HOOPA VALLEY TRIBE
HOOPA VALLEY INDIAN RESERVATION
HOOPA, CALIFORNIA

TITLE 79

HOOPA VALLEY TRIBE'S PEACE AND SAFETY CIVIL ORDINANCE

Table of Contents

ORDINANCE OF THE HOOPA VALLEY TRIBE 3
TITLE 79 4
1.0 Enactment 4
2.0 Title and Short Title 4
3.0 Authority 4
4.0 Purpose and Intent; Findings 4
5.0 Jurisdiction 5
6.0 Application 5
7.0 Definitions 7
8.0 Civil Offenses Against Persons 7
8.1 Obstructive Panhandling 7
8.2 Assertive Panhandling 7
9.0 Civil Offenses Against Property 7
9.1 Malicious Mischief (also known as "vandalism") 7
9.2 Shoplifting 7
10.0 Civil Offenses Against the Peace 8
11.0 Civil Offenses Against the Tribe 8
12.0 Enforcement 8
12.1 Civil Citation 8
12.1.1 Civil Citation Contents 8
12.2 Identification 9
13.0 Hearing and Penalties 9
13.1 Response to a Civil Action 9
13.2 Hoopa Valley Tribal Court Hearing and Decision 9
14.0 Schedule of Fines 10
15.0 General Provisions 10
15.1 Effective Date 11
15.2 Sovereign Immunity 11
15.3 Savings Clause 11
15.4 Repeals 11
15.5 Amendments 11
15.6 Appropriations 11
16.0 Certification 12

ORDINANCE OF THE HOOPA VALLEY TRIBE

TITLE NO: 79

DATE APPROVED: August 15, 2024

SUBJECT: An Ordinance of the Hoopa Valley Tribal Council Enacting Title 79

WHEREAS: The Hoopa Valley Tribe ("Tribe") adopted the Constitution and Bylaws of the Hoopa Valley Tribe, Hoopa Valley Indian Reservation ("Constitution") on June 20, 1972, as amended, which was approved by the Commissioner of Indian Affairs on August 18, 1972 and ratified by Act of Congress on October 31, 1988, and the Tribe is a federally- recognized Indian tribe with the inherent sovereignty to make its own laws and be governed by them; and

WHEREAS: The Tribe's jurisdiction extends to all lands within the exterior boundaries of the Hoopa Valley Indian Reservation- as established by Executive Order of June 23, 1876 – and to such other lands as may hereafter be acquired by or for the Tribe ("Reservation"); and

WHEREAS: The Hoopa Valley Tribal Council ("Tribal Council") is the governing body of the Tribe pursuant to Article V, Section 1 of the Constitution; and

WHEREAS: The Tribal Council consists of a Chairman and seven (7) other members each representing a district of the Reservation and elected at large, and where the Vice Chairman is elected by the Tribal Council from within its own membership as set forth in Article V of the Constitution; and

WHEREAS: Pursuant to Article IX, Section 1(e) of the Constitution, the Tribal Council is vested with the authority to enforce the protection of Tribal property, wildlife and natural resources of the Tribe in accordance with a conservation ordinance, Hoopa Valley Tribal Code (HVTC) Title 15, and has the authority to safeguard and promote the peace, safety, morals, and general welfare of the Tribe pursuant to Article IX, Section 1(l) of the Constitution; and

WHEREAS: The Tribal Council has the authority to promulgate and enforce ordinances governing the conduct of persons within the exterior boundaries of the Reservation pursuant to Article IX, Section 1(k) of the Constitution; and

WHEREAS: The Tribal Council has determined that there is a need to safeguard and protect the property and people within the exterior boundaries of the Reservation; and

WHEREAS: The Tribal Council submits this Ordinance in accordance with the Hoopa Valley Tribal Code, Title 6- Legislative Procedures Act.

NOW THEREFORE, BE IT RESOLVED, That the Hoopa Valley Tribal Council hereby approves and enacts Title 79 as follows and in accordance with the Hoopa Valley Tribal Code, Title 6- Legislative Procedures Act;

HOOPA VALLEY TRIBAL CODE
TITLE 79
Hoopa Valley Tribe's Peace and Safety Civil Ordinance

1.0 ENACTMENT

Be it enacted and codified by the Hoopa Valley Tribal Council pursuant to and in accordance with Hoopa Valley Tribal Code, Title 6 Legislative Procedures Act.

2.0 TITLE AND SHORT TITLE

This Ordinance shall be known as the "Hoopa Valley Tribe's Peace and Safety Civil Ordinance." This Ordinance may be cited as the "Peace and Safety Ordinance" or "Title 79."

