

**ORDINANCE OF THE HOOPA VALLEY TRIBE  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA  
Title 49**

**ORDINANCE NO.:** 03-03  
**DATE APPROVED:** April 3, 2003  
**SUBJECT:** AN ORDINANCE REGULATING SOLID WASTE REQUIREMENTS AND THE CONTROL OF ILLEGAL DUMPING, BURNING, AND DISPOSAL OF SOLID WASTE.

**WHEREAS:** The Hoopa Valley Tribal Council is the governing body of the Hoopa Valley Tribe of California pursuant to authority contained in Article V, Section 1 of the Hoopa Valley Tribal Constitution and Bylaws adopted on June 20, 1972, as approved by the Commissioner of Indian Affairs on August 18, 1972, subsequently confirmed and ratified by the United States Congress on October 31, 1988 in the Hoopa-Yurok Settlement Act (25 U.S.C. § 1300i et seq.) and as amended on June 18, 1996;

**WHEREAS:** Pursuant to the Article IX, section 1(k) of the Constitution and Bylaws, the Hoopa Valley Tribal Council is authorized to promulgate and enforce Ordinances governing the conduct of members and non-members of the Hoopa Valley Indian Tribe;

**WHEREAS:** Pursuant to the Constitution and Bylaws, the Hoopa Valley Tribal Council is authorized to administer all tribal property; enforce the protection of Tribal property, wildlife and natural resources of the Hoopa Valley Tribe; to safeguard and promote the peace, safety, morals and general welfare of the membership of the Hoopa Valley Tribe;

**WHEREAS:** The Hoopa Valley Tribal Council desires to ensure the health and well being of all people on the Reservation, residents and visitors alike;

**WHEREAS:** The Hoopa Valley Tribal Council recognizes the need to promulgate an Ordinance that will protect the residents, visitors, environment and lands of the Reservation;

**WHEREAS:** The Hoopa Valley Tribal Council recognizes the intimate relationship between the natural environment and the quality of life of human beings;

**WHEREAS** The Hoopa Valley Tribal Council has enhanced its capabilities to protect the environment and has increased its governmental awareness of, and expertise regarding, environmental contaminants in all media (air, water, soils, etc.) since the creation of the Tribal Environmental Protection Agency;

**WHEREAS:** It is imperative to preserve and secure the health, comfort, welfare and safety of the general public by regulating the uncontrolled and illegal disposal of solid waste within the Reservation;

**WHEREAS:** It is not the intent of this Ordinance to impose unnecessary restrictions on the cultural and customary practices of the people of the Hoopa Valley Tribe; and

**WHEREAS:** The Hoopa Valley Tribal Council intends to maintain, improve, and promote the economic viability of the Hoopa Valley Indian Reservation.

**NOW, THEREFORE, BE IT RESOLVED:** That the following Ordinance governing solid waste disposal is hereby

adopted and shall be effective upon approval by the Hoopa Valley Tribal Council.

#### 49.1 Purpose

This Ordinance is intended to prohibit the illegal dumping and burning of solid waste and establish regulations regarding acceptable, efficient, cost-effective and legal methods of disposal of solid waste generated within the exterior boundaries of the Hoopa Valley Indian Reservation.

#### 49.2 Scope

This Ordinance shall apply to all individuals whether members or non-members of the Hoopa Valley Tribe, households, clubs, associations, businesses, and organizations entering, residing within or otherwise situated within the exterior boundaries of the Hoopa Valley Indian Reservation.

#### 49.3 Definitions

For the purposes of this Ordinance the following definitions shall apply:

- A. "Approved site" means a site permitted and approved by the Tribal Environmental Protection Agency of the Hoopa Valley Tribe, as a site for disposal of solid waste.
- B. "Person" means any and all natural persons whether members or non-members of the Hoopa Valley Tribe enterprises, public or private corporation, company, partnership, firm, association or society of persons, other entities, including tribal governmental entities, successors and assigns; states, counties, local governments and other agencies; and the United States where not prohibited by applicable laws.
- C. "Solid waste" means all putrid and non-recyclable solid and semisolid wastes, including any garbage, trash, rubbish, sludge, ashes, dead animals or parts thereof, abandoned vehicles, infectious wastes, household wastes, hazardous wastes, manure, street and parking lot cleaning residues, industrial waste(s), and other waste material, but not including domestic sewage.
- D. "Collect" means to gather solid waste generated by another person or persons.
- E. "Transport" means to move a quantity of solid waste from one location to another.
- F. "Dispose" means to dump, deposit, discharge, or unload solid waste either at the location it was generated or at another location, not including temporary storage at the place it was generated.
- G. "Reservation" means the entire area within the exterior boundaries of the Hoopa Valley Indian Reservation, Humboldt County California.
- H. "Tribe" means the Hoopa Valley Tribe and governing body of the Hoopa Valley Tribe, the Hoopa Valley Tribal Council.
- I. "TEPA" means the Hoopa Valley Tribal Environmental Protection Agency.
- J. "Permit" means formal authorization from, or approval by the Tribal Environmental Protection Agency, the absence of which would preclude activities regulated by this Ordinance.

