

ORDINANCE NO. 78-A-14, AS AMENDED
QUILEUTE MOTOR VEHICLE ORDINANCE

Preamble

WHEREAS, the Quileute Tribe is an organized Indian Tribe, incorporated and chartered under the Indian Reorganization Act; and the Quileute Tribal Council is the duly constituted governing body of the Quileute Indian Reservation by authority of Article III of the Constitution and By-Laws of the Quileute Indian Tribe approved by the Secretary of the Interior on November 11, 1936; and,

WHEREAS, the Tribal Council has authority to enact ordinances under the authority provided by Article VI of the Quileute Constitution; and

WHEREAS, the Tribal Council enacted Ordinance No. 78-A-14 on January 27, 1978, which ordinance was approved by the Superintendent, Western Washington Agency on February 15, 1978; and

WHEREAS, Tribal civil authority over the conduct of persons operating motor vehicles on the reservation is necessary to regulate conduct threatening the health and welfare of the Tribe; and

WHEREAS, decriminalization of certain traffic offenses is essential to the public safety, health and welfare of the Quileute Tribe to facilitate a uniform, expeditious system for disposition of traffic infractions; and

WHEREAS, the Quileute Tribal Council desires to amend Ordinance No. 78-A-14, the Quileute Motor Vehicle Ordinance, as hereinafter set forth;

NOW, THEREFORE, the Quileute Tribal Council amends the Quileute Motor Vehicle Ordinance 78-A-14, as follows:

Revising Section 2 by adding new Sections 2.1 and 2.2(a), and renumbering sections 2.1 through 2.6; revising sections 3.3, 4.6, 5, 6, 7 and 11; revising section 9 by adding new section 9.5, and renumbering sections 9.1 through 9.9; revising section 10 by including former section 13.3 as new section 10.6; renumbering former section 15 as new section 12; renumbering and amending former section 12 as new section 15; revising former section 13 to include former section 16 and renumbering the same; revising section 14 by amending and renumbering as new section 16; adding new sections 14, 17, 18, and 19; renumbering former sections 17 and 18.

1. Washington State Motor Vehicle Laws Adopted:

The sections of the Washington State Motor Vehicle Laws specifically cited in this ordinance are adopted by the Quileute Tribe and made a part of this ordinance subject to the following:

1.1 All amendments to the Washington State Motor Vehicle Laws cited in this ordinance shall operate to amend this ordinance unless the Tribal Council shall resolve otherwise.

1.2 Nothing in this section shall diminish the authority of the Tribe to delete, amend or supplement the Washington State Motor Vehicle Laws cited in this ordinance insofar as they may affect the provisions of this ordinance.

1.3 "Public highways of this State" as contained in the cited Washington State Motor Vehicle Laws shall be construed to mean "all roads, public and private, within the jurisdiction of the Quileute Tribe."

1.4 "County jail" as contained in the cited Washington State Motor Vehicle Laws shall be construed to mean "tribal or other jail authorized by the Tribe to receive prisoners."

2. Violations.

2.1 Traffic Infractions.

(a) Defined: The failure to perform any act required or the performance of any act prohibited by this ordinance related to traffic including, but not limited to parking, standing, stopping, pedestrian, and other offenses set forth in the Revised Code of Washington Chapter 46.63, is designated as a traffic infraction and may not be classified as a criminal offense. A traffic infraction is a noncriminal regulatory violation for which imprisonment may not be imposed as a sanction.

(b) Monetary Penalties: A person found to have committed a traffic infraction shall be assessed a monetary penalty not to exceed \$250. The Tribal Court shall designate the amounts of the monetary penalties for traffic infractions under this ordinance.

2.2 Criminal Violations.

(a) Defined: Traffic offenses designated as crimes in this ordinance or the cited Washington State Motor Vehicle Laws shall be classified as criminal violations.

(b) Penalties: The penalties imposed by the Quileute Tribal Court for criminal violations shall be as set forth in the cited Washington State Motor Vehicle Laws except no penalty shall exceed one (1) year's imprisonment or \$5,000.00 or both. Where no penalty is contained in the cited Washington State Motor Vehicle laws, the penalty shall not exceed thirty (30) days' imprisonment or \$100.00, or both.

(c) Bail: The Tribal Court shall designate the amounts of bail for criminal violations under this ordinance and shall further designate the specified offenses which may be satisfied by payment of bail and the specified offenses which shall require appearances before the Tribal Court. Provided that, until revised upon not less than 30 days' notice, the designations required by this paragraph shall be those set forth in the Bail Schedule for the Clallam County District Court.

