removal of the vehicle or

allow the driver or other person in charge of the vehicle to make other arrangements for its removal.

(Amended 10/13/11, Resolution 2011-754)
(Certified 10/25/11)

REGISTERED OPERATOR—REGISTRATION—IMPOUNDMENT—REMOVAL—NOTICE

6-14-30 Registered Operator—Registration Process and Operational Requirements

(a) To become registered, an operator must submit the following to the Colville Tribal Police Department.

- (1) Verification of an operators current tow truck permit of which the operator is the registered owner.
- (2) Verification of a surety bond. The surety bond shall be in the amount of five thousand dollars and is a condition of authority to do business. The operator shall keep the bond in full force and effect.
- (3) Verification of insurance. Insurance shall be in the amount of one hundred thousand dollars for liability for bodily injury or property damage per occurrence; and fifty thousand dollars of legal liability per occurrence, to protect against vehicle damage, including but not limited to fire and theft, from the time a vehicle comes into the custody of an operator until it is redeemed or sold. The operator shall keep the insurance in full force and effect.
- (4) Verification of its current fee schedule.
- (5) Verification of the current registration certificate issued by the Washington State Department of Licensing; or verification of a current Indian Traders License issued by the Bureau of Indian Affairs or a current business license issued by the State of Washington.

(b) Operational requirements:

- (1) Registered operators must provide current storage locations and maintain personnel who can be contacted twenty-four (24) hours a day to release impounded vehicles within a reasonable time.
- (2) Registered operators must provide the Tribal Police Department with at least thirty (30) days notice prior to any proposed changes to its fee schedule.

(c) Cancellation of or failure to maintain the requirements set forth in this section shall automatically cancel the operator's authority to do business as a registered operator within the boundaries of the Colville Reservation.

6-14-31 Impoundment—Removal

(a) When a vehicle is in violation of the time restrictions set out in section 6-14-4(r), or in violation of section 6-14-25 it may be impounded by a registered operator at the direction of Tribal Police or a public official having jurisdiction of public property where the vehicle is located, or at the direction of the property owner or an agent if the vehicle is located on private property pursuant to this Chapter.

(b) The official or person at whose direction the vehicle is being impounded shall provide a signed authorization for the impound at the time and place of the impound to the registered operator before the operator may proceed with the impound.

(c) At the time of impoundment, the official or person at whose direction the vehicle is being impounded shall provide the registered operator with the name, address and telephone number of the last registered owner of the vehicle, if available, as shown by the Washington State Department of Licensing or as is otherwise reasonably ascertainable. In the case of a vehicle from another state, time requirements of this subsection do not apply until the official or person at whose direction the vehicle is being impounded receives the information, and gives said information to the registered operator.

(d) All vehicles impounded shall be taken to the registered operator's place of business, or storage location and shall be stored.

(e) Within twenty-four (24) hours after removing a vehicle, the registered operator shall provide a written report of vehicle custody to the last registered owner, the Washington State Department of Licensing, Tribal Police with jurisdiction over the place of the impoundment via certified mail return receipt requested. The report shall identify personal property and/or contents within or on the vehicle, a license number, a vehicle identification number, the make, year, and place of impoundment.

(f) A registered operator shall keep records of all such impoundments including the date, time, and the location a vehicle is put into the operator's custody and when such vehicle is released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the Washington State Department of Licensing, Tribal Police and to the Washington State Patrol.

(g) A registered operator who fails to comply with any time limits provided in this Chapter shall be prohibited from charging storage fees in excess of five (5) days, except where delay is unavoidable.

(h) The provision of incorrect or incomplete identifying information to the Washington State Department of Licensing, Tribal Police, or other local law enforcement in the report of vehicle custody shall be considered a failure to comply with these time limits, if correct information is available.

(i) Any person who shows proof of ownership, or written authorization from the impounded vehicle's registered owner, or the vehicle's insurer may view the vehicle without charge during normal business hours, and retrieve any personal property belonging to him or her.

