

**TITLE 5**  
**EXCLUSION ORDINANCE**

OF THE HOOPA VALLEY TRIBE  
enacted on September 23, 1986  
by Ordinance No. 2-86  
Amended on April 18, 2019

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## SECTION I: GENERAL PROVISIONS

### Section 1.01 Introduction

The policy and procedure set forth in this Ordinance shall constitute the rules and requirements regarding exclusions from the Hoopa Valley Indian Reservation (“Reservation”). The Tribe reserves the right to modify or change this Ordinance at any time, provided that modifications and changes are made in accordance with the Legislative Procedures Act (“LPA”).

### Section 1.02 Authority

Pursuant to the Tribe’s inherent sovereignty and Article IX of the Constitution and Bylaws of the Hoopa Valley Tribe (“Tribe”), the Hoopa Valley Tribal Council (“Council”) has the power to enact and enforce laws governing the conduct of members and nonmembers of the Hoopa Valley Tribe.

### Section 1.03 Title

This Ordinance can be referred to or cited as “Title 5”, “5 HVTC”, or the “Exclusion Ordinance.”

### Section 1.04 Purpose and Objectives

- (1) It is the desire of the Council to safeguard and promote the peace, safety, morals and general welfare of the Tribe by regulating when an individual can be excluded from the Reservation.
- (2) This Title is to provide a uniform and consistent method that must be followed when addressing exclusion issues of the Tribe.

### Section 1.05 Application

This Ordinance applies to all individuals.

### Section 1.06 Authority to Exclude

The Hoopa Valley Tribal Court (“Court”) has the authority to exclude any person from the Reservation and any other areas under the jurisdiction of the Tribe for any of the following reasons:

- (1) Repeated commission of a crime or breach of peace as defined by Tribal, State and 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 the 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 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 Council under the provisions of this Ordinance.

#### Section 1.07 Statute of Limitations

- (1) An exclusion action must be supported by evidence of an act, as described above, that occurred within 3 years of the date of the initiation of the exclusion action.
- (2) The statute of limitations will be tolled for any period of incarceration.

### **SECTION II: EXCLUSION PROCEDURE**

#### Section 2.01 Council Vote

An exclusion action may be initiated if a majority of the Council, present at a meeting in which a quorum of Council members exists, has reason to believe cause may exist for the exclusion of a person.

#### Section 2.02 Chairman

An exclusion action may be initiated if the Chairman has reason to believe cause may exist for exclusion of a person.

#### Section 2.03 Exclusion Request

- (1) To start an exclusion action, the Tribe must file an Exclusion Request with the Court.
- (2) The Exclusion Request must include the following information:
  - (a) The name of the individual to be excluded;

- (b) A physical description of the individual and, if known, the individual's birth date and tribal enrollment number, if applicable;
- (c) The reason(s) under Section 1.06 that the exclusion is being sought;
- (d) A factual basis for the exclusion request
  - i. this must include:
    - 1. an explanation of what the individual has allegedly done,
    - 2. when it was done,
    - 3. to whom it was done, and
    - 4. where it was done;
- (e) The amount of time the Council is seeking the exclusion for; and
- (f) A summary of the evidence that supports the exclusion request
  - i. This must include:
    - 1. Copies of any documents proving the actions of the individual;
    - 2. A list of all witnesses who will testify against the individual; and
    - 3. A summary of any relevant witness testimony and/or a declaration sworn under penalty of perjury from each witness.

Section 2.04 Court procedure for exclusions

- (1) Once the Tribe has filed an Exclusion Request the Court shall schedule a hearing and issue a notice of hearing. 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 or she should not be excluded from the Reservation.

- (2) After notice to the person proposed for exclusion, the 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 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 Reservation, the Court shall issue an order excluding that person from all or any part of the Reservation or permitting such person to remain on Reservation under such conditions specified in the order. The order shall be effective unless revoked or modified by the Hoopa Valley Court of Appeals.
- (4) If the final judgment of the Court is that the person shall be excluded from the 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 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 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 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 Reservation, the order of the Court shall state the conditions under which the person may return for a hearing is such hearing was not held.
- (7) Nothing in this section shall limit the authority of the 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.

### **SECTION III: APPEAL ALLOWED TO HOOPA VALLEY TRIBAL COURT**

An appeal to the Hoopa Valley Court of Appeals , 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 Court pursuant to this Ordinance. Decisions of the Hoopa Valley Court of Appeals shall be final.

**SECTION IV: VIOLATION OF AN EXCLUSION ORDER**

- (1) Any person who violates any order or part thereof issued pursuant to this Ordinance shall be deemed guilty of the offense of violation of an exclusion order. Upon failure to comply with the order of the Court, the Court may find that person guilty of contempt or order that person to pay a fine of \$500.00 or both, with costs, and order that person to comply with the previous order or amended order issued by the Court.
- (2) Any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation shall be subject to forfeiture.
- (3) “Property” under this Ordinance includes:
  - (a) Real property, including things growing on, affixed to, and found in land; and
  - (b) Tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

**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.

**SECTION VI: SUBJECT MATTER JURISDICTION**

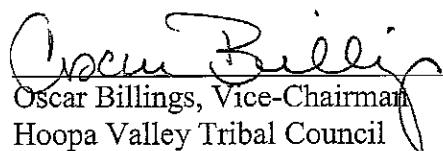
Pursuant to the Hoopa Valley Tribal Law and Order Code, Preamble, the Hoopa Valley Business Council hereby resolves that violations of this Ordinance shall be subject to adjudication in the Hoopa Tribal Court.

[CERTIFICATION ON NEXT PAGE]


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, notice, convened, and held this 18<sup>th</sup> day of April 2019; and that this Ordinance was duly adopted by a vote of five (5) in favor with zero (0) opposed and zero (0) abstaining; and that said Ordinance has not been rescinded or amended in any way.

DATED THIS EIGHTEENTH DAY OF APRIL 2019

  
Oscar Billings, Vice-Chairman  
Hoopa Valley Tribal Council

ATTEST:

  
Amber Turner, Executive Secretary  
Hoopa Valley Tribal Council