

TITLE XXIX

ABANDONED PROPERTY CODE

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CHAPTER 1. ABANDONED PROPERTY CODE

§29-1-1 Title

This Title shall apply to unclaimed property that is held by the Tribe.

§29-1-2 Definitions

For purposes of this Title the following definitions shall apply:

- (a) “Intangible Personal Property” means monies, checks, drafts, or other forms of property constituting readily available cash;
- (b) “Person” means any individual, business association, corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity whether such person is acting in his own right or in a representative capacity;
- (c) “Secretary/Treasurer” means the Secretary/Treasurer of the Mississippi Band of Choctaw Indians or his authorized designee;
- (d) “Tangible Personal Property” means personal property other than intangible personal property as defined herein; and
- (e) “Tribe” or “Tribal” means the Mississippi Band of Choctaw Indians and any governmental agencies thereof.

§29-1-3 Lost or Abandoned Tangible Property

If any tangible items of personal property are left on the premises of Tribal offices or facilities, or are found within the common area of Tribal public land or buildings, excluding land or buildings under the control of a Tribal enterprise as defined in Tribal Ordinance No. 56, or premises constituting a hotel as defined in Tribal Code §28-1-2, and such property is not claimed forthwith by a person with a valid ownership interest in property, the property shall be deposited with the Secretary/Treasurer who shall keep the property in safekeeping. The Secretary/Treasurer shall take reasonable steps to notify the owner, if known, of the tangible property in its possession, including a letter in writing within ten (10) days by United States Mail to persons whose name and/or address appears upon the times of personal property so found. If no response is received by the Secretary/Treasurer sending notice within forty-five (45) days after the mailing of notice, then the personal property may be sold to the highest bidder for cash, or the Secretary/Treasurer may otherwise dispose of the property if he deems the value thereof insufficient to justify the expense of a sale. The proceeds from any such sale are to be deposited in the general fund of the Tribe.

§29-1-4 Lost or Abandoned Intangible Property

Any intangible property left on the premises of Tribal offices or facilities or that is found within the common area of Tribal public land or buildings, excluding land or buildings under the control of a Tribal enterprise as defined in Tribal Ordinances No. 56 or premises constituting a hotel pursuant to Tribal Code §28-1-2, shall be turned over the Secretary/Treasurer who shall maintain

it in safekeeping. The Secretary/Treasurer shall take reasonable steps to notify the owner, if known, of the intangible property of his having possession, including a letter sent by United States Mail. If no person claims to be the owner of the property within forty-five (45) days after notice has been mailed by the Secretary/Treasurer, the Secretary/Treasurer shall disburse the intangible personal property into the general fund of the Tribe.

§29-1-5 Inventory

The Secretary/Treasurer shall maintain an inventory of any personal property, whether tangible or intangible, that comes under the control of the Secretary/Treasurer under this Title. The inventory is to include the date the property arrived at the office of the Secretary/Treasurer, its location when found, the date when found and a description of the property.

§29-1-6 Claims for Property

If any person makes a claim for lost or found intangible or tangible personal property, such person shall have the burden of proving the legal entitlement to the property. The Secretary/Treasurer is authorized to decide if the person is legally entitled to the property. If more than one person makes a claim for any personal property, and the Secretary/Treasurer cannot determine which of the persons would legally be entitled to the property, the Secretary/Treasurer may interplead the property into the Choctaw Tribal Court for disposition by the court.

§29-1-7 Unclaimed Distribution Checks

- (1) If a distribution check sent pursuant to Title XV, Chapter 4 is returned or otherwise not claimed, it shall be retained by the issuer for two (2) years after date it was originally mailed, after which it shall be turned over to the Secretary/Treasurer for disbursement into the general revenue fund of the Tribe.
- (2) This section shall not apply to distribution checks that are issued to members of the Tribe who are under eighteen (18) years of age.

§29-1-8 Regulations and Rules

The Secretary/Treasurer is authorized to promulgate any rules and regulations deemed necessary to implement the provisions of this Title.

§29-1-9 Lost or Abandoned Property of Tribal Enterprises

If any tangible or personal property is found on the premises or property of a Tribal enterprise, as defined in Tribal Ordinance No. 56, other than a hotel as defined in Tribal Code §28-1-2, and such property is not claimed forthwith by a person with a valid ownership interest in the property, then the procedure set forth in §§29-1-4-29-1-8 shall be followed except that the general manager or chief executive officer of the enterprise shall carry out the duties and responsibilities delineated for the Secretary/Treasurer of the Tribe in such sections, and any disbursement of funds allowed shall be to the general fund of the enterprise rather than the general fund of the Tribe. The board of any Tribal enterprise is authorized to promulgate rules and regulations deemed necessary to implement the provisions of this Chapter with regard to such enterprise.