(j) The registered operator shall have a lien for the amount of impounding, towing and storing the vehicle against the last registered owner of the vehicle, unless the impoundment is determined to have been invalid pursuant to section 6-14-40. No storage charges shall accrue in any event until the written report of vehicle custody has been received by Tribal Police and the last registered owner of the vehicle as provided for in this section. A registered owner who has properly transferred ownership of the vehicle shall be relieved of liability under this section.

(Amended 6/17/04, Resolution 2004-411)

NOTIFICATION AND HEARING REQUEST

6-14-40 Notification and Hearing Request

(a) When an unauthorized vehicle is impounded, the official or person at whose direction the impoundment occurred shall, within twenty-four (24) hours of the impoundment, mail a notice of impoundment to the last legal and registered owner of the vehicle.

(b) The notice of impoundment shall be mailed by certified mail return receipt requested and contain the following:

- (1) A description of the vehicle including its license number and vehicle identification number;
 - (2) The official, agency, or person who authorized the impoundment;
 - (3) The date and time the vehicle was impounded;
 - (4) State the amount due the registered operator for services rendered in the towing and storage;
 - (5) A copy of the redemption procedures;
 - (6) The address and telephone number where the vehicle can be redeemed;
 - (7) A statement that they have the right to request a hearing to challenge the validity of the impoundment by submitting a hearing request form to the Tribal Court within fifteen (15) days from the receipt or refusal of the notice of impoundment; and
 - (8) A statement that if the vehicle is not otherwise regained pursuant to section 6-14-50 the vehicle will be sold at public auction pursuant to section 6-14-60.
- (c) The notice of impoundment need not be mailed if the vehicle is redeemed, or the last registered owner is not ascertainable.
- (d) The notice of impoundment shall inform the registered owner that they have the right to request a hearing to challenge the validity of the impoundment, and that any hearing request shall be directed to the Tribal Court. A blank hearing request form provided by Tribal Police shall accompany the notice.
- (e) The hearing request form shall contain the name of the person or agency authorizing the impound, a copy of the notice of impoundment received by mail, and a copy of the towing and storage invoice. The hearing request form must be completely filled out and received by the Tribal Court within fifteen (15) days from the date the notice of impoundment was received or refused pursuant to section 6-14-45.
- (f) If the hearing request form is not received by the Tribal Court within the specified fifteen (15) day period, the right to a hearing is waived. The registered owner shall be liable for any towing, storage, or other impoundment charges permitted by this Chapter. Any effort to collect this amount shall follow the procedures established in Chapter 2-2.
- (g) If the Tribal Court receives a hearing request within the specified fifteen (15) day period, Tribal Court shall notify the registered operator, the person requesting the hearing if not the owner, the registered owner of the vehicle and the person, or agency authorizing the impoundment and shall proceed to hear and determine the validity of the impoundment.
- (h) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. Tribal Court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.
- (i) At the conclusion of the hearing, Tribal Court shall determine whether the impoundment was proper, whether the towing, or storage fees charged were in compliance with the posted rates. Tribal Court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(j) If the impoundment is found proper, the impoundment, towing, and storage fees permitted under this Chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization form from a private property owner or an authorized agent.

(k) If the impoundment is determined to be in violation of this Chapter, then the registered owner of the vehicle shall bear no impoundment, towing, or storage fees and any security shall be returned or discharged as appropriate.

If an impoundment arising from an alleged violation of sections 3-3-4, or an occupational Driver's Permit issued under section 3-3-71 has been cancelled or revoked, and the impoundment is then determined to be in violation of this Chapter, Tribal Police shall not be liable if the officer relied in good faith and without gross negligence on the records of the Washington State Department of Licensing or Tribal Court in ascertaining that the operator of the vehicle had a suspended or revoked driver's license or a suspended or revoked Occupational Driver's permit.