3.0 AUTHORITY

3.1 The Hoopa Valley Tribe on June 20, 1972, adopted the Hoopa Valley Tribe, Hoopa Valley Indian Reservation Constitution and Bylaws ("Constitution") which was approved by the Commissioner of Indian Affairs on August 18, 1972, and ratified by Act of Congress on October 31, 1988 (25 U.S.C. § 1300i *et seq*). The Hoopa Valley Tribe ("Tribe") is a federally recognized Indian tribe with the inherent sovereignty to make its own laws and be governed by them.

3.2 The Tribal Council has the authority to safeguard and promote the peace, safety, morals, and general welfare of the members of the Hoopa Valley Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and to provide for the enactment and enforcement of the law of the Tribe pursuant to the Hoopa Valley Tribe Constitution and Bylaws, Article IX, Section 1 (1) and (k), Pursuance to Article IX, Section 1 (e) of the Constitution, the Tribal Council is vested with the authority to enforce the protection of Tribal property, wildlife and natural resources of the Tribe.

4.0 PURPOSE AND INTENT; FINDINGS

4.1 The State of California is commonly referred to a mandatory Public Law 83-280 (Pub. L. 280) state. Pub. L. 280 did not divest the Tribe of its inherent sovereign authority to establish laws and to enforce those laws on the Hoopa Valley Indian Reservation, establish a Tribal Court, and have Tribal law enforcement.

4.2 Consistent with the principles of sovereignty and self-governance of the Hoopa Valley Tribe, the Tribe exercises authority over issues of public safety within the exterior boundaries of the Hoopa Valley Indian Reservation and land within the Tribe's jurisdiction.

4.3 The public policy of the Hoopa Valley Tribe and the general purpose of this Code are:

4.3.1 To ensure the public safety of the Hoopa Valley Indian Reservation by preventing the commission of offenses through the deterrent influence of the sentences authorized in this Code and through the correction and rehabilitation of those convicted.

4.3.2 To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to a person or to public interests.

4.3.3 To give fair warning of the nature of the conduct that the Hoopa Valley Tribe has declared criminal and of the possible sentences authorized upon conviction.

4.3.4 To define the act or omission and the accompanying mental state that constitutes each criminal offense.

5.0 JURISDICTION

5.1 The Tribe's jurisdiction extends to all lands within the exterior boundaries of the Reservation – as established by Executive Order of June 23, 1876 – and to such other lands as may hereafter be acquired by or for the Tribe.

5.2 The Hoopa Valley Tribe has original and absolute inherent jurisdiction consistent with its sovereignty, constitution, and laws to prosecute any person for offenses covered under this Code, except as may be expressly limited by the law of the United States.

5.3 This jurisdiction is not affected by, nor shall it be deemed to preclude, any federal or state prosecution. The Hoopa Valley Tribe reserves the right to prosecute a person for any violation of this Code, regardless of whether the person has previously been prosecuted or is concurrently being prosecuted, in a court of any other jurisdiction.

6.0 APPLICATION

The provisions of this Ordinance shall apply to all persons committing the acts herein defined within the boundaries of the Hoopa Valley Indian Reservation. However, this Ordinance shall create no affirmative duties for the Tribal Council, the Tribal Court, Tribal Police, or any other official or employee of the Hoopa Valley Tribe to investigate, prosecute, and adjudicate offenses unless those activities are appropriately funded.

7.0 DEFINITIONS

A. "Act" means a bodily movement.

B. "Accosting": Approaching and/or stopping somebody in order to speak to that person in an unreasonably insistent, threatening, intimidating, or intrusive manner. Including

but not limited to touching someone without their consent while soliciting gratuitous donations, blocking someone's path to soliciting gratuitous donations, following closely behind someone to solicit gratuitous donations after someone denies the request, or saying threatening things, using violent gestures, or shouting to intimidate someone into giving gratuitous donations.

C. "Assertive Panhandling": The solicitation of gratuitous donations in an unreasonably insistent, threatening, intimidating, or intrusive manner.

D. "Conduct" means an act or omission and its accompanying mental state.

E. "Consent": When a person voluntarily and willfully agrees in a response to another's proposition by clear and direct words. The person who consents must possess sufficient mental capacity. Consent also requires the absence of coercion, fraud, or error. The Property Owner or authorized representative must be the person who consents.

F. "Culpable mental state" means intentionally, knowingly, recklessly or with negligence as these terms are defined in paragraphs (C), (E), (F) and (H) of this subsection.

G. "Graffiti": Includes but is not limited to tagging, throw-ups, stencils, stickers or slaps, and scribing.

H. "Intentionally" or "with intent," when used with respect to a result or to conduct described by a section defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

I. "Inscribed Material": Includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on property.

J. "Item": Includes manufactured goods or products sold by a commercial establishment, or things that are movable that a commercial establishment intends for sale to consumers.

K. "Marking Substance": Includes but is not limited to aerosol paint container, felt tip markers, inks, or tools used to create unauthorized inscription, word, figure, design, drawing, etch, or mark on property.