§29-1-10 Compliance as a Bar

Compliance with this Title shall be a perpetual bar to any action against the Tribe, a Tribal enterprise or their employees for the recovery of personal property, or the value thereof, or for any damage growing out of failure of the owner to receive such property.

§29-1-11 Non-Applicability to Hotels

Any personal or intangible property left on the premises of a hotel as defined in Tribal Code §28-1-2 shall be handled in accordance with the provisions of Title 28.

CHAPTER 2. ABANDONED VEHICLE REMOVAL CODE

§29-2-1 Citation; Authority and Purpose

This Chapter may be referred to as the “Abandoned Vehicle Removal Code” and is enacted pursuant to Article VIII, Section 1, Subsections (k), (m), (p), and (q) of the Revised Constitution and Bylaws of the Tribe. The purpose of this Chapter is to establish a procedure for removal of motor vehicles left unattended on or adjacent to Public Roadways, parking areas, or other public tribal government property. The presence of such vehicles creates a health and safety hazard by interfering with emergency access to properties and obstructing traffic and visibility.

§ 29-2-2 Definitions

- (1) “Abandoned Vehicle” means any motor vehicle, or part thereof, left unattended on or adjacent to Public Roadways, parking areas, or other public tribal government property.
- (2) “Motor Vehicle” means any motorized device used for transportation including, but not limited to, automobiles, motorcycles, scooters, buses, recreational vehicles, airplanes, and boats.
- (3) “Public Roadway” means any highway, road, or street maintained by a public authority and open to public travel
- (4) “Tribal Civil Court” means the Civil Division of the Choctaw Trial Courts.
- (5) “Tribe” means the Mississippi Band of Choctaw Indians, a federally-recognized Indian tribe.

§29-2-3 Enforcement

The provisions of this chapter shall be administered and enforced by law enforcement personnel of the Tribe’s Department of Public Safety. Upon discovering the existence of an abandoned vehicle, law enforcement personnel shall have the authority to issue a notice to remove the abandoned vehicle.

§29-2-4 Form of Notice to Remove Abandoned Vehicle

The notice to remove an abandoned vehicle may be utilized in substantially the following form:

NOTICE TO REMOVE AN ABANDONED VEHICLE WHICH HAS BEEN DETERMINED
TO BE IN VIOLATION OF C.T.C. §§ 29-2-1 *et seq.*

You are hereby notified that the undersigned Department of Public Safety Officer has determined that there exists an abandoned vehicle on or adjacent to the public roadways, parking areas, or other public tribal government property of the Mississippi Band of Choctaw Indians, the location and description of which is as follows: [insert information concerning the location and description of the abandoned vehicle]. Said abandoned vehicle will be removed and impounded at your expense if you do not take action to remove said abandoned vehicle from the public roadways, parking areas, or other public tribal government property of the Mississippi Band of Choctaw Indians within ten (10) days of the date this Notice was issued. You may appeal this decision by

completing the "Notice of Intent to Appeal" section below and returning the same to the Choctaw Tribal Court within ten (10) days of the date this Notice was issued.

_____ Date: _____
Department of Public Safety Officer

NOTICE OF INTENT TO APPEAL

Appellant's Name: _____
Contact Number: _____
Mailing Address: _____
Email: _____

_____ Date: _____
Signature of Appellant

§29-2-5 Service of Notice to Remove

A copy of the notice to remove the abandoned vehicle shall be placed on the abandoned vehicle. An additional copy of the notice to remove the abandoned vehicle shall be sent via certified mail, return receipt requested, or via commercial delivery carrier with proof of delivery, to the registered owner of the abandoned vehicle within three (3) days of the date such notice was placed on the abandoned vehicle.

§29-2-6 Appeals

Any person who has received a notice to remove an abandoned vehicle may appeal to the Tribal Civil Court within ten (10) days of the date said notice was issued. When a hearing on appeal has been requested, the Tribal Civil Court clerk will notify the Department of Public Safety in writing not to remove the abandoned vehicle until the appeal is heard and a decision is rendered by the Tribal Civil Court.

§29-2-7 Removal and Impoundment of Abandoned Vehicles

Upon expiration of the ten-day period or five (5) days following a Tribal Civil Court ruling against the recipient of the notice to remove an abandoned vehicle, law enforcement personnel may direct the removal and impoundment of the abandoned vehicle in a manner approved by the Director of the Tribe's Department of Public Safety.

§29-2-8 Responsibility for Costs of Removal and Impoundment

The registered owner of the abandoned vehicle shall bear the cost of removal and impoundment.

§29-2-9 Tribe Not Responsible for Lost or Damaged Personal Items

The Tribe shall not be responsible for personal items left in an abandoned vehicle during its abandonment or at the time of removal and impoundment.

§29-2-10 Severability

If any provision of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.