

Title 5

ORDINANCE OF THE HOOPA VALLEY TRIBE
HOOPA INDIAN RESERVATION
HOOPA, CALIFORNIA

ORDINANCE NO.: 2-86

DATE APPROVED: September 23, 1986

SUBJECT: EXCLUSION OF PERSONS FROM THE HOOPA VALLEY INDIAN RESERVATION

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Section 1(1) of this Constitution and Bylaws authorized the Hoopa Valley Business Council "to safeguard and promote the peace, safety, morals and general welfare of the Hoopa Valley Indians by regulating the conduct of trade and the use and disposition of property upon the reservation, provided that any ordinance directly affecting non-members of the Hoopa Valley Tribe shall be subject to the approval of the Commissioner of Indian Affairs or his authorized representative; and

WHEREAS: It is the desire of the Hoopa Valley Business Council to enact an Ordinance governing exclusion of persons from the Hoopa Valley Indian Reservation for the purpose of enforcing laws to protect the territory and people within the jurisdiction of the Hoopa Valley Tribe; and

NOW THEREFORE BE IT RESOLVED: That the Hoopa Valley Business Council does hereby adopt for implementation this Ordinance governing exclusion of persons from the Hoopa Valley Indian Reservation and approvals required by the Commissioner of Indian Affairs or his authorized representative is requested at the earliest possible time.

SECTION I: EXCLUSION FROM THE HOOPA VALLEY INDIAN RESERVATION

Any person may be excluded from the Reservation and all areas under the jurisdiction of the Hoopa Valley Tribal Court for any of the following reasons: .

- (1) Repeated commission of a crime or breach of peace as defined by Tribal, State or Federal laws.

- (2) Repeated willful failure to adhere to Tribal laws and regulations or failure to correct a violation of such laws and regulations after Hoopa Valley Tribal Court orders to do so.
- (3) Repeated invasion of the privacy of the residents of the Reservation.
- (4) Unauthorized entry into Tribal or individual land for any purpose, including but not limited to camping, hunting, fishing, trapping, timber cutting (including Christmas trees), or other property of the Tribe or of any resident of the Reservation.
- (5) Any other misconduct or objectionable condition found by the Tribal Court to be sufficient cause for expulsion, provided that the person is first advised of the objection and given notice to desist but nevertheless continues the misconduct or condition.
- (6) Improper and willful interference of businesses authorized by the Hoopa Valley Business Council under the provisions of this Code.

SECTION II: RULES OF EXCLUSION PROCEDURE

The procedure for exclusion for any person shall be as follows:

- (1) The Chairman of the Hoopa Valley Business Council, or his/her authorized representative, shall serve notice, either by an officer of the Council or by registered mail, upon any person the Chairman has reason to believe cause may exist for exclusion of such person. Such notice shall state the reason for the order and shall name a time not less than five (5) days, unless an emergency exists, when the person may appear before the Hoopa Valley Tribal Court to show cause why he should not be excluded from the Hoopa Valley Indian Reservation.
- (2) After notice to the person proposed for exclusion, the Hoopa Valley Tribal Court shall hold a hearing under the Rules of Civil Procedure of the Hoopa Law and Order Code to decide whether or not that person shall be excluded from the Hoopa Valley Indian Reservation.

- (3) If the person does not appear at the hearing at the time and place scheduled, or if found at the hearing that cause does exist to exclude that person from the Hoopa Valley Indian Reservation, the Hoopa Valley Tribal Court shall issue an order excluding that person from all or any part of the Hoopa Valley Indian Reservation or permitting such person to remain on the Hoopa Valley Indian Reservation under such conditions specified in the order. The order shall be effective unless revoked or modified by the Tribal Appellate Court.
- (4) If the final judgment of the Hoopa Valley Tribal Court is that the person shall be excluded from the Hoopa Valley Indian Reservation, then the Court shall deliver an order of removal to any Law Enforcement Officer who shall thereupon order the person to obey the order. If, after the required time specified in the order, the person does not comply with the order, he may be removed bodily from the Hoopa Valley Indian Reservation by the Law Enforcement official as stated in the order of the Court.
- (5) In cases involving immediate danger to the life, health, morals or property of residents of the Reservation or any Tribal members, where delay would result in irreparable damage, the Chairman of the Hoopa Valley Business Council, or his/her authorized representative, may request the Court to order any Law Enforcement official to remove a person and/or any property of such person from the Hoopa Valley Indian Reservation immediately using only as much force as is reasonable and necessary to effect the removal. The Court shall cause the Law Enforcement Officer to serve notice upon the person at the time of removal or cause the notice to be served as soon thereafter as possible.
- (6) In any case involving the immediate removal of a person from the Hoopa Valley Indian Reservation, the order of the Court shall state the conditions under which the person may return for a hearing if such hearing was not held.
- (7) Nothing in this section shall limit the authority of the Hoopa Tribal Court to impose, pursuant to applicable Tribal law, the penalty of exclusion where such penalty is authorized by the Law and Order Code, Rules of Court or other Tribal enactment.

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SECTION III: APPEAL ALLOWED TO HOOPA VALLEY TRIBAL COURT

An appeal to the Hoopa Valley Tribal Court, Appellate Division, may be made under the Civil Procedures of the Tribal Law and Order Code within five (5) days after the issuance of an order by the Tribal Court pursuant to this Ordinance. Decisions of the Hoopa Valley Court of Appeals shall be final.

SECTION IV: VIOLATION OF ORDER A CRIMINAL OFFENSE

Any person who violates any order or part thereof issued pursuant to this Section shall be deemed guilty of an offense and, upon failure to comply with the order of the Court, may be sentenced to confinement for a period not to exceed six (6) months or to pay a fine of \$500.00 or both, with costs, and ordered to comply with the previous order or amended order issued by the Court.

SECTION V: APPLICATION FOR REVOCATION OR AMENDMENT OF ORDER

Any person to whom an order has been issued under this Ordinance may apply to the Tribal Court in writing for revocation or amendment of such an order. A hearing on the application shall be conducted under the provisions of Section II. An appeal may be made from the decision of the Court on the application under the provisions of Section III.

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SECTION VI: SUBJECT MATTER JURISDICTION

Pursuant to the Hoopa Valley Tribal Law and Order Code, Preamble, the Hoopa Valley Business Council hereby resolves that violations of this Ordinance shall be subject to adjudication in the Hoopa Tribal Court.

CERTIFICATION


I, the undersigned, as Vice-Chairman of the Hoopa Valley Business Council, do hereby certify that the Hoopa Valley Business Council is composed of eight members of which 5 were present constituting a quorum at a Regular Meeting thereof; duly and regularly called, noticed, convened and held this 23rd day of September, 1986; and that this ordinance was duly adopted by a vote of 4 for and 0 against; and that said resolution has not been rescinded or amended in any way.

DATED THIS 23rd DAY OF SEPTEMBER, 1986.



Rodney E. Vigil, Vice-Chairman
Hoopa Valley Business Council

ATTEST:



Deirdre R. Young, Executive Secretary
Hoopa Valley Business Council