(Amended 6/17/04, Resolution 2004-411)

REFUSAL TO ACCEPT NOTIFICATION

6-14-45 Refusal to Accept Notification

(a) When a certified notice is refused, unclaimed, and/or returned by the registered owner of said vehicle, the registered operator shall so notify Tribal Police of the refusal to accept notification. A refusal to accept notification shall constitute actual notice to the registered owner.

(b) A registered operator who removed, impounded, and stored a vehicle shall have a lien upon said vehicle for actual costs incurred. The lien shall not be enforceable until forty-eight (48) hours has expired following either receipt or refusal of the notice.

REDEMPTION

6-14-50 Redemption Procedures—Bond to Regain Possession

(a) Any registered operator providing services pursuant to this Chapter shall post a true and complete copy of this Chapter in a conspicuous place upon its business premises.

(b) Only the registered owner, or a person authorized by the registered owner, or someone who purchased the impounded vehicle from the registered owner, may redeem an impounded vehicle.

(c) The vehicle shall be released upon presentation to the registered operator the costs incurred during the course of impounding or storing the vehicle, including costs incurred in mailing or publishing any notices required by this Chapter.

(d) When vehicles of any kind are impounded pursuant to sections 6-14-15, 6-14-25, or 6-14-70 and the registered owner requests a hearing within the specified fifteen (15) day period, the registered owner may regain possession of the vehicle pending the outcome of the hearing by posting sufficient cash bond which covers the costs incurred in impounding or storing the vehicle, to be held in trust by Tribal Court, or such security as the Tribal Court may by rule require.

ITEMS OF PERSONAL PROPERTY OR CONTENT

6-14-55 Items of Personal Property or Content

(a) All items of personal property or content in the vehicle shall be kept intact, and shall be returned to the vehicle owner, or agent during normal business hours upon request and with presentation of a driver's license or other sufficient identification.

(b) Items of personal property or content found in a vehicle that belongs to the Colville Tribes shall be returned to proper authorities.

(c) When the last registered owner of a vehicle is not known, Tribal Police shall search the vehicle to learn the identity of the vehicle owner.

(d) When the identity of the last registered owner is found, notification shall be made for all items of personal property or contents found in or on the vehicle by certified mail, return receipt requested.

(e) Items of personal property or contents not claimed prior to the auction shall be turned over to Tribal Police or other local law enforcement to which the initial notification of impoundment was given. Tribal Police or other law enforcement shall have the discretion to determine how to dispose of items of personal property according to their own policies.

(f) Items of personal property or content shall not be sold at public auction by a registered operator having a lien against the vehicle to satisfy towing and storage fees charge for the removal of the vehicle, unless Tribal Police or other local law enforcement make that determination.

ABANDONED VEHICLE—JUNK VEHICLE—SALE

6-14-60 Sale of Unclaimed Vehicle or Junk—Procedure—Proceeds—Deficiency

(a) A registered operator having custody of an unauthorized or junk vehicle if after fifteen (15) days have expired from the date of mailing the report of vehicle custody, pursuant to section 6-14-40(d), and the unauthorized or junk vehicle remains unclaimed, and has not been listed as a stolen or recovered vehicle, then the registered operator shall conduct a sale at public auction. The registered operator shall first publish a notice of custody and sale with the date, place and time of such auction in the Tribal newspaper or a newspaper of general circulation in the county in which the vehicle is located. The auction notice shall be published at least five (5) days prior to the auction.

(b) The unclaimed unauthorized or junk vehicle shall be sold at public auction to the highest bidder. The proceeds of such a sale shall first be used to pay for the towing and storage fee charges due the registered operator; the cost of the sale, which shall be computed as in a public auction sale of personal property by Tribal Police, and all remaining proceeds shall be deposited to the Colville Tribal General Fund.

(c) If the amount bid at the auction is insufficient to compensate the registered operator for his towing and storage charges and the cost of sale, such registered operator shall be entitled to assert a claim for any deficiency against the last registered owner of such unauthorized or junk vehicle.