2.3 Denial of Operating Authority. In addition to any other penalties prescribed by this ordinance the Tribal Court may prohibit any person convicted of a violation of this ordinance or found to have committed a traffic infraction hereunder from operating a vehicle on any road within the jurisdiction of the Quileute Tribe for a period not to exceed one year.

2.4 Exclusion. Any person not a member of the Quileute Indian Tribe convicted of three or more criminal violations and/or found to have committed three or more traffic infractions under this Ordinance or any combination thereof shall be subject to exclusion from the Quileute Indian Reservation pursuant to Article XV of the Quileute Law and Order Ordinance No. 74-A7.

2.5 Payment. All fines and forfeitures due upon conviction of a criminal violation or forfeiture of bail and all monetary penalties due upon determination of a traffic infraction shall be paid into the General Fund of the Tribe.

3. License, Registration and Equipment.

3.1 Any person who operates a motor vehicle upon any road within the jurisdiction of the Quileute Tribe shall have in his possession a current and valid driver's license which under Quileute or Washington State Motor Vehicle laws entitles him to operate a motor vehicle on the public highways in Washington or on the roads within the Quileute Reservation.

3.2 Any vehicle operated by any person upon any road within the jurisdiction of the Quileute Tribe must be properly licensed and equipped in accordance with Chapters 46.16 and 46.37 of the Revised Code of Washington and must be properly registered in accordance with Quileute Tribal laws.

3.3 Operation of a motor vehicle without a valid driver's license or operation of an unregistered vehicle shall be a criminal violation punishable as provided in Section 2.2 of this ordinance.

4. Motorcycles and Mini-bikes.

4.1 It shall be a traffic infraction for any person to operate a motor-driven cycle (called cycle herein) except as follows:

(a) Equipped with a mirror on the left side of the handlebars giving the driver a complete view of the roadway to the rear.

(b) Equipped with a safe operational braking system as designed by the manufacturer.

(c) Equipped with an operational head lamp as designed by the manufacturer, which shall be lighted at all times while the cycle is actually in motion on a public or private road.

(d) Equipped with a proper exhaust system. No person shall modify or fail repair a faulty or damaged exhaust system of a cycle allowing the increase of noise emitted by the engine to be above that emitted by the muffler originally installed on the cycle.

4.2 It shall be a traffic infraction for any person to operate or ride upon a cycle without conforming to the following:

(a) Observing the hours of operation limited to 7:00 a.m. to 10:00 p.m.

(b) Riding only upon a permanent and regular seat attached thereto, and not carrying any person unless such cycle is designed to carry more than one person with the additional seating and footpegs.

4.3 It shall be a traffic infraction for any person to ride in a position where both feet are placed on the same side of the cycle.

4.4 It shall be a traffic infraction to use a cycle to tow another vehicle.

4.5 All cycles when operated on paved roadways and within the community of LaPush must observe all Rules of the Road and applicable motor vehicle laws.

4.6 Cycles being operated with defective or improper equipment may be prevented from further operation until the defect is corrected and any police officer may impound such cycle until it has been placed in a condition satisfactory to cycle inspection.

5. Accidents and Reports.

Every driver whose vehicle injures another person, or damages another person's property, shall stop and give assistance and information in accordance with sections 46.52.010, 46.52.020, and 46.52.030 of the Revised Code of Washington. Failure of a driver to comply with this Section shall be a crime punishable as provided in Section 2.2 of this ordinance.

6. Rules of the Road.

Any person who, while within the jurisdiction of the Quileute Tribe, violates any of the Washington State Rules of the Road, as appearing in Chapter 46.61 of the Revised Code of Washington, shall be punishable as provided in Section 2 of this ordinance.

7. Careless Driving.

Any person who shall drive without reasonable regard for the safety of persons or property shall be guilty of careless driving

and punishable as provided in Section 2.2 of this ordinance. Violation of any posted speed limit or of the Rules of the Road may be considered as evidence of careless driving.

8. Abandonment of Motor Vehicles.

8.1 Any motor vehicle which has not been moved from the roads or streets under the jurisdiction of the Quileute Tribe for a period of thirty days shall be presumed to be abandoned by the owner, and license plates shall be removed from the abandoned vehicle.

