

YOUTH PROTECTION CURFEW ORDINANCE
of the
HOOPA VALLEY TRIBE
Hoopa Valley Indian Reservation

Title 41
Hoopa Valley Tribal Code

ORDINANCE NO: 2-96

DATE APPROVED: February 1, 1996

SUBJECT: Youth Protection Curfew Ordinance Of The Hoopa Valley Indian Reservation.

WHEREAS: The Hoopa Valley Tribe adopted a Constitution and Bylaws (Tribal Constitution) on June 20, 1972, which was approved by the Commissioner of Indian Affairs on August 18, 1972, and ratified and confirmed by Congress on October 31, 1988, § 8 of Pub. L. 100-580, and amended on June 19, 1990 and, by tribal law, the sovereign authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by law; and

WHEREAS: The Tribal Council has concluded that it is necessary and proper to exercise tribal authority over minors' actions in public places within the exterior boundaries of the Hoopa Valley Reservation between the hours of 10:00 p.m. and 5:00 a.m., in order to protect tribal property interests and the public health and safety; and

WHEREAS: Pursuant to the process set forth in the Legislative Procedures Act § 6.9, the Tribal Council concludes that it is now appropriate to enact said Ordinance on a permanent basis, as modified by departmental comments and legal review developed during the review process;

THEREFORE BE IT NOW ORDAINED THAT: Pursuant to Section 6.9 of the Legislative Procedures Act, and the tribal constitutional and legal authorities recited herein, the Tribal Council hereby enacts the attached Youth Protection Curfew Ordinance, in order to protect the fundamental tribal values identified in Article IX § (1) thereof and the Tribe's sovereign governmental authority.

Section 1. SHORT TITLE, FINDINGS, AND PURPOSE

- 41.1.1 SHORT TITLE:** This Ordinance shall be known as the.
Youth Protection Curfew Ordinance of the Hoopa Valley Tribe.
- 41.1.2 FINDINGS:** The Hoopa Valley Tribal Council hereby finds as follows:
- (a) That a critical need exists for a minor curfew ordinance. Minors under the age of eighteen possess a particular vulnerability to crime and harmful influence under certain circumstances or when not supervised or accompanied by a parent or legal guardian at night;
 - (b) That minors under the age of eighteen often lack the ability to make critical decisions in an informed and mature manner when exposed to night time influences.
- 41.1.3 PURPOSE:** The purpose of this Ordinance is to regulate and protect the activities of minors between the hours of 10:00 p.m. at night and 5:00 a.m.
- A curfew Ordinance can help to ensure that a minor's parent or legal guardian is able to play an important role in the minor's development and upbringing.
- 41.1.4 SCOPE:** The provisions of this Ordinance shall apply to all minors, living within the exterior boundaries of the Hoopa Valley Indian Reservation.
- 41.1.5 EFFECTIVE DATE:** This Ordinance will become effective and in force 30 days after passage.

Section 2. DEFINITIONS

The definitions set forth in this part shall govern the application and interpretation of this ordinance.

- 41.2.1 CURFEW HOURS -** shall mean the hours between 10:00 p.m. and 5:00 a.m. for minors under the age of eighteen years old.

- 41.2.2 **EMANCIPATED MINOR** - shall mean a person under eighteen years of age who is totally self-supporting. Complete emancipation is entire surrender of care, custody, and earnings of child, as well as renunciation of parental duties.
- 41.2.3 **EMERGENCY MISSION** - shall mean a venture to obtain medical, police, fire or other assistance that is required to prevent serious bodily injury or by some reasonable necessity to which a minor must attend.
- 41.2.4 **ESTABLISHMENT** - shall mean any privately owned place of business to which the public is invited, including but not limited to any place of amusement, entertainment or recreation.
- 41.2.5 **GUARDIAN** - shall mean a person who, under court order is the guardian of the minor; or a public or private agency with whom a minor has been placed by a court; or a person who is at least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.
- 41.2.6 **LOITER** - shall mean to stand idly about or linger aimlessly.
- 41.2.7 **MINOR** - shall mean any person under eighteen years of age.
- 41.2.8 **PARENT** - shall mean a person who is natural parent, adoptive parent, or step-parent of a minor.
- 41.2.9 **PUBLIC PLACE** - shall mean any out-of-doors area to which the general public has immediate access, including but not limited to, streets, highways, sidewalks, alleys, doorways, access ways, driveways, parking lots, parks, rodeo grounds, campgrounds, playgrounds or other public grounds.
- 41.2.10 **PUBLIC STREET** - shall mean all public sidewalks, crosswalks, roadways, alleys, bridges, highways and intersections that are not immediately adjacent to a minor's residence.
- 41.2.11 **REMAIN** - shall mean to linger or stay; or to fail to leave a public place when requested to do so by a police officer or the person in control of the public place.

41.2.12 **SERIOUS BODILY INJURY** - shall mean bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 3 REGULATIONS

41.3.1 **PROHIBITION:** It is unlawful for any minor under the age of eighteen years to loiter or remain in any public place within the exterior boundaries of the Hoopa Valley Indian Reservation during curfew hours, except as provided under section 41.3.2.

