

TITLE 16
ORDINANCE OF THE HOOPA VALLEY TRIBE
HOOPA VALLEY RESERVATION
HOOPA, CALIFORNIA

(Amended May 28, 1986, December 3, 1987, and December 15, 2022)

Section 1. – Title

This ordinance shall be known as the “Hoopa Tribal Fishing Ordinance.”

Section 2. Findings and Purpose

(a) Fishing has always been central to the cultural and religious existence of the Hoopa Valley Tribe and its members. By this Ordinance and the regulations adopted under it, the Hoopa Valley Tribe will exercise control over fishing and related activities to the fullest extent of Tribal jurisdiction in order to properly regulate, manage and protect all of the fisheries resources available to the Tribe and to insure their continued availability to the Tribe and its members. Nothing in this ordinance shall be construed as a relinquishment, abrogation or abridgment of any rights of the Hoopa Valley Tribe.

(b) Tribal regulation is an internal affair of the Hoopa Valley Tribe, and is a natural attribute of the Tribe’s internal sovereignty.

(c) In order to provide for increased Tribal control over the fisheries resource on the Reservation, the Hoopa Valley Tribal Council adopts this Fishing Ordinance pursuant to the powers vested in it by Article IX, Sections 1(e), (f), (i), (k), and (l) of the Constitution and Bylaws of the Hoopa Valley Tribe.

(d) Any and all provisions of the Code of Federal Regulations, Title 25, as presently constituted or hereafter constituted which deal with the subject covered herein or are otherwise inconsistent with or are in conflict with the provisions of this Fishing Ordinance are declared to be no longer applicable.

Section 3. Relation to Other Tribal Laws

The Hoopa Tribal Netting Ordinance, Ordinance Number 2-76, as approved on September 16, 1976, as reaffirmed by Ordinance Number 2-79 of July 20, 1979 are hereby codified and incorporated herein. Further, any and all sections and provisions which are inconsistent with, or contrary to the spirit and/or purpose of this Amended Fishing Ordinance are hereby repealed.

Section 4. Definitions

As used in this ordinance, the following definitions shall apply unless the context clearly indicates otherwise.

(a) "Biological Personnel" means well-qualified experts in fishery science and management who are on the Tribal staff and whose duties include advising on the management and/or enhancement of the Tribal fishery.

(b) "Ceremonial Fishing" is the taking of any fisheries resource for use in the traditional Tribal ceremonies and/or religious activities and is protected under the American Indian Religious Freedom Act and is exclusive of fishing for subsistence and commercial purposes.

(c) "Commercial Fishing" is the taking of any fisheries resource with the expressed intent to sell and profit economically.

(d) "Conservation" means to the extent necessary to ensure optimum spawning escapement for the perpetuation of fish runs.

(e) "Depth of Net" means the total distance between the cork line and the lead line in meshes measured perpendicular to either the cork or lead lines.

(f) "Dip Net" is a section of netting distended by a rigid frame operated by a process commonly recognized as dipping. Such nets may be any size.

(g) "Drift Net" is a net that is not anchored or staked on either end but drifts free in the water.

(h) "Fishing Gear" means all types and sizes of hooks, nets, gaffs, lines, traps, appliances, and other apparatus used to take fish.

(i) "Gillnet" is the net of a single web construction bound at the top by a float line and at the bottom by a weighted line.

(j) "Hook and Line" means a single line, attached to which are no more than two (2) single-barbed hooks or a single treble barbed hook.

(k) "Identification Card" means a card issued by the Hoopa Valley Tribe to its members identifying the holder as an enrolled member of the Hoopa Valley Tribe.

(l) "Non-Enrolled Person or Non-Member" means any person who is not an enrolled member of the Hoopa Valley Tribe.

(m) "Set Net" means a gillnet that is staked or anchored to one (1) end so that it does not drift down the river.

(n) "Snag Gear or Snagging" means the use of a fishing pole, multiple hook and weight to hook fish as they swim by. The use of a multiple hook in conjunction with bait or lure shall not be considered snagging provided the multiple hook is 1.0 inches or less between any two points.