8.2 Any person found to have abandoned a vehicle on the roads or streets under the jurisdiction of the Quileute Tribe or on real property owned by the Quileute Indian Tribe shall forfeit all rights in such motor vehicle, and the Tribal Court, after notice to the owner, may order the abandoned motor vehicle to be destroyed, sold or otherwise disposed of.

8.3 Any net proceeds above the expenses of any sale of an abandoned motor vehicle shall be remitted to the owner of record; otherwise, expenses of disposition of the motor vehicle incurred by the Tribal Court shall be assessed against the owner of record.

9. Police Authority.

All tribal police officers shall have the power:

9.1 To enforce the provisions of this ordinance and any other tribal laws regulating the operation of vehicles or the use of the highways.

9.2 To make arrests without warrant for any criminal violation of this ordinance or other tribal laws regulating the operation of vehicles or the use of the highways, provided that, except as modified by paragraphs 9.3 and 9.4, such offenses must be committed in the view or presence of the officer.

9.3 To make arrests when they have reasonable cause to believe that the person is driving a vehicle under the influence of intoxicating liquor, or a drug, or has been guilty of failure to stop, or failure to give information, or failure to render reasonable assistance, in the event of an accident resulting in death or personal injuries, as prescribed in Section 5 of this ordinance.

9.4 To investigate traffic accidents and to secure the names and addresses of witnesses or of persons involved, and to issue a written traffic citation to any person involved in the accident when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed any offense under the provisions of this ordinance.

9.5 To issue a notice of traffic infraction if: (1) the traffic infraction is committed in the officer's presence; (2) the officer investigating at the scene of an accident has reasonable cause to believe that a driver of a motor vehicle involved in the accident has committed a traffic infraction; or (3) a motor vehicle without a driver is found parked, standing or stopped in violation of this ordinance, in which case the officer shall conspicuously affix to the vehicle a notice of the traffic infraction.

9.6 At all times to direct traffic conformance with this ordinance and in the event of a fire or other emergency or to expedite or to insure safety, to direct traffic as conditions may require notwithstanding the provisions of this ordinance.

9.7 When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this ordinance, to require the driver thereof to stop and exhibit his driver's license and the registration card issued for the vehicle.

9.8 To inspect any vehicle in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

9.9 To serve all warrants relating to the enforcement of this ordinance regulating the operation of vehicles and investigating the title and registration thereof.

9.10 To investigate reported thefts of motor vehicles.

10. Citation to Appear in Court for Criminal Violation.

10.1 Whenever any person is arrested for any criminal violation of this ordinance, the arresting officer may serve upon him a citation and notice to appear in court.

10.2 The officer shall prepare in sufficient copies a written traffic citation containing a notice to appear in court, the name and address of the person, the registration number of his vehicle, the offense charged, the time and place when and where the person shall appear in court, and such other pertinent information as may be necessary.

10.3 The time specified in the notice to appear must be at least five (5) days after the alleged violation.

10.4 The place specified in the notice to appear shall be before the Quileute Tribal Court in LaPush, Washington.

10.5 The person charged with the criminal violation, in order to secure release, and when permitted by the arresting officer, must give his written promise to appear in Tribal Court by signing at least one copy of the written traffic citation prepared by the officer. Upon the arrested person's failing or refusing to sign such written promise, or if the arresting officer has reasonable cause to believe that the person will not honor such promise, he may be taken into custody of such arresting officer, or be placed in confinement, and taken before the Tribal Court without unreasonable delay. Provided; any person cited for any violation of this ordinance which involves the use of intoxicants or drugs shall be placed in custody or confinement for a minimum period of four (4) hours.

10.6 Any person charged with an offense for which payment of bail may be made without appearance before the court shall have the option of forfeiting such bail by payment to the Tribal Treasurer at the Tribal office prior to the time specified in the notice to appear or depositing such bail and proceeding to trial of the charge.

11. Failure to Obey Citation.

It shall be a criminal violation for any person to violate his written promise to appear on the issuance of a traffic citation.

12. Traffic Citation a Lawful Complaint.

The traffic citation charging commission of an offense when filed with the Tribal Court shall be deemed to be a lawful complaint for the purpose of prosecution under this Title.

13. Procedure in Court: Prosecution of Criminal Offenses.

13.1 Every officer, upon issuing a traffic citation shall deposit a copy of same with the Tribal Court. Such citation may be disposed of only by trial in said court or other official action by a judge, including forfeiture of bail or payment of fine.