41.3.2 **EXEMPTIONS:** A minor under the age of eighteen years shall not be in violation of this chapter if, at the time the minor was stopped by a police officer, the minor was:

- (a) accompanied by the minor's parent or appointed guardian;
- (b) on an errand at the direction of the minor's parent or guardian, without detour or stop;
- (c) in a motor vehicle involved in interstate travel;
- (d) engaged in a lawful employment activity, or going to or returning home from a lawful employment activity, without detour or stop;
- (e) engaged in an emergency mission;
- (f) on the sidewalk abutting or immediately adjacent the minor's residence;
- (g) returning directly home, without detour or stop, from the Youth Center, from a school, cultural, sports, amusement, entertainment, or recreation activity; or any organized rally, demonstration, meeting, or similar activity;
- (h) an emancipated minor.

41.3.3 ENFORCEMENT PROCEDURE

- (a) Before taking any enforcement action under 41.3.1, a police officer shall ask the apparent offender's age and reason for being in the public place.
- (b) The police officer shall not take enforcement action under this chapter unless the officer has probable cause to believe that no exemption under section 41.3.2 applies.
- (c) If the police officer reasonably believes that no exemption under section 41.3.2 applies, then the officer shall detain the minor and contact the minor's parents, guardians, or adult immediate family members to come and pick the minor up and take him or her home. If no family member is available, the officer shall take the minor to the Department of Public Safety or other secure and suitable facility where further efforts shall be made to contact the parents, guardians or adult immediate family members.
- (d) If minor's parents, guardians or adult immediate family members cannot be contacted after continued reasonable efforts and no other exception applies the child shall be taken to the home of an extended family relation and, in the sound discretion of the police officer, ICW or CPS shall be contacted in the morning and a report shall be filed at the Department of Public Safety and with the appropriate social services office.
- (e) It shall be the duty of the officer who detains the minor to immediately make every effort to locate the parents, guardians or adult immediate family members of said minor and advise them that said minor has been detained.
- (f) It shall be the duty of the Officer to safeguard the minor while detained.

41.3.4 PENALTIES

- (a) **First Offense** - The minor child shall be detained until child's parents, guardian or adult immediate family members come to get the minor child. The parents or guardians of the minor shall receive a written warning from the police that their minor child is

not to be out in public places without supervision after the hour of 10:00 p.m.

- (b) Second Offense - The minor child shall be detained until child's parents, guardians or adult immediate family members come to get the minor child. The parents of the minor child shall receive a notice to appear in Tribal Court, to show cause why their child was out in a public area without supervision after 10:00 p.m. A referral to Human Services for family counseling and parenting classes and a warning respecting future violations and a \$100 fine shall be issued by the Court; family counseling and parenting classes shall continue for at least 6 sessions each; the Tribal Court will have continuing jurisdiction over said minor and minor's parents or guardians in its sound discretion.
- (c) Third Offense - Third time offenders shall appear before the Tribal Court and the Tribal Court shall have jurisdiction to impose a civil fine upon the parents not to exceed \$100. The parents will have the option to volunteer to work 15 hours of community service in lieu of the fine.
- (d) If the minor becomes a 5 time repeat offender, then if and when the minor is next detained, he or she shall be deemed to be neglected or incorrigible and ICW or CPS shall be requested by police to commence civil proceedings accordingly and the Tribal Court will be informed in writing.

41.3.5

RECORDS

- (a) All Hoopa Valley Tribal Court records pertaining to this Youth Protection Curfew Ordinance are confidential and shall not be shared with any non-Tribal judicial system, law enforcement office or social service agency or any other office or agency, including without limitation federal, state and other tribal jurisdictions; provided that judicial, law enforcement, social services or other offices or agencies external to Hoopa Tribal government may petition the Hoopa Valley Tribal Court to release said records; the subject minor and his or her parents or legal guardians shall be afforded notice and an opportunity to be heard at a hearing on the petition; the Judge of the Tribal Court shall release said records only upon a showing of compelling interest by the petitioning external office or agency; further provided that sharing and disclosure of said records pursuant to

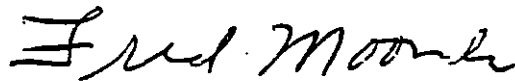
a written agreement between the Hoopa Valley Tribe and an external agency or office shall supercede the requirement of a hearing or showing a compelling interest.

- (b) When minors subject to the application of this Youth Protection Curfew Ordinance reach the age of majority, then said minors may petition the Hoopa Valley Tribal Court to have their curfew records struck from Tribal Court files.

CERTIFICATION


I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify: that the Hoopa Valley Tribal Council is composed of eight (8) members, of which six (6) were present, constituting a quorum, at a Regular Meeting thereof, duly and regularly called, noticed, convened, and held on this 1st day of February, 1996; that this Ordinance was duly adopted by a vote of five (5) in favor, none (0) opposed, and none (0) abstaining; the Vice-Chairman not voting; and that since its approval this Ordinance has not been rescinded, amended, or modified in any way.

Dated this 1st day of February 1996.



Dale Risling, Sr., Chairman
Hoopa Valley Tribal Council

ATTEST:



Darcy Baldy, Executive Secretary
Hoopa Valley Tribal Council