

TITLE 7
LUMMI NATION CODE OF LAWS
MOTOR VEHICLE IMPOUNDMENT CODE

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**TITLE 7
LUMMI NATION CODE OF LAWS
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Chapter 7.01 Jurisdiction and Definitions

7.01.001 Jurisdiction

The provisions of this Title and all rules and regulations under it shall apply within the exterior boundaries of the Lummi Reservation and within the exterior boundaries all lands held in trust for the Lummi Nation by the United States regardless of location.

7.01.010 Definitions

Unless otherwise stated herein, all terms in this Chapter shall be as defined in Title 6 (Traffic Code) of this Code.

(a) "Hulk Vehicle" means any vehicle whose approximate value is equivalent to or less than the approximate scrap value.

(b) "Landowner" means a legal owner of private property, a person with possession or control of private property, a person with possession or control of property held in trust by the United States government, or a public official having jurisdiction over public property.

(c) "Vehicle" means any car, truck, motorcycle, other wheeled machine, or boat, that was designed to be, or which at one time, was self-propelled or towed, or in the case of boats, propelled by mechanical, natural, or human force, and which was capable of being operated over land, a roadway, or water.

(d) "Public Property" means any area within the exterior boundaries of the Lummi Reservation or trust lands that are generally open to the public including but not limited to, (1) beaches and tidelands, (2) roadways and right of ways, (3) property owned by the Tribe or that is held in trust for the Tribe, except areas containing residential, single family structures.

(e) "Trust Land" means all lands held in trust for the Lummi Nation by the United States regardless of location.

Chapter 7.02 Unauthorized Vehicles in a Public Right of Way

7.02.010 Unauthorized Vehicles in the Right of Way

Any Lummi law enforcement officer discovering an unauthorized vehicle left unattended or inoperable within a public right of way or traveled waterway within the exterior boundaries of the Lummi Nation shall place on the vehicle a readily visible notice that the vehicle is subject to impoundment under Title 7 of the Lummi Code of Laws if it remains in the right of way for more than forty eight (48) hours. The notice shall also state: (1) the date and time the notice was place on the vehicle; (2) the identity of the officer who placed the notice, and; (3) the event identification number.

7.02.020 Contacting Vehicle Owners

Upon discovery of an unauthorized motorized vehicle left unattended or inoperable within a public right of way, a Lummi law enforcement officer shall check any readily available records to learn the identity of the vehicle owner. Upon determining ownership, an officer shall make a reasonable attempt to contact the owner.

7.02.030 Towing and Impoundment

If a vehicle remains in a public right of way for more than forty eight (48) hours from the posting of notice under LCL §7.02.010, a Lummi law enforcement officer may take custody of the vehicle and arrange for its impoundment.

7.02.040 Emergency Removal of Vehicles in the Public Right of Way

Notwithstanding the prior sections of LCL §7.02, any vehicle left within a public right of way and causing a hazard may be immediately taken into custody and impounded by a Lummi law enforcement officer.

7.02.050 Responsibility for Costs

The registered owner of a vehicle shall be responsible for paying all costs incurred under this Chapter and associated with removing their vehicle from a right of way.

7.02.060 Impoundment Procedures

The Lummi Nation Police Department shall have the authority to adopt rules and procedures governing the impoundment of vehicles under this Chapter.

Chapter 7.03 Impoundment of Vehicles not Within a Public Right of Way

7.03.010 Impoundment - Generally

Any vehicle not located within a public right of way or traveled waterway within the exterior boundaries of the Lummi Nation without the consent of the landowner and which remains in such location for more than twenty four (24) hours, or which causes damage to real or personal property shall be subject to impoundment as hereinafter provided.

7.03.020 Impoundment - Persons Authorized

Vehicles subject to impoundment under LCL §7.03.010 may be impounded at any convenient place on the Reservation or trust lands by any landowner on which the vehicle is located or by a Lummi law enforcement official.

7.03.030 Registration with Court

Within twenty four (24) hours after impoundment, the individual who impounded the vehicle (or their representative) shall register the vehicle with the Lummi Tribal Court. The registration shall show a description of the vehicle as well as the name and address of the registered owner (if such information is ascertainable).