- K. "Burn Permit" means formal authorization from, or approval by the Wildland Fire Suppression Agency and the Hoopa Tribal Environmental Protection Agency Air Quality Department to burn approved materials, the absence of which would preclude activities regulated by this Ordinance.
- L. "Permitted Contractor" means any person or organizations contracting with any other person or organization to collect, transport, and or dispose of solid waste for profit.
- M. "Non-Commercial hauler" is anyone transporting solid waste under section 49.8 of this Ordinance.
- N. "Generator" means any and all ~~natural~~ persons whether members or non-members of the Hoopa Valley Tribe enterprises, public or private corporation, company, partnership, firm, association or society of persons, other entities, including tribal governmental entities, successors and assigns; states, counties, local governments and other agencies who directly or indirectly cause the accumulation or disposition of solid waste.
- O. "Abandoned" means, in specific reference to automobiles or other such property, that ownership cannot be determined by available means within a reasonable period of time.

#### 49.4 RESPONSIBILITY FOR STORAGE AND DISPOSAL OF SOLID WASTE

- 49.4.1 Any person generating, producing, storing, transporting, disposing, or receiving any solid waste shall be responsible for the proper storage, removal, transport and disposal of solid waste. Solid waste, while being transported, shall be covered, tied or otherwise secured so waste will not be blown or dropped from the transport vehicle.
- 49.4.2 When solid waste is generated, produced, stored, or received upon leased premises; both the landlord and the tenant and sub-tenant(s) or assigns are responsible for compliance with the provisions of this Ordinance regardless of the provisions of the tenancy.
- 49.4.3 In addition to other persons who may be responsible as set forth in this section, for the purpose of this Ordinance, a person generating solid waste is responsible for the lawful storage, removal, transport and disposal of said solid waste until it is legally deposited in an approved site.
- 49.4.4 When solid waste is dumped or deposited in violation of this Ordinance, and two or more items in the solid waste identify a person as the owner or recipient of that item, there shall be a rebuttable presumption that the person is responsible for the unlawful dumping of solid waste.
- 49.4.5 The owner of the real property on which solid waste is located is responsible for complying with the provisions of this Ordinance even if the solid waste was placed on their property without their knowledge or consent.
- 49.4.6 Any person who by contract, agreement or otherwise arranges for the recovery, transport, disposal, dumping, or burning of solid waste shall comply with this Ordinance.

#### 49.5 UNLAWFUL STORAGE AND DISPOSAL OF SOLID WASTE

- 49.5.1 It is unlawful to store or accumulate solid waste in a manner that is hazardous to the public health and safety, as determined by the Tribal Environmental Protection Agency and continues to be

stored or accumulated in such a manner for more than fifteen (15) days after receipt of written notice from a law enforcement agency of the hazardous condition.

49.5.2 It is unlawful to collect and transport solid waste unless the person is responsible for that waste pursuant to the provisions of this Ordinance or the person is a permitted contractor.

49.5.3 It is unlawful for a person to dump, deposit or dispose of solid waste any place within the exterior boundaries Hoopa Valley Indian Reservation other than at an approved site.

49.5.4 It is unlawful for a person to burn, intentionally or unintentionally, any portion of solid waste that contains plastic, rubber, tires, asphalt shingles, cloth or upholstery, motor oil, pressure treated wood, tarpaper, linoleum, diapers, or vehicle parts, or any other hazardous material.

49.5.4.1 Any person burning approved materials shall first obtain a burn permit from the Wildland Fire Suppression department and the Hoopa Tribal Environmental Protection Agency Air Quality Department and will follow the regulations contained in that permit.

#### 49.6 RECOVERY OF DISPOSAL COSTS

49.6.1 If a person violates this Ordinance and Hoopa Valley Tribe arranges for or executes the lawful disposal of solid waste, that person shall be responsible to Hoopa Valley Tribe for all reasonable costs and expenses associated with the collection, transportation and disposal of that solid waste.

49.6.2 If the Hoopa Valley Tribe or a property owner files suit to collect their reasonable costs and expenses as provided in subsection 1 of this section, the Tribal Court may award a reasonable amount as attorney's fees to the prevailing party.

#### 49.7 ENFORCEMENT AND JUDICIAL REVIEW

49.7.1 This Ordinance shall be enforced by the Tribal Environmental Protection Agency or the Hoopa Tribal Police Department or any law enforcement agency with appropriate jurisdiction on the Hoopa Valley Indian Reservation.

49.7.1.1 The Office of Tribal Attorney is authorized to issue cease and desist orders, compliance orders or such other orders as the Office of Tribal Attorney shall deem necessary at the recommendation of Hoopa Tribal Environmental Protection Agency, to prohibit or terminate activities that may pose an imminent danger to the public health or the environment.