(d) After the public auction and sale, and after an application for certificate of title is accompanied by applicable fees, taxes and supported by an appropriate affidavit reciting compliance with the procedures of this Chapter has been submitted, the Department of Licensing or Tribal Police shall issue a certificate of title showing ownership of the unauthorized or junk vehicle in the name of the successful bidder at such auction. The issuance of such certificate of title by the Department of Licensing shall terminate any and all rights or claims of prior lien holders and all rights of former owners in and to such unauthorized or junk vehicle.

(e) If the vehicle is sold pursuant to this section, a copy of the notice with proof of mailing shall be retained in the registered operator's files and available for inspection for a period of three years from the date of sale.

6-14-61 Registered Operator's Lien—Unclaimed Vehicle Deemed Abandoned

A registered operator, who shall tow, transport or store any vehicle whether by contract or at the direction of a private property owner or agent, Tribal Police shall have a lien upon the vehicle but not upon the personal items within the vehicle so long as the vehicle remains in their possession, for the charges for towing, storage, or other charges; except that if the removal is determined to be

invalid, the registered operator shall only have a lien for the charges that accrue after the determination of invalidity. A vehicle remaining unclaimed for five (5) days, shall be deemed abandoned and subject to the provision of sections 6-14-40 and 6-14-61.

REMOVAL FROM PRIVATE PROPERTY

6-14-70 **Impoundment—Removal From Private Property**

(a) The owner or agent of private property requesting removal of a vehicle is required to sign an impoundment authorization form:

AUTHORIZATION FOR IMPOUND

I, _____, am the person authorizing this impound. I understand that if this impound is found in violation of this Chapter, I may be held liable for the costs incurred by the vehicle owner.

Signature **Date**

(b) Upon impoundment or removal of a vehicle from private property, the registered operator shall upon receipt of the name and address and telephone number of the registered owner of the vehicle from Tribal Police, free of charge, shall make reasonable effort to contact the registered owner by telephone. A certified notice of impoundment shall be mailed certified first-class, return receipt requested. The notice shall include:

- (1) A description of the vehicle or junk vehicle including its license number and vehicle identification number;
- (2) The person who authorized the impoundment;
- (3) The date and time the vehicle was impounded;
- (4) State the amount due the registered operator for services rendered in the towing and storage;
- (5) A copy of the redemption procedures;
- (6) The address and telephone number where the vehicle can be redeemed;
- (7) A statement that they have the right to request a hearing to challenge the validity of the impoundment by submitting a hearing request form to the Tribal Court within fifteen (15) days from the date the notice of impoundment was mailed; and
- (8) A statement that if the vehicle is not otherwise regained pursuant to section 6-14-50 the vehicle will be sold at public auction pursuant to section 6-14-60.

The notice shall not be sent if the vehicle has been redeemed or the last registered owner is not ascertainable.

(c) The registered operator shall file with Tribal Police a copy of the notice of impoundment mailed to the registered owner as provided for in subsection (b).

(d) The registered operator shall have a lien for the amount of impounding, towing and storing the vehicle. No storage charges shall accrue in any event until the written notice of impoundment has been received by Tribal Police and the last legal and registered owner of the vehicle as provided

for in this section.

(e) Failure to comply with the provisions of this section, in regard to any vehicle, waives the lien on that vehicle and constitutes a bar to recovery of the charges accrued on that vehicle, and is grounds for the suspension or revocation of the registration of any towing firm registered to dispose of the abandoned vehicle.

JUNK VEHICLES

6-14-75 Authorizing Disposal

Notwithstanding any other provision of law, the Colville Tribal Police, or officials having jurisdiction over the public property, persons having control or possession of the private property, Colville Indian Housing Authority (CIHA), Public Works, or their officials having jurisdiction over property which either CIHA or Public Works controls or operates, or any other person authorized by the Business Council may remove junk vehicles from said property according to this Chapter.