Chapter 7.04 Hearing

7.04.010 Notice

Upon registration with Lummi Tribal Court, the Court shall cause a notice of hearing to be served as hereinafter provided upon the owner of the vehicle impounded.

7.04.020 Time

The hearing shall be at a time and place indicated in the notice and not less than five (5) days after service or mailing of the notice as provided herein, whichever is later, where the owner is known, unless the owner requests and is granted an earlier date, and not less than fourteen (14) days after posting and publication of the notice as provided herein where the owner is unknown.

7.04.030 Failure to Appear

Failure of the owner to appear at the hearing shall be deemed an admission to all material allegations in the notice and the validity of the vehicle impoundment.

7.04.040 Hearing

The owner may be represented by counsel at the hearing. If the owner does not appear at the hearing, or after hearing, it appears to the Court by a preponderance of the evidence that the impounded vehicle was negligently or willfully driven on the Lummi Reservation or trust lands outside of designated or traveled roads without the consent of the landowner on whose land the vehicle was found, the Court shall order the vehicle sold no earlier than fourteen (14) days from the date of the hearing to pay all damages caused by the impounded vehicle unless the owner shall appear prior to the sale date and pay all such damages including costs of the hearing accrued to date. If the Court finds that the vehicle was impounded in bad faith, the individual impounding the vehicle shall be responsible for paying all costs of the impoundment.

7.04.050 Service of Notice

(a) Known Owners. If the owner of the vehicle impounded is known, the notice of hearing may be personally served or sent by certified mail.

(b) Unknown Owners. If the owner of the vehicle is unknown, the notice shall be served by posting notice in two (2) public places on the Reservation or trust lands and by publication at least seven (7) days prior to the hearing.

7.04.060 Contents of Notice

(a) The notice of hearing shall state that the vehicle has been impounded, the reason for the impoundment, a general description of the place where the vehicle was located, the present location of the vehicle impounded, the fact that damages may be assessed, and information concerning the hearing in the following form:

(b) Form of Notice:

TO: _____

YOU ARE HEREBY NOTIFIED that a vehicle of the following description: _____

was impounded by: _____
on or about the _____ day _____, 20____,
and is now in the safekeeping of: _____
Such impound occurred at or near

for _____

YOU ARE HEREBY ORDERED TO APPEAR before the Tribal Court at the hour of _____ on the _____ day of _____ 20____, to show cause why the vehicle seized in this action should not be sold to satisfy damages for driving said vehicle in violation of this Code, and for a hearing to determine the validity of the impoundment.

If you do not appear on the date and time noted above, such failure to appear shall be deemed an admission of all material allegations of this notice and validity of the vehicle impoundment. The vehicle will then be sold fourteen (14) days after the hearing date noted above to satisfy all charges accrued to the date of sales unless redeemed by you prior to the date of sale by payment of all damages and charges accrued.

If, at the hearing, the impoundment is found not to be valid, the vehicle will be released to you as soon as is practical. If the impoundment is found to be valid, you may redeem the vehicle within fourteen (14) days thereafter by payment of all damages and

charges accrued to date of redemption.

(Signature) Tribal Judge
Date: _____

Chapter 7.05 Sale of Vehicle

7.05.010 Sale

If, within the time allotted in this Title, the owner of impounded vehicle impounded has not appeared, or if after hearing in which the validity of the impoundment was sustained, the damages and charges accrued have not been paid to the presiding judge, the Court shall order the vehicle sold. The vehicle may be sold at a private sale subject to the approval of the Court or otherwise after notice and on such terms and conditions as the Court shall require.

7.05.020 Proceeds

After deducting all costs of sale and court costs, the proceeds of the sale shall be applied to the satisfaction of the judgment assessed in this action for damages and shall be paid over in that amount to the individual suffering damages from the vehicle's improper operation. The surplus, if any, shall be transmitted to the owner if known. If unknown, the surplus shall be transmitted to the general fund of the Lummi Nation.