13.2 Except as expressly modified herein, the Quileute Law and Order Ordinance No. 74A-7 shall govern the prosecution of criminal offenses under this ordinance including, without limitation, the provisions of the Law and Order Ordinance regarding jurisdiction and authority of the Tribal Court and tribal officers, rules of criminal procedure, bail, expulsion and exclusion of non-members, and rights of appeal.

14. Hearing Procedure: Notice of Traffic Infraction.

14.1 A notice of traffic infraction, on a form prescribed by rule of the Tribal Court, represents a determination that an infraction has been committed. The determination will be final unless contested as prescribed herein.

14.2 Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within seven (7) days of the date of the notice:

(a) If a person does not contest the determination that a traffic infraction has been committed, the person shall respond by completing the appropriate portion of the notice and submitting it to the Quileute Tribal Court. A check or money order in the amount of the penalty prescribed in the notice must be submitted with the response.

(b) If a person wishes to contest the determination, that person shall respond by completing the portion of the notice requesting a hearing and submitting it to the Quileute Tribal Court. The court shall notify the person of the time and date of the hearing which shall be at least five (5) days after the date of the notice.

(c) If a person does not contest the notice but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice requesting a hearing for that purpose and submitting it to the Quileute Tribal Court. The Court shall notify the person of the time and date of the hearing.

14.3 If any person fails to respond to the notice or fails to appear at the hearing requested, the court shall enter an order assessing the monetary penalty prescribed for the traffic infraction.

14.4 Procedures for the conduct of hearings provided for in this section may be established by rule of the Tribal Court.

(a) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury. The burden of proof is on the Tribe to establish

the commission of the infraction by a preponderance of the evidence. Where it has not been established that the infraction was committed, the Tribal Court shall enter an order dismissing the notice. Where it has been established the infraction was committed, the court shall enter an appropriate order.

(b) A hearing held for the purpose of allowing a person to explain mitigating circumstances shall be an informal proceeding. The determination that an infraction has been committed may not be contested at a hearing held for this purpose. After hearing the explanation, the Tribal Court shall enter an appropriate order.

14.5 An order entered after receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

15. Evidence of Conviction or Traffic Infraction Inadmissible in Civil Action.

Evidence of receiving a citation, of a conviction, or of a traffic infraction determination for a violation of any provisions of this Ordinance shall not be admissible in any civil action.

16. Illegal Cancellation of Traffic Citations or Traffic Infraction Notices.

16.1 It shall be unlawful and official misconduct for any officer or public employee to dispose of a traffic citation or notice of traffic infraction or copies thereof or of the records

of issuance of the same in a manner other than as required in this ordinance.

16.2 Any person who cancels or solicits the cancellation of any traffic citation or notice of traffic infraction in any manner other than as provided in Sections 13 or 14 shall be guilty of criminal violation, and upon conviction thereof may be punished as provided in Section 2.2 of this Chapter.

17. Disclaimer.

Nothing in this ordinance shall be construed to require criminal trial and punishment by the Quileute Tribal Court of any non-Indian except to the extent allowed by any applicable present or future act of Congress or any applicable decision of the United States Supreme Court.

18. THIS ORDINANCE SHALL BE KNOWN AS THE QUILEUTE MOTOR VEHICLE ORDINANCE.

19. Relationship to Other Tribal Laws.

No other tribal ordinance or resolution shall be applied in a manner inconsistent with the provisions of this ordinance.

20. Effect of Partial Invalidity.

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

21. Effective Date.

This ordinance shall take effect and be enforced immediately from and after its adoption by the Tribal Council.

PASSED BY THE TRIBAL COUNCIL this 27 day of April, 1989 and signed in authentication of its passage this 29 day of April, 1989.

QUILEUTE TRIBAL COUNCIL

By James R. Luning
CHAIRMAN

C E R T I F I C A T I O N

I certify as Secretary of the Quileute Tribal Council that the Quileute Tribal Council is composed of five members of whom 4, constituting a quorum, were present at a Regular meeting of the Council on the 27th day of April, 1989 held at LaPush, Washington, and that the foregoing Ordinance was adopted at such meeting by a vote 3 FOR 0 AGAINST, 0 ABSTENTION, said Ordinance.

Ronald N. Black
SECRETARY, QUILEUTE TRIBAL COUNCIL

Resolution 2004-A-038, Adopted by Council March 18, 2004, BIA Approved on March 26, 2004

The Quileute Tribal Council adopted RCW 46.55.230 "Junk Vehicle Disposition" and incorporated it into the Quileute Motor Vehicle Ordinance.