6-14-76 Required Inspection—Inspection Report

When a junk vehicle is discovered by or reported to the persons or entities listed above, an inspection of the vehicle shall be performed and recorded on forms authorized by the Business Council or the Tribal Police. CIHA, Public Works, their officials, or any other person authorized by the Business Council may perform the initial inspection. At the minimum the following information shall be recorded:

- (a) The make, model and year of the vehicle, if it can be determined;
- (b) The serial number or vehicle identification number of the vehicle, if available;
- (c) The license plate number and expiration date, if available;
- (d) A detailed list of damage or missing equipment and/or vital parts, which makes the vehicle inoperative;
- (e) Approximate equivalent to scrap value;
- (f) The address or other information identifying the location of the junk vehicle;
- (g) A minimum of two pictures of the junk vehicle from different side of the vehicle;
- (h) The date and time the inspection was performed; and
- (i) The name, address, telephone number, title of the official and entity performing the inspection.
(Amended 6/17/04, Resolution 2004-411)

6-14-77 Notification Required

Within twenty-four (24) hours from the completion of the inspection report it shall be provided to the Chief of Tribal Police, who shall provide the inspecting entity with the address of the last known registered owner of the vehicle. A junk vehicle notice will be promptly prepared and mailed to the registered owner(s) via certified first-class mail, return receipt requested. A copy of the notice must be conspicuously placed on the junk vehicle at the same time or prior to any mailing. If the junk vehicle is located on property controlled, operated, or under the jurisdiction of CIHA or Public Works, a copy of the junk vehicle notice shall be mailed to the present or most recent homebuyer or tenant for the pertinent property, as well as to the last known registered owner of the vehicle, if different.

6-14-78 Content of Notice

The junk vehicle notice shall include the following:

- (a) A copy of the inspection report for the vehicle;
- (b) Name and address of the registered owner of the vehicle or vehicles;
- (c) Location and address where the junk vehicle is presently located;
- (d) A statement that the identified vehicle has been determined to be a junk vehicle and is subject to disposal within twenty (20) days of the mailing of the junk vehicle notice, unless the vehicle is removed from its present location. The date of actual mailing shall be identified in the letter;
- (e) A statement that if the recipient of the junk vehicle notice desires to contest the initial junk vehicle determination and not be subject to having the vehicle removed and disposed of, the recipient must notify, in writing, the Chief of Tribal Police before the twenty (20) day period in subsection (d) above, has expired;

6-14-79 Appeal

- (a) If the recipient of junk vehicle notice desires to contest the initial junk vehicle determination and not be subject to having the vehicle removed and disposed of, the recipient must notify, in writing, the Chief of Tribal Police before the twenty (20) day period in subsection 6-14-78(d) above, has expired;
- (b) If the recipient contests the determination and provides a written statement to the Chief of Tribal Police before the twenty (20) day period, the Chief of Tribal Police will schedule a time and date to reconsider the junk vehicle determination. The recipient must appear at the scheduled time and date. Either the Chief of Police or a representative shall conduct a second inspection of the vehicle. Different parties from the first inspection will complete the second inspection. The recipient can bring a representative to the second inspection. Any comments, objections, observations, or other evidence presented by either the recipient or his representative shall be recorded (in summary form). The Chief of Tribal Police or a representative, who will make the final administrative determination regarding junk vehicle classification in this matter, shall consider all relevant information.
- (c) If a request to reconsider the initial junk vehicle determination, as provided for in the inspection report, is made in a timely manner and the recipient fails to appear at the scheduled appointment made with the Chief of Police, the original determination is binding and not subject to any further administrative or judicial appeal. _
- (d) If the recipient attends the second inspection and remains aggrieved by the final determination of the Chief of Police, the recipient may appeal to the Tribal Court within twenty (20) days of receipt of the final determination. If an appeal is pursued, the vehicle is not to be removed pending the outcome of the action taken in Tribal Court. The Colville Tribal Police shall provide the Chief's written final determination (including a brief statement of reasons) to the recipient, either in person or via US first-class mail, return receipt requested within twenty (20) days of the reconsideration request. The Chief of Police, at his sole discretion, may contract for or employ knowledgeable or expert assistance in the determination of value of the vehicle for either the first or second inspections. However, the Tribal Police or a representative at a second inspection must be someone who was not involved in any prior inspections of the same vehicle.