Chapter 7.06 Appellate Proceeding

7.06.010 Appeal - Generally

Any person aggrieved by the decision of the Court shall have the right to appeal such decision as prescribed in Title 1 of this Code.

**Chapter 7.07
Hulk Vehicles—Removal and Disposal**

7.07.010 Purpose

The purpose of this Chapter is to provide a means for removal of hulk vehicles from public and private property within the Lummi Reservation or trust lands.

7.07.020 Persons Authorized to Dispose of Hulk Vehicles

(a) Private Property: Any landowner or their designated representative may request authorization for the disposal of any hulk vehicle on the landowner’s property in accordance with this Chapter.

(b) Public Property: A Lummi police officer or other person authorized by the Lummi Indian Business Council (LIBC) may request authorization for the disposal of any hulk vehicle on public property.

7.07.030 Inspection and Information from Law Enforcement

Prior to removal of a vehicle under this Chapter, a landowner must have the vehicle certified as a hulk vehicle by a Lummi law enforcement official. Upon the request of a landowner, the law enforcement officer shall:

- (a) Conduct an inspection of the vehicle;
- (b) Record the make and vehicle identification number and license number of the vehicle if available;
- (c) Verify that the approximate value of the vehicle is equivalent to or less than the approximate scrap value of the vehicle; and
- (d) Provide the registered and legal owner’s name and address for the vehicle.

7.07.040 Notice to Owner

(a) Upon receiving information on the hulk vehicle’s registered and legal owner, the landowner shall mail a notice to the registered and legal owners by certified mail. The notice shall contain the following information: A description of the hulk vehicle, the person’s name attempting to dispose of the hulk vehicle, the present location of the hulk vehicle, including address if applicable, that the vehicle must be removed within fifteen (15) days from the date of mailing of the notice to owner, and that if the vehicle is not removed, the registered owner may be held responsible for up to two (2) times the cost of removing the hulk vehicle. The notice shall be signed by the person seeking to dispose of the hulk vehicle.

(b) Form of Notice

TO: Registered and Legal Owners of the Following Described Hulk Vehicle

Legal Owner
Name: _____
Address: _____

Registered Owner
Name: _____
Address: _____

YOU ARE HEREBY NOTIFIED that a hulk vehicle of the follow description _____
is located on the property of _____.

The hulk vehicle has been at this location for at least thirty (30) days if operable or five (5) days if damaged or has been hulk on public property. The vehicle must be removed within fifteen (15) days from the date of mailing of this notice. If you are the registered owner of the hulk vehicle you may be held responsible for up to two (2) times the costs incurred in removing the hulk vehicle.

7.07.050 Liability for Failure to Remove Vehicle

If, after mailing notice to the registered owner, the registered owner fails to remove the hulk vehicle the costs of removal may be recovered as follows:

- (a) The landowner of the property upon which the hulk vehicle is located is entitled to recover from the hulk vehicle’s registered owner any costs incurred in the removal of the hulk vehicle.
- (b) If the hulk vehicle is located on public property, the LIBC shall be entitled to recover twice the costs incurred in the removal of the hulk vehicle.

7.07.060 Order for Disposal

(a) The landowner shall present the Officer Inspection Report and proof that the registered and legal owner were sent notice as required under this Chapter to the Lummi Tribal Court.

(b) Upon proof that the landowner has sent notice to the registered and legal owner, that

fifteen (15) days have elapsed since the notice was sent, that the vehicle has not been removed within the required fifteen (15) days, and that the vehicle has been inspected as required by LCL §7.07.030, the Tribal Court shall authorize the disposal of the hulk vehicle on an ex-parte basis.

7.07.070 Non-Owner Identifiable Hulk Vehicles

(a) If a hulk vehicle does not have any identification markings such as a license plate or a Vehicle Identification Number, the landowner may immediately dispose of the hulk vehicle upon approval under LCL §7.07.060. It shall not be necessary to send notice or wait the fifteen (15) days otherwise required by this Chapter.

7.07.080 Release of Liability

A person complying in good faith with the requirements of this Section is immune from any liability arising out of an action taken or omission made under this Chapter.

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