L. "Negligence" or "negligent", when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person disregards a substantial risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that the failure to act to avoid it constitutes a substantial deviation from the standard of care that a reasonable person would observe in the situation.

M. "Panhandling": The personal, spoken, written, or gestural direct solicitation by a person of gratuitous donations of money (or soliciting alms), food, or goods of any kind from any member of the public. This does not include a person merely requesting and/or receiving a gratuitous donation.

N. "Property": Includes real property, personal property, vehicles, signs, fixtures, furnishings, or any real or personal property belonging to the Tribe, any Tribal Department, or any Tribal Entity. This property is under the lawful control or possession or ownership of the Property Owner or Tribe.

O. "Tamper": Interfere, improperly move, improperly manipulate, or make unwarranted and unauthorized alternations to the property that is not under the person's lawful control or possession and without consent of the Property Owner or Tribe.
P. "Voluntary" or "Voluntary act": The act or action that is done or brought about by a person's own free will or choice.

8.0 CIVIL OFFENSES AGAINST PERSONS

8.1 Obstructive Panhandling

A person commits Obstructive Panhandling when he or she obstructs the free movement of any person on a street, sidewalk, or other public place or on or in any place open to the public when soliciting for gratuitous donations.

8.2 Assertive Panhandling

A person commits Assertive Panhandling when he or she accosts another person(s) in any public place or in any place open to the public for the purpose of soliciting gratuitous donations.

9.0 CIVIL OFFENSES AGAINST PROPERTY

9.1 Malicious Mischief (also known as "vandalism")

A person commits Malicious Mischief if, without consent of the Property Owner or Tribe, he or she:

a) Damages property of another in value of less than $400.00;
b) Destroys property of another in value of less than $400.00;
c) Tampers with property of another causing financial loss or substantial inconvenience to the Property Owner or a third person in value of less than $400;
d) Alters or defaces with a marking substance or inscribed material or graffiti on the property of another in value of less than $400; or
e) Alters or defaces with a marking substance or inscribed material or graffiti on a monument, structure or facility, place of worship or burial ground, or Natural Formations.

9.2 Shoplifting

A person commits shoplifting if he or she enters a commercial establishment while the establishment is open during regular business hours and voluntarily takes an item(s) in the store valued cumulatively at $950.00 or less, and carries it away without paying for the item(s) or without the consent of the commercial establishment to carry away the item(s).

10.0 CIVIL OFFENSES AGAINST THE PEACE

[Reserved]

11.0 CIVIL OFFENSES AGAINST THE TRIBE

[Reserved]

12.0 ENFORCEMENT

12.1 Civil Citation

(a) A Hoopa Valley Tribal Law Enforcement Officer has the authority to issue a civil citation to any person, at any time, if the violation occurs in the presence of the Hoopa Valley Tribal Law Enforcement Officer, or when the Hoopa Valley Tribal Law Enforcement Officer has reasonable cause to believe a civil infraction has been committed.

(b) A civil citation issued by a Hoopa Valley Tribal Law Enforcement Officer reflects the Hoopa Valley Tribal law Enforcement Officer's determination that a violation of this Ordinance occurred resulting in a civil infraction and the issuance of a civil citation. Such determination is final, unless the person contests the citation according to this Ordinance.

12.1.1 Civil Citation Contents

(a) A civil citation shall be personally served by a Hoopa Valley Tribal Law Enforcement Officer upon a person in writing.

(b) A civil citation issued pursuant to this Ordinance shall include a statement that the civil infraction is not a criminal offense; a statement listing and identifying the violated provision of this Ordinance as well as a brief description of the conduct of the person that resulted in the violation; a statement listing and identifying that a monetary penalty may be imposed in accordance with the "Schedule of Fines"; a statement on how a person may contest the citation; a statement that a person must respond to the citation within thirty (30) days from the date of the citation issuance by appearing at a hearing in Hoopa Valley Tribal Court; and a statement that failing to appear at a Tribal Court hearing will result in a default judgment against the person.

12.2 Identification

A person who committed or is reasonably suspected of committing a civil infraction is required to identify themselves to a Hoopa Valley Tribal Law Enforcement Officer. Identification is accomplished by providing the person's legal name, address, and date of birth.

(a) If requested by a Hoopa Valley Tribal Law Enforcement Officer, the person shall produce and provide the Hoopa Valley Tribal Law Enforcement Officer a valid picture identification card. This includes a driver's license, tribal card, or military I.D.

(b) In the event the person refuses, is unwilling or unable to identify themselves or provide a valid picture identification card as requested, the Hoopa Valley Tribal Law Enforcement Officer may temporarily detain the person for a reasonable period of time for the purposes of identification and issue a civil infraction citation.