(o) "Stretched Measure" means the distance between the inside of one knot to the opposite (vertical) knot, one mesh. Measurement shall be taken when the mesh is stretched vertically

while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three (3) while under tension.

(p) "Subsistence Fishing" is the taking of any fisheries resource for personal consumption by Tribal Members and their families.

(q) "Tribal Court" means a court established by the Hoopa Valley Tribal Council to hear violations of this ordinance and any regulations promulgated under it.

(r) "Tribal Enforcement Officer" means the person or persons charged with the responsibility of enforcing this ordinance and the regulations promulgated herein.

(s) "Tribal Member or Enrolled Member" means any person who is an officially enrolled member of the Hoopa Valley Tribe.

Section 5. Jurisdiction

(a) Territory: The provisions of this ordinance and all rules and regulations adopted under it shall apply to the full extent of the sovereign jurisdiction of the Hoopa Valley Tribe and shall apply in conformity with all agreements entered into by the Hoopa Valley Tribe which are designed to provide Tribal access to available fisheries and to provide effective fisheries management on the Hoopa Valley Reservation as defined by the Tribal Constitution.

(b) Persons: The provisions of this ordinance and all rules and regulations adopted under it shall apply to all persons who are regulated and/or are eligible to fish under this ordinance.

Section 6. Eligible Fisherman

(a) Enrolled Tribal Members: Members of the Hoopa Valley Tribe are eligible to exercise Tribal Fishing rights on the Hoopa Valley Reservation provided such fishing activities are in accordance with this fishing ordinance.

(b) Minors: Enrolled members of the Hoopa Valley Tribe under the age of eighteen (18) years old may exercise Tribal fishing rights under this ordinance. Such minors shall comply with the provisions of this ordinance and any regulations adopted under it. Violations of this ordinance and any regulations adopted under it shall be the responsibility of the minor and the parent or guardian of said minor. Both parent or guardian who permit a minor to violate this ordinance shall be subject to the penalties provided by this ordinance.

(c) Non-Member Fishermen: Any person fishing within the Hoopa Valley Reservation who is not a Tribal Member shall be subject to Title 15, Conservation/Trespass Ordinance, of the Hoopa Valley Tribal Code.

Section 7. Tribal Biological Personnel

(a) Tribal Biological Personnel: Biological Personnel of the Hoopa Valley Tribe may take and possess fish of any species for approved scientific, management and/or enhancement purposes by

any means or gear suitable for the purposes of the biological program. Tribal biological personnel taking fish under the authority of this ordinance shall keep a cumulative record of all fish taken and shall provide such for inspection upon request by the Hoopa Valley Tribal Council. Fish taken by Tribal Biological Personnel for biological purposes shall not be used for their personal gain, but shall remain the property of the Hoopa Valley Tribe to be distributed as they may decide.

(b) Biological Personnel may contact individuals engaged in fishing under this ordinance for the purpose of obtaining biological samples and fishing effort data.

Section 8. Identification

(a) No person who is eligible to fish under this ordinance shall exercise any Tribal fishing rights or other activities unless he or she is in possession of a valid current Identification Card as provided by this ordinance or unless that person can, without doubt, prove he or she is an enrolled member of the Hoopa Valley Tribe. All Identification Cards shall be issued by the Hoopa Valley Tribal Council, or their authorized representative and shall remain the property of the Hoopa Valley Tribe.

(b) Any person eligible to fish under this ordinance within the boundaries of the Hoopa Valley Reservation shall produce an Identification Card as required by this ordinance upon demand of any authorized Tribal Law Enforcement Officer.

Failure to produce the required forms of identification or proof of enrollment shall be probable cause to believe that such person is not authorized to exercise fishing rights or privileges within the internal boundaries of the Hoopa Valley Reservation.

(c) The Tribal issued Identification Cards shall state the name of the enrolled member, the current address, signature of the enrolled member, and enrollment number of the individual and shall include a recent photograph of the person.