49.7.1.2 The Hoopa Tribal Police Department and any other law enforcement agency with appropriate jurisdiction on the Hoopa Valley Indian Reservation are authorized to issue civil citations for violations of this Ordinance and confiscate and impound any private property used in violation of this Ordinance.

49.7.2 Any person who violates this Ordinance shall be subject to a civil fine or Community Work Service including cleaning of dump grounds and or costs of said clean up as deemed appropriate by the Tribal Court in an amount not to exceed \$5,000.00 for each day of violation of any order issued by the Tribal Environmental Protection Agency or other authorized law enforcement agency; costs of

removal and/or clean up; impoundment of personal property used to conduct the illegal act; exclusion from the Reservation; and criminal prosecution by the appropriate authorities.

49.7.3 The Hoopa Valley Tribal Court shall have personal and subject matter jurisdiction over all persons and corporations Indian or Non-Indian to adjudicate alleged violations of this Ordinance; revoke, suspend, alter or terminate permits issued pursuant to this Ordinance; shall issue any and all orders reasonably necessary to carry out the provisions of this Ordinance; and may assess civil fines for conduct in violation of this Ordinance or any permit issued pursuant to this Ordinance. The Hoopa Valley Tribal Court may also order impoundment of equipment used in violation of this Ordinance. The Hoopa Valley Tribal Court may also Order an individual or corporation found guilty of violation of this Ordinance to clean up and remove all illegally dumped materials or assess the cost of said mitigation to the violator. Fines and costs assessed herein may be Ordered paid by attachment of future per capita payments or other Tribal funds due and payable to the violator.

49.7.2 Administrative Appeals. The decision of the Tribal Environmental Protection Agency to issue, deny, revise, restrict, suspend, revoke or terminate a permit issued pursuant to this Ordinance may be appealed by filing a complaint in the Hoopa Valley Tribal Court within ten (10) days of receipt of notice of such action.

49.7.2.1 Notice of the Tribal Environmental Protection Agency's decision to issue, deny, revise, suspend, revoke or terminate a permit issued pursuant to this Ordinance shall be made by certified mail, return receipt requested, to the applicant or permit holder.

## 49.8 Permit & Fee Schedule

49.8.1 Any person who intends to engage in commercial waste hauling activities regulated by this Ordinance shall apply for and obtain a valid permit from the Tribal Environmental Protection Agency.

49.8.2 A processing and monitoring fee for commercial waste haulers shall be established by the Tribal Environmental Protection Agency. Said Fee Schedule shall be approved by the Hoopa Valley Tribal Council.

49.8.3 Any permit issued pursuant to this Ordinance shall immediately be invalid for reasons, including but not limited to, the following:

49.8.3.1 Violation of this Ordinance;

49.8.3.2 If any person in their application for a permit knowingly provides false information; or

49.8.3.3 Expiration of the permit.

49.8.4 Once a permit has been issued, it may be suspended, revised, restricted or terminated by the Tribal Environmental Protection Agency or by the Hoopa Valley Tribal Court based upon evidence that continuation of such permit is contrary to its intent in one or more of the following areas; a permit in its present form, has been violated; is a threat to any person or to the resources of the Reservation; or has been used in connection with an illegal activity, including illegal dumping and or burning of solid waste.

49.8.5 Effect on Sacred Tribal Customs. The membership of the Hoopa Valley Tribe has always maintained and practiced certain sacred tribal customs and traditional beliefs which are recognized by the Hoopa Valley Tribal Council. Therefore, with all due respect said customs and beliefs are exempt from this Ordinance.

#### 49.9 Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this Ordinance are severable.

#### 49.10 Sovereign Immunity Preserved

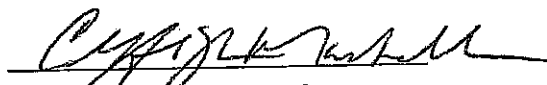
Nothing herein is intended to be or shall be interpreted to be a waiver of the sovereign immunity of the Hoopa Valley Tribe from un-consented suit in tribal, federal or state court.

#### CERTIFICATION

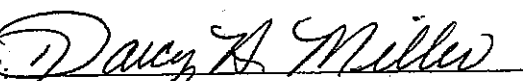
I, the undersigned, as Chairman of the Hoopa Valley Tribal Council do hereby certify that the Hoopa Valley Tribal Council is composed of eight members of which six (6) were present, constituting a quorum at a Regular Meeting thereof; duly and regularly called, noticed, convened and held this 6<sup>th</sup> day April, 2003; and that this Ordinance was duly adopted by a vote of five (5) for, zero (0) opposed, and zero (0) abstaining; and that since approval, this Ordinance has not been rescinded, amended, or modified in any form.

DATED THIS SIXTH DAY OF APRIL, 2003.

By:

  
Clifford Lyle Marshall, Chairman  
Hoopa Valley Tribal Council

ATTEST:

  
Darcy Miller, Executive Secretary  
Hoopa Valley Tribal Council