13.0 HEARING AND PENALTIES

13.1 Response to a Civil Citation

(a) A person who received a civil citation shall appear at a hearing before the Hoopa Valley Tribal Court.

(b) A person may contest the citation at the hearing.

(c) If a person fails to appear at a hearing, the Hoopa Valley Tribal Court shall enter a default judgment against the person which may result in additional fines or sanctions.

13.2 Hoopa Valley Tribal Court Hearing and Decision

(a) The Hoopa Valley Tribal Court shall schedule the hearing upon receipt from the Hoopa Valley Tribal Police Department of a person's issued civil citation.

(b) The Hoopa Valley Tribal Court Judge shall issue a written order of decision to uphold or dismiss the civil citation.

(i) If the Hoopa Valley Tribal court Judge determines the civil citation is upheld, the Judge may take into consideration the frequency, recurrence, and/or number of violations, either identical, related, or unrelated under this Ordinance, by a person; seriousness of the violation; economic impact on the

Tribe and/ or community of the violation; or such other factors as justice may require. The Judge may apply any or all the of the following:

(1) Impose a monetary penalty or penalties in accordance with the Schedule of Fines.
(2) When appropriate and feasible, the Hoopa Valley Tribal court may order any person in violation of this section to perform community service.

(3) Parties may request the Tribal Court to use Traditional Tribal Law to facilitate a transitional form of dispute resolution, akin to a mediated settlement.

(4) Issue such other order as may be deemed fair and just by the Hoopa Valley Tribal Court.

(ii) If the Hoopa Valley Tribal Court Judge determines the civil citation is dismissed, the Judge shall order the dismissal.

(c) If a minor is personally unable to pay a fine levied under this section, the parent or guardian of that minor shall be liable for payment of the fine. The Hoopa Valley Tribal Court may waive payment of the fine, or in whole or in part, by the parent or guardian upon a finding of good cause. When feasible and appropriate, the Hoopa Valley Tribal Court may impose penalties described in subsection 7.2(b)(i). If the Court imposes penalties described in subsection 7.2(b)(i)(2), participation of the parent or guardian is not required.

14.0 SCHEDULE OF FINES

Violation	**First Offense**	**Second Offense**	**Third Offense**
Obstructive Panhandling	$100	Up to $400	Up to $800
Assertive Panhandling	$100	Up to $400	Up to $800
Malicious Mischief (also known as "vandalism")	$200	Up to $400	Up to $1000
Shoplifting	$200	Up to $400	Up to $1000

15.0 GENERAL PROVISIONS

15.1 Effective Date

This Ordinance shall take effect and be enforced immediately from and after its approval by the Hoopa Valley Tribal Council.

15.2 Sovereign Immunity

As agents of the Hoopa Valley Tribe, Chief of Police, Tribal Officer, and Police Department staff acting pursuant to this Ordinance shall enjoy the full benefits of the Tribe's sovereign immunity, and any and all attributes of sovereignty enjoyed by the Hoopa valley Tribe. Such Officers and agents shall have no authority to waive the Tribe's sovereign immunity.

15.3 Savings Clause

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Hoopa Valley Tribal Council hereby declares that it would have enacted this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

15.4 Repeals

All previous ordinances, resolutions, or laws of the Hoopa Valley Tribe that are inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or conflict. This repeal includes, but is not limited to, any and all provisions within the Hoopa Valley Tribal Code that directly conflict with the stipulations set forth in this Ordinance. The enactment of this Ordinance shall not be constructed to revive any Ordinance, resolution, or law previously repealed or superseded.

15.5 Amendments

This Ordinance may be amended according to the Hoopa Valley Legislative Procedures Act.

15.6 Appropriations

The Hoopa Valley Tribal Council hereby authorizes and appropriates such funds as may be necessary for the implementation, enforcement, and administration of this Ordinance. This includes, but is not limited to, funding for the Hoopa Valley Tribal Law Enforcement, Hoopa Valley Tribal Court, and any other departments or entities deemed necessary for the effective enforcement of this Ordinance. The specific amounts of such appropriations shall be determined annually by the Hoopa Valley Tribal Council as part of tis budgetary process and shall be subject to the availability of funds.

CERTIFICATION

I, the undersigned, as Acting 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, notified, convened and held this 15th day of August 2024; and that this Hoopa Valley Tribe's Peace and Safety Civil Ordinance was duly adopted by a vote of six (6) in favor with zero (0) opposed and zero (0) abstaining, and that said Hoopa Valley Tribe's Peace and Safety Civil Ordinance has not been rescinded or amended in any way.

Dated this fifteenth day of August 2024.

Ryan Jackson, Acting Chairman
Hoopa Valley Tribal Council

ATTEST:
Amber Turner, Executive Secretary
Hoopa Valley Tribal Council