Section 9. Fishing Equipment and Other Gear

(a) It shall be unlawful to exercise Tribal fishing rights with any gear which has not been properly marked in accordance with the procedures of this ordinance.

(b) Any Gillnets used in accordance with this ordinance or any regulations adopted under it shall be inscribed in indelible ink with the owner's enrollment number as issued by the Hoopa Valley Tribal Council. Gillnets shall be marked in a manner such that the enrollment number is clearly legible and visible when deployed. Nets not so marked shall be removed from the river or confiscated by any Tribal Law Enforcement Officer. Repeated violations of this section shall require confiscation and citation from any Tribal Law Enforcement Officer and such net shall be impounded pending a decision from the Tribal Court.

(c) Gillnets used on the Hoopa Valley Reservation shall not exceed 100 feet in total length.

(d) Fish dams and weirs may be allowed for the benefit of the Hoopa Valley Tribe. Such weirs or dams will be allowed based on a permitting process. Applications for fish dams and weirs shall be presented to the Hoopa Valley Tribal Council for consideration at any regular meeting. The Hoopa Valley Tribal Council shall consult with Tribal Biological Personnel prior to the issuance of a permit.

(e) Deployment of baskets, traps, trigger nets, or Dip Nets shall be allowed under this ordinance without restriction.

Section 10. Prohibited and Restricted Fishing Gear

The following shall be prohibited or restricted while exercising Tribal fishing rights within the interior boundaries of the Hoopa Valley Reservation as defined herein. Penalties for violations of this section shall be applied by the Tribal Court based on the severity and/or circumstances of the violation:

(a) Commercial sale of any fishery resource is prohibited.

(b) Sale of any fishery resource to any elderly or incapacitated person who cannot fish for themselves is prohibited. This section shall not be construed as restricting or prohibiting the voluntary transfer to any elderly or incapacitated person.

(c) The taking of adult salmon from any tributary is prohibited.

(d) Theft or destruction of another person's fishing equipment is prohibited.

(e) Any person who knowingly misappropriates the use of another person's Identification Card or enrollment number is a violation of this ordinance.

(f) During the period between and inclusive of July 1 and December 31 of each year, no portion of any Gillnet may be deployed within one hundred (100) feet down stream, or fifty (50) feet upstream, of the confluence of the Trinity River with Tish Tang Creek, Campbell Creek, Supply Creek, Soctish Creek, Hostler Creek, or Mill Creek.

(g) Placing any net in Tish Tang Creek, Campbell Creek, Supply Creek, Soctish Creek, Hostler Creek, or Mill Creek is prohibited.

(h) Placing wire, boards, or any other items in the river which results in the blockage of the river is prohibited.

(i) The use of heavy equipment in the river and/or tributaries without the prior approval of the Hoopa Valley Tribal Council is prohibited.

(j) Placing any net which extends more than 2/3 of the distance across the wetted river channel is prohibited.

(k) No person shall use more than two (2) nets at one time with a combined length of one hundred (100) feet.

(l) The use of explosives, stunning agents, or caustic or lethal chemicals of any form is prohibited in all fisheries.

Section 11. Annual, Seasonal, and Emergency Regulations

(a) The Hoopa Valley Tribal Fisheries Department shall advise the Hoopa Valley Tribal Council regarding the projected annual abundance of Klamath fall Chinook and available harvest no later than June 1 of each year based upon the best available science.

(b) Unless otherwise precluded elsewhere in this ordinance or as specified by seasonal or emergency regulation, fishing shall remain open for all species of anadromous fish year-round, twenty-four (24) hours per day, seven (7) days each week; provided that Set Nets are subject to regular inspection and may be removed by Hoopa Valley Tribal Police if deemed to be abandoned.

(c) The Hoopa Valley Tribal Council shall make any annual, seasonal and/or emergency regulations for the protection of the rights of the members of the Hoopa Valley Tribe and for the protection of the fishery resource of the Tribe.