6-14-80 Procedure if Junk Vehicle is not Claimed

If the junk vehicle is not claimed, not removed, and no request for reconsideration of the junk vehicle determination has been filed within the twenty (20) day period with the Chief of Tribal Police, pursuant to section 6-14-79, the person, CIHA or Public Works who owns, possesses, controls, or has jurisdiction over the property upon which the junk vehicle is located, may dispose of said vehicle on or off the Colville Indian Reservation, including signing an affidavit of sale to

be used as a title document. Such persons or entities shall be entitled to recover from the vehicles' registered owners any costs incurred for the removal of the junk vehicle which exceed any money arising from its disposal.

6-14-81 Procedure if Owner not Known

If no information on a junk vehicle registered owner can be found by Tribal Police, or the Washington State Department of Licensing, or other reasonably attainable records, the Chief of Tribal Police will provide and certify such a statement in writing. Notification of the junk vehicle inspection report determination shall occur, by placing the letter specified in section 6-14-78 on the junk vehicle and publishing it in the tribal newspaper or a newspaper of general circulation in the county in which the vehicle is located. The junk vehicle may be sold at a public auction or to a scrap processor; whichever provides the highest fair market value.

(Amended 10/13/11, Resolution 2011-754)
(Certified 10/25/11)

6-14-82 Disposition of Funds

Any moneys arising from the disposal of an abandoned or junk vehicle after deduction of costs to remove such vehicle shall be deposited into the Tribes General Fund.

ABANDONED MANUFACTURED AND MOBILE HOMES

6-14-90 Abandoned Manufactured and Mobile Homes

Notwithstanding any other provision of law, officials having jurisdiction over public property, persons having control or possession of private property, Colville Indian Housing Authority (CIHA), Public Works, or their officials having jurisdiction over property which either CIHA or Public Works controls or possesses, the Chief of Police, or any other person authorized by the Business Council may remove abandoned manufactured and/or mobile homes from said property according to this Chapter.

6-14-91 Notification of Removal

(a) Upon determining that the manufactured, motor, or mobile home has been abandoned the official or person having jurisdiction or control or possession of the property upon which the manufactured, motor, or mobile home is located shall send a thirty (30) day notice to the owner and lienholder, if any, of the manufactured, motor, or mobile home of their intent to remove the abandoned manufactured or mobile home. In ascertaining whether there is a lienholder to which this section applies, the official or person having jurisdiction, or control, or possession of the property must conduct a diligent search of all applicable central Uniform Commercial Code (U.C.C.) filings and county records.

(b) The notice required in subsection (a) shall be in writing and be sent to the owner's and lienholder's last known address by certified mail return receipt requested and posted in a conspicuous place on the manufactured, motor, or mobile home as well as published in a newspaper of general circulation in the county where the manufactured or mobile home is located. The notice shall contain the following information:

- (1) The name and address of the person, and agency if applicable, making the determination of abandonment;
- (2) The date of the notice;
- (3) A description of the manufactured or mobile home;
- (4) The name of the owner or person with possession or control of the manufactured or mobile home; and
- (5) A statement that if the owner or person with possession or control of the

manufactured or mobile home does not remove the manufactured, motor, or mobile home within thirty (30) days that it shall be removed from the property by the person, official, or agency having jurisdiction, control or possession of the property.

(Amended 10/13/11, Resolution 2011-754)

(Certified 10/25/11)

(Amended 6/17/04, Resolution 2004-411)

6-14-92 Procedure for Possession of Property

(a) Any official having jurisdiction over public property, persons having control or possession of private property, Colville Indian Housing Authority (CIHA), Public Works, or their officials having jurisdiction over property which either CIHA or Public Works controls or operates, the Chief of Police, or any other person authorized by the Business Council who wishes to take, possess, seize, or impound any abandoned manufactured, motor, or mobile home may do so only pursuant to a duly issued order of the Tribal Court upon application made as provided herein.