(d) Emergency regulations shall be based on the condition of the fish runs and the fishery resource. Emergency regulations shall take effect as the Hoopa Valley Tribal Council deems necessary. Such emergency regulations shall be posted in conspicuous areas of the Hoopa Valley Reservation and shall be broadcast over the Tribal Radio Station.

Section 12. Amendments

(a) Amendments of this ordinance shall be by a majority vote of the Hoopa Valley Tribal Council in accordance with the Hoopa Valley Tribe's Constitution and Bylaws.

Section 13. Enforcement

(a) Tribal Court: Members of the Hoopa Valley Tribe shall be subject to civil prosecution in the Hoopa Valley Tribal Court for violation of any provision of this ordinance or for violation of any annual, seasonal, and/or emergency regulation promulgated under Section 11 of this ordinance. The Tribal Court may issue any order it deems necessary to enforce a conviction. Any person convicted under this ordinance may appeal the conviction in accordance with Title 2, Section 6 of the Hoopa Valley Tribal Code.

(b) Citations: The Hoopa Valley Tribal Police are the Tribal Enforcement Officers charged with enforcement of the provisions of this ordinance and any regulations promulgated thereunder. Tribal Police officers may issue citations to any member of the Hoopa Valley Tribe who the officer believes has committed a violation of any provision of this ordinance or of a regulation promulgated thereunder. Such citation shall state when and where the person is charged, and shall be forwarded in a timely manner to the Clerk of the Hoopa Valley Tribal Court.

Section 14. Penalties

(a) Persons convicted of violating a time closure or any other regulation promulgated under Section 11 of this ordinance may be subject to penalties set forth in the Tribal Resolution enacting the Section 11 regulation they have violated. If no penalties are set forth in the Tribal Resolution, then the person may be subject to the penalties set forth below in Section 14(c).

(b) Persons convicted of violating Sections 10(a) or 10(b) of this ordinance, which prohibit commercial sales of fish and/or cels, shall be subject to the following maximum penalty:

- Not more than \$200.00 fine; or
- Forfeiture of fish or fishing gear; or
- Sixty (60) days suspension of fishing rights; or
- Any combination of the above deemed necessary or appropriate by the Tribal Court.

Nothing in this subsection shall be construed to restrict the Court's discretion to impose less than the maximum penalty.

(c) Persons convicted of violating any other provision of this ordinance shall be subject to the following maximum penalty:

- Fine of \$50.00; or
- Forfeiture of fish or fishing gear; or
- Thirty (30) days suspension of fishing rights; or
- Any combination of the above deemed necessary or appropriate by the Tribal Court.

If a person is convicted more than twice during any three-year period of violating the same provision of this ordinance, and if said provision is penalized under this subsection, such person may, upon the third conviction, be subject to a maximum fine of \$1,000.00, forfeiture of fish or gear, or sixty (60) days suspension of fishing rights, or any combination thereof deemed necessary or appropriate by the Tribal Court. Nothing in this subsection shall be construed to restrict the Court's discretion to impose less than the maximum penalty.

(d) Any person who refuses or fails to obey a lawful order of the Tribal Court shall be fined not more than \$50.00 and/or suffer suspension of fishing rights for not more than thirty (30) days.

(e) Community Service. The Tribal Court may order community service work to be performed by any person convicted of violating any provision of this Chapter or any regulation promulgated thereunder. Such work may be ordered as an alternative to all or any part of the penalties which, in the absence of this subsection, otherwise would be imposed. As a guideline to the Tribal Court, one hour of such work should be valued at \$5.00.


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 seven (7) were present, constituting a quorum at a Regular Meeting thereof; duly and regularly called, noticed, convened and held this 15th day of December 2022; and that this Ordinance was duly adopted by a vote of six (6) in favor with 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 fifteenth day of December 2022.



Joe Davis, Chairman
Hoopa Valley Tribal Council

ATTEST: 
Amber Turner, Executive Secretary
Hoopa Valley Tribal Council