(b) If the owner of the manufactured, motor, or mobile home fails to remove the manufactured, motor, or mobile home within thirty (30) days from service of the notice required in section 6-14-91 then the official having jurisdiction over public property, persons having control or possession of private property, Colville Indian Housing Authority (CIHA), Public Works, or their officials having jurisdiction over property which either CIHA or Public Works controls or operates, the Chief of Police, or any other person authorized by the Business Council wishing to possess or remove the abandoned manufactured, motor, or mobile home shall apply for an order to the Tribal Court stating the reasons and authority for such possession or removal in writing, identifying the property, its location, its owner, or custodian, and lienholder (if applicable) of the property to the best of the applicant's knowledge.

(Amended 10/13/11, Resolution 2011-754)

(Certified 10/25/11)

6-14-93 Issuance of Order

(a) Upon receipt of a manufactured, motor, or mobile home removal application, the Tribal Court shall set the matter for a hearing not less than five (5) days but not more than fifteen (15) days from the date received. The Tribal Court shall send notice of the hearing to the owner, the custodian, and the lienholder (if applicable).

(b) At the hearing the Tribal Court shall issue an order allowing possession, removal and disposal of the manufactured, motor, or mobile home when the nature of the claim and the facts shown prove that the manufactured, motor, or mobile home has been abandoned, the owner or custodian has failed to voluntarily remove the manufactured, motor, or mobile home, and notice of the intent to remove the manufactured, motor, or mobile home has been given as required herein.

(c) Upon issuance of the order, notice thereof shall be given by the petitioner to the owner, or custodian, and lienholder (if applicable) of the manufactured, motor, or mobile home within two (2) days from the issuance of said order.

(Amended 10/13/11, Resolution 2011-754)

(Certified 10/25/11)

(Amended 6/17/04, Resolution 2004-411)

6-14-94 Production of Court Order

Any person attempting to remove any manufactured, motor, or mobile home as provided herein shall show the owner or custodian of such manufactured, motor, or mobile home, or any tribal law enforcement officer, the order of the tribal court allowing such action before attempting such removal.

(Amended 10/13/11, Resolution 2011-754)

(Certified 10/25/11)

6-14-95 Court Decisions Final

The decision of the Tribal Court as to the issuance of the order permitting taking or possession shall be final, except that further appeal may be made pursuant to the Colville Tribal Code.

(Amended 9/2/10, Certified 9/9/10, Resolution 2010-649)

6-14-96 Abandoned Vehicle or Junk—Crimes Regarding

(a) Any person shall be guilty of a Class B Offense who:

(1) Conducts or attempts to conduct a sale of or sells an abandoned vehicle, junk vehicle pursuant to sections 6-14-15 and 6-14-18 without being properly registered as a registered operator; or

(2) Removes a vehicle from private property pursuant to law and fails to notify the Tribal Police having jurisdiction of such removal.

(b) Any person who knowingly makes a false statement in any document prepared in connection with the disposition of an abandoned vehicle, junk vehicle pursuant to this Chapter shall be guilty of a Class B Offense.

6-14-97 Civil Penalties—Authorized

The Tribal Prosecutor may proceed against any person violating any provision of this Chapter by a civil action seeking a civil fine of not less than \$10.00 or not more than \$500.00 against the defendant under Chapter 2-3-121 of the Law and Order Code.

6-14-98 Prior Inconsistent Codes and Chapters Repealed

Any Code or Chapter or any provision of any Code or Chapter of the Tribes which conflicts in any way with the provisions of the Chapter is hereby repealed to the extent that is inconsistent with or is contrary to the spirit or purpose of this Chapter.

6-14-99 Severability

If any provision of this Chapter or its application to any person or circumstances is held invalid, the remainder of this Chapter, or the application of the provision to other persons or circumstances is not affected.

(Enacted 6/5/03, Resolution 2003-386)
(Repealed 10/1/97, Resolution 1997-536)
(Adopted 8/1/83, Resolution